

OSAWATOMIE CITY COUNCIL
AGENDA
September 13, 2018
6:30 p.m., Memorial Hall

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

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

 - A. September 13th Agenda
 - B. Council Minutes of August 9, and August 23
 - C. Special Event Permit – Rush the Rails
 - D. Pay Application – JEO Consulting – Electric Generation Project –\$1,762.50
 - E. Pay Application – Legacy Contractors LLC – Library Project - \$18,532.00
 - F. Pay Application – Baldrige Engineering LLC – Main Street Phase II - \$11,187.50
 - G. Letter of Support for US-169 to Joint Legislative Transportation Vision Task Force
 - H. 2017 Electric System Annual Report
6. Comments from the Public

Citizen participation will be limited to 5 minutes. Stand & be recognized by the Mayor.
7. Presentations & Proclamations
 - A. Proclamation - Constitution Week
 - B. Oath of Office – Ed Beaudry, Building Official
 - C. Oath of Office – Ryan Schultz, Police Corporal
 - D. Oath of Office – Diana Deering, Dispatch Supervisor
8. Public Hearings
9. Unfinished Business
 - A. Solid Waste Contracts
 - B. Contract for Main Street Sidewalks – KS Heavy – \$210,493.75
 - C. Auditorium Marquee Bids
10. New Business
 - A. Grocery Store Incentive Discussion
 - B. Neighborhood Revitalization Reauthorization Discussion
11. Council Report
12. Mayor’s Report
13. City Manager & Staff Reports
14. Executive Session
15. Other Discussion/Motions
16. Adjourn

NEXT REGULAR MEETING – September 27, 2018

Osawatomie, Kansas. **August 9, 2018.** The Council Meeting was held in Memorial Hall. Council President Karen LaDuex called the meeting to order at 6:30 p.m. Council members present were Dickinson, Diehm, Hampson, Macek, Maichel and Wright. Absent was Mayor Govea and Councilman Walmann. City Staff present at the meeting were: City Clerk Tammy Seamands, City Manager Don Cawby and Chief of Police Dave Ellis. Members of the public were: Ben Wendt, Zachery Perez, Eric Gilligan, Paul Davidson and Hitomi Lamirande Chamber Director.

INVOCATION. Pastor Paul Davidson, 1st Presbyterian Church

CONSENT AGENDA. Approval of August 9th Agenda, July 12th & July 26th Minutes, Register Report 2018-07 and Pay Applications July 2018 – JEO Consulting – Generation Project - \$750.00 **Motion** made by Dickinson, seconded by Hampson to Approve the Consent Agenda as presented. Yeas: All.

COMMENTS FROM THE PUBLIC.

Pastor Paul Davidson with the 1st Presbyterian Church introduced himself to the council. In the short time that he has been here, he has witnessed the community getting involved. Is excited to be involved in the community.

Ben Wendt, 605 Hickory Court, requested for the one-way street to be removed between 10th & Brown and 10th & Pacific. Now that the school is no longer there, he doesn't see the need for it.

PRESENTATIONS.

CHAMBER OF COMMERCE ANNUAL REPORT. Chamber Director, Hitomi Lamirande, presented the 2018 Chamber Annual Report.

PUBLIC HEARINGS. None.

UNFINISHED BUSINESS.

APPOINTMENT – LIBRARY APPOINTMENT – DIXIE MADDEN. **Motion** made by Maichel, seconded by Dickinson to Appoint Dixie Madden to the Library Board. Yeas: All.

FIBER AGREEMENT – KWIKOM. Cawby explained the agreement is for underground fiber and how the City and Kwikom will partern to move forward in the community and build fiber. Zachery Perez and Eric Gilligan, with KwiKom, reviewed a few things with the council on the process. The agreement includes construction, payment, conveyance, use/maintenance and terms. **Motion** made by Maichel, seconded by Hampson to Approve the Kwikom Fiber Agreement as presented in the amount of \$41,850. Yeas: All.

POLE ATTACHMENT AGREEMENT – KWIKOM. Cawby advised the council that the agreement is a standard agreement that we would have with anyone that has anything on our

poles. There will be no fees until 2021. **Motion** made by Maichel, seconded by Hampson to Approve the Kwikom Pole Attachment Agreement as presented. Yeas: All.

CHANGE ORDER – IES – GENERATION PROJECT - \$6,877.55

CHANGE ORDER – RINZLER – GENERATION PROJECT - \$12,500.00

CHANGE ORDER – KWIKOM – GENERATION PROJECT - \$3,074.00 **Motion** made by Dickinson, seconded by Maichel to Approve all Change Orders as presented. IES for \$6,877.55 ; Rinzler for \$12,500.00 ; and KwiKom for \$3,074.00 Yeas: All.

NEW BUSINESS.

LEVEE CERTIFICATION – ENGINEER CONTRACT AND PROPOSED BUDGET. Cawby explained that Blake Madden has spoken with Joe File with Wood (Wood Environment & Infrastructure Solutions, Inc.) regarding the levee. The City went with a no-bid decision due to Joe file knowing the levee well from previous wok. **Motion** made by Maichel, seconded by Diehm to Approve the Proposal of the Engineer Contract and Proposed Budget for Wood in the amount of \$83,955 Yeas: All.

ORDINANCE – 2018 STANDARD TRAFFIC ORDINANCE (STO). **Motion** made by Maichel, seconded by Hampson to Approve the 2018 Standard Traffic Ordinance. Yeas: All.

ORDINANCE – 2018 UNIFORM PUBLIC OFFENSE CODE (UPOC). **Motion** made by Maichel, seconded by Hampson to Approve the 2018 Uniform Public Offense Code. Yeas: All.

MANAGER’S RECOMMENDED 2019 BUDGET. City Manager Cawby provided drafts and summaries to the Council to go over the 2019 Budget and revisions to the 2018 Budget.

COUNCIL REPORTS.

Kenny Diehm ~ Asked the status of the John Brown Park entrance and sidewalks.

MAYOR’S REPORT. None.

CITY MANAGER & STAFF REPORTS.

STAFF REPORTS

David Ellis, Chief of Police, reported their activity reports have been steady. Informed we have an officer that has turned in his resignation as well as we have hired a new officer.

EXECUTIVE SESSION. None.

OTHER DISCUSSION/MOTIONS.

Motion made by Maichel, seconded by Hampson to adjourn. Yeas: All. Mayor declared the meeting adjourned at 8:32 p.m.

/s/ Ashley Kobe
Ashley Kobe, Executive Assistant

DRAFT

Osawatomie, Kansas. **August 23, 2018.** 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, Diehm, Hampson (6:46), LaDuex, Macek, Maichel and Wright. Absent was Walmann. City Staff present at the meeting were: City Clerk Tammy Seamands, City Manager Don Cawby, Chief of Police Dave Ellis, Sergeant Tina Fenoughty, Public Safety Officer John Johnson, Public Safety Officer Nina Coleman and Media Coordinator Jennifer McDaniel. Members of the public were: Katheryne Swan, Robert Swan, Doug Carder, Tom Coffman, Chris Fahnstach, Steve Eichorn, Jennifer Williams, John Blessing, Kelley Johnson, Bryce Smith, Ruth Dees, Kyle Coleman, Ross Coleman and Corbyn Coleman

INVOCATION. Katheryn Swan

CONSENT AGENDA. Approval of August 23rd Agenda. **Motion** made by LaDuex, seconded by Dickinson to Approve the Consent Agenda as presented. Yeas: All.

COMMENTS FROM THE PUBLIC. None.

PRESENTATIONS.

OATH OF OFFICE – PUBLIC SAFETY OFFICER JOHN JOHNSON. City Clerk Seamands swore in Public Safety Officer John Johnson.

OATH OF OFFICE – PUBLIC SAFETY OFFICER NINA COLEMAN. City Clerk Seamands swore in Public Safety Officer Nina Coleman.

PUBLIC HEARINGS.

2019 OSAWATOMIE CITY BUDGET. Opened at 6:37 p.m. and closed at 6:38 p.m. No comments from the public.

UNFINISHED BUSINESS.

ADOPTION OF THE 2018-2019 CITY BUDGET. City Manager Cawby referred to the memo that was included in the packet. **Motion** made by LaDuex, seconded by Maichel to Approve the 2018-2019 City Budget. Yeas: All.

ADOPTION OF THE 2019-2023 CAPITAL IMPROVEMENTS PLAN (CIP). **Motion** made by Maichel, seconded by Dickinson to Approve the 2019-2023 CIP. Yeas: All.

RESOLUTION – 2019 APPROPRIATIONS. **Motion** made by Dickinson, seconded by LaDuex to Approve the 2019 Appropriations Resolution as presented. Yeas: All.

ELECTION RESULTS. Tammy Seamands, City Clerk, reviewed the election results regarding the special sales tax election. Yes 335 votes, No 127 votes equaling 462 votes total.

ORDINANCE – SALES TAX LEVY. **Motion** made by Dickinson, seconded by LaDuex to Approve the Sales Tax Levy Ordinance. Yeas: All.

NEW BUSINESS.

RECOMMENDATION – TRASH CONTRACT COMMITTEE. Councilwoman Maichel asked if Jennifer Williams could speak regarding this issue as she missed her time during public comments. She has spoke with Bryce Smith regarding her concerns and he is addressing them, but she does know that there are others that have issues as well. City Manager Cawby advised that the trash committee has reviewed the submissions from Waste Management and WCA. The committee recommends a process to select the trash vendor. They believe that public input is crucial in this decision, so are recommending a public hearing. **Motion** made by LaDuex, seconded by Diehm to Set a Public Hearing for 6:30 on September 5th and Authorize City Manager Cawby to Negotiate the Final Contract with both vendors. Yeas: All.

2019 LEAGUE OF KANSAS MUNICIPALITIES DELEGATES. **Motion** made by Maichel , seconded Hampson to Appoint Mayor Govea and Councilwoman LaDuex as the Main Delegates with City Manager Cawby and City Clerk Seamands as the Alternate Delegates. Yeas: All.

COUNCIL REPORTS.

Lawrence Dickinson ~ Asked if we were going to be helping with Rush the Rails again this year.

Kenny Diehm ~ Asked if we could get a sidewalk update, Cawby will have in his report.

Tamara Maichel ~ Asked how long it would take to review the billing change from the city billing to waste management billing residents. Would like to put the park damage, that has been reported on social media, on a future agenda to look at different options to help. Had a nice phone call from a lady in England, whom wanted to interview her regarding pit bulls.

MAYOR’S REPORT.

Shared the latest topic that the league policy committee, that he is a part of, has put together.

Friday, August 31st will be a retirement party for Ted Bartlett.

CITY MANAGER & STAFF REPORTS.

CITY MANAGER REPORT

Reported that we have been told that there was a confession for the vandalism in the park.

Kansas City Manager’s Association will be meeting this weekend here locally.

Himself and Jennifer McDaniel have been working on the grocery store information.

STAFF REPORTS

Tammy Seamands announced that our new software will be set up and going by the first of the year.

Dave Ellis, Chief of Police, presented his quarterly report.

EXECUTIVE SESSION. None.

OTHER DISCUSSION/MOTIONS.

Motion made by Dickinson, seconded by Macek to adjourn. Yeas: All. Mayor declared the meeting adjourned at 7:47 p.m.

/s/ Ashley Kobe

Ashley Kobe, Executive Assistant

DRAFT



City of Osawatomi
 439 Main Street; P.O. Box 37
 Osawatomi, KS 66064
 (913) 755-2146

SPECIAL EVENTS PERMIT APPLICATION

Department Use Only

Date Filed: 09-12-18
 Event Deposit _____
 Date Paid: _____
 \$50 Permit Fee _____
 Date Paid: _____
 \$25 State Permit _____
 Date Paid: _____

1. NAME OF APPLICANT AND/OR ORGANIZATION:
City of Osawatomi

2. CONTACT PHONE # AND EMAIL (OPTIONAL):
Ashley Kobe 913-755-2146

3. TYPE OF SPECIAL EVENT APPLICANT IS APPLYING FOR:
Rush the Rails

4. MAILING ADDRESS OF APPLICANT/ORGANIZATION: <u>P.O. Box 37</u> <u>Osawatomi, KS 66064</u>	5. ADDRESS/LOCATION OF SPECIAL EVENT: <u>1200 Trojan Drive.</u> <u>leaving west out of town</u> <u>on Parker Ave.</u> Bike Rodeo Sports Complex
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6. DATE(S) AND TIME(S) FOR PERMIT, INCLUDING SET UP AND TEAR DOWN:
October 6, 2018 *walkers & 1st musket @ 5:30a.m,
5 AM - Noon *cyclists & 2nd musket @ 7:30a.m.
 *bike rodeo 8am - ?

7. ENTRY TO EVENT: FEE YES ___ NO <input checked="" type="checkbox"/> PUBLIC <input checked="" type="checkbox"/> OR PRIVATE ___ <u>*Rush the Rails charges for race.</u>	8. STREET CLOSURE: YES ___ NO <input checked="" type="checkbox"/> IF YES, TIME OF CLOSURE REQUIRED: <u>*Escort out of town.</u>	9. # OF EXPECTED ATTENDINGS: <u>250</u>
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10. WILL ALCOHOL OR CMB FOR PERSONAL CONSUMPTION BE ALLOWED AT THE EVENT? YES ___ NO
 WILL CMB BE SOLD AT THE EVENT? YES ___ NO
 WILL THERE BE AN ENTRY FEE TO THE AREA WHERE CMB IS PROVIDED BY A THRID PARTY? YES ___ NO
 IF YES TO ANY OF THE ABOVE, APPLICANT DATE OF BIRTH IS REQUIRED N/A

11. IS THERE LIABILITY INSURANCE COVERAGE FOR THE EVENT: YES NO ___
 IF YES, NAME OF INSURANCE COMPANY, AGENT AND AMOUNT OF COVERAGE: MPB

STATEMENT OF APPLICANT

I HAVE REVIEWED THIS APPLICTION COMPLETELY AND EVERYTHING CONTAINED HEREIN IS TRUE AND CORRECT. I AGREE TO HOLD THE CITY OF OSAWATOMIE HARMLESS FROM AND AGAINST ANY LOSS, COST OR DAMAGE OF ANY NATURE ARISING OUT OF ANY ACTION OR CLAIM AGAINST THE CITY OF OSAWATOMIE OR ITS EMPLOYEES, IN CONNECTION WITH THE EVENT. I ACKNOWLEDGE THAT I HAVE RECEIVED A COPY OF ALL ORDINANCES AND ATTACHMENTS AND I FULLY UNDERSTAND THAT I WILL BE HELD RESPONSIBLE FOR ANY VIOLATIONS OF STATE LAWS, CITY OF OSAWATOMIE ORDINANCES, AND ANY RESTRICTIONS OR REQUIREMENTS ASSOCIATED WITH THIS PERMIT AT THE LOCATION AND TIME SPECIFIED ON THIS PERMIT.

SIGNATURE _____ DATE 09-12-18

PERMIT APPLICATION: APPROVED _____ DENIED _____
 DECISION BY: _____ DATE OF DECISION: _____

COMMENTS: _____



Invoice

August 30, 2018
 Project No: R141554.03
 Invoice No: 104885
 Invoice Amount: 1,762.50

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

Project Manager Matt Kalin
 Project R141554.03 Osawatomie 12 MW Generation Capacity Improvements
Professional Services through August 17, 2018

	Contract Amount	Percent Complete	Billed-to-Date	Previous Billing	Current Billing
Lump Sum Phase(s)					
Preliminary Design	\$138,250.00	100 %	\$138,250.00	\$138,250.00	0.00
Final Design	\$47,040.00	100 %	\$47,040.00	\$47,040.00	0.00
Bidding & Negotiation	\$16,100.00	100 %	\$16,100.00	\$16,100.00	0.00
Construction Services	\$65,340.00	100 %	\$65,340.00	\$65,340.00	0.00
Post Construction	\$6,400.00	34 %	\$2,175.00	\$412.50	\$1,762.50
Hourly to a Maximum Phase(s)					
Add'l Construction Services	\$23,190.00		\$23,180.50	\$23,180.50	0.00
Add'l RPR Services	\$4,810.00		\$3,947.50	\$3,947.50	0.00
RPR Services	\$43,680.00		\$43,680.00	\$43,680.00	0.00
Total	\$344,810.00		\$339,713.00	\$337,950.50	\$1,762.50
Total Amount Due Upon Receipt					\$1,762.50



helping you build your legacy · commercial contractor · design/builder · construction manager

Invoice

#2018-09-01

SUBMITTED TO		Elizabeth Trigg	PHONE	FAX	DATE
Osawatomie Public Library			755-2136		8/23/2018
STREET		JOB NAME			
527 Brown Ave.		Misc. work in Library as was shown			
CITY, ST, ZIP		JOB LOCATION		JOB PHONE	
Osawatomie, KS 66064		Osawatomie Public Library			
ARCHITECT		DATE OF PLANS		JOB FAX	
n/a		n/a		Osawatomie, KS 66064	

For work completed per accepted proposal - including work on moving cabinets, redoing Break Room countertop/sink/faucet, removing/capping/patching at plumbing in basement restroom, replacing stair treads, fabricating and installing computer bar top in basement, removing/replacing damaged sheetrock in basement ceiling/texturing and painting, patching cracked drywall at beam at Entry and windows on First floor. Including electrical work by GK Smith for electrical, security cameras, door alarm, pulling computer wiring.

Deducting work by Sunflower on First floor computer bar

Original Proposal	\$	19,568
Deduct Sunflower	\$	(720)
Legacy Labor savings	\$	(316)
Total amount due	\$	18,532

Thank you very much for your business!

*Thank you
Rob*

*Fund #6
Library remodel*

907 n. pearl, suite 4 · Paola, Kansas 66071 p: 913-294-9898 f: 913-294-3111



INVOICE

Baldridge Engineering LLC

308 South Silver
 Paola KS, 66071
 Phone: (913) 710-3019
 baldridge.engineering@gmail.com

Date 07/23/18
Invoice # 00001
For Job #: 18-MU-0001

Bill To:

Blake Madden
 City of Osawatome Public Works
 820 Lincoln Ave.
 Owasatomie, KS 66064
 913-755-4164

Main Street from 7th St. to 12th St. Concrete Testing

Quantity	Description	Unit price	Amount	Extension
205	Concrete Cylinders	\$ 20.00	\$ 4,100.00	
			\$ 0.00	
0			\$ 0.00	
0			\$ 0.00	
0			\$ 0.00	
0			\$ 0.00	
0			\$ 0.00	
0			\$ 0.00	
0			\$ 0.00	
Subtotal			\$ 4,100.00	

Make all checks payable to Baldridge Engineering LLC If you have any questions concerning this invoice, contact David Baldridge at (913) 710-3019, baldridge.engineering@gmail.com. Thank you for your business!

Amount Paid	\$ -
Additional discount	
Balance due	\$ 4,100.00



INVOICE

Baldridge Engineering LLC

308 South Silver
 Paola KS, 66071
 Phone: (913) 710-3019
 baldridge.engineering@gmail.com

Date 07/23/18
Invoice # 00001
For Job #: 18-MU-0001

Bill To:

Blake Madden
 City of Osawatomie Public Works
 820 Lincoln Ave.
 Owasatomie, KS 66064
 913-755-4164

Main Street from 7th St. to 12th St. Concrete Testing

Quantity	Description	Unit price	Amount	Extension
94.5	Concrete Testing Hours	\$ 75.00	\$ 7,087.50	
			\$ 0.00	
0			\$ 0.00	
0			\$ 0.00	
0			\$ 0.00	
0			\$ 0.00	
0			\$ 0.00	
0			\$ 0.00	
0			\$ 0.00	
Subtotal			\$ 7,087.50	

Make all checks payable to Baldridge Engineering LLC If you have any questions concerning this invoice, contact David Baldridge at (913) 710-3019, baldridge.engineering@gmail.com. Thank you for your business!

Amount Paid	\$ -
Additional discount	
Balance due	\$ 7,087.50

CITY OF OSAWATOMIE



439 Main Street
P.O. Box 37
Osawatomie, Kansas 66064

913.755.2146 (p)
913.755.4146 (f)
ozcity@osawatomieks.org
www.osawatomieks.org

L. Mark Govea, Mayor

September 12, 2018

To: Chairman Richard Proehl and the Joint Legislative Transportation Vision Task Force

Meeting: September 20, 2018

Location: Memorial Hall, 600 N. 7th St., Pittsburg, KS 66101

Please accept this letter as written testimony on the importance of prioritizing improvements to the US-169 corridor through Kansas as you consider the vision for transportation improvements in the state over the next several years.

The US-169 Corridor Coalition's mission is to promote public and private investment in creating a safe, free-flowing, high, wide and heavy transportation corridor from Kansas City to Tulsa comprised of US-169, rail, air and port access to connect the regional economy to the global market.

This testimony today is in support of the critical importance of expanding US-169 to a 4-lane primary freight and transportation corridor, and outlines the key steps that the members of the US-169 Corridor Coalition have established as key milestone projects to accomplish this goal. The City of Osawatomie supports the following priority projects to improve the safety of the corridor, in order, as outlined by the coalition:

- Build out shoulders from Welda - Garnett
- Construct an overpass at US-160 & US-169 intersection
- Redesign or Overpass at the K-47 and US-169 interchange
- Build turnouts for rest areas and safety checkpoints along the expanded highway
- Evaluate, design, plan and build an efficient & safe transportation system that would improve safety and flow through Thayer & Coffeyville

Although none of the above projects are in our immediate vicinity, we recognize their overall importance to the corridor and the eventual economic impact to our community. We understand that the State has countless miles of highway that need improvement, but we strongly believe that these projects are critical, not only for the improvement to the flow of traffic and safety for Kansas travelers, but also for the future of economic development of the Southeast Kansas region. We appreciate your consideration of these key priorities, and look forward to the final report on the taskforce's findings.

Sincerely,

L. Mark Govea
Mayor

2017 Annual Report of the Electric System

City of Osawatomie, Kansas



Presented to the City Council

September 13, 2018

**2017 ANNUAL REPORT
OSAWATOMIE ELECTRIC SYSTEM**

Description of the System

The City’s electric system (the “System”) was established in 1939 to provide electricity to the residents of the City, with numerous improvements and expansions occurring over the years. The System currently has 2,018 meters, an average hourly peak of 4.1 megawatts and a peak load of approximately 8.9 megawatts. During the last five years the peak load reached approximately 9.9 megawatts. The City distributes power on a 4160 voltage system through two interconnects with Kansas City Power and Light (KCPL) and two substations. The current power plant is comprised of the original power plant which was built in 1939, with a major addition added in 1968. In 2015, the electric system served approximately 4,300 residents of Osawatomie plus numerous businesses and industries.

As of the end of 2017, the City currently owns and operates 5.6 megawatts of onsite dual fuel generators and 6.0 megawatts of new onsite diesel generation, which primarily serve as emergency back-up and as capacity coverage for power the City purchases at wholesale pursuant to several purchase contracts described below. The existing purchase contracts provide the City with 6.8 megawatts of electricity during summer months and 5.8 megawatts during other times of the year. Between generating capabilities and purchase contracts, the City currently has the ability to provide up to 18.4 megawatts of power during summer months and 17.4 megawatts at other times.

Description of Existing Facilities of the System

The Electric Utility System consists of one plant building, a network of distribution facilities, necessary transformers and switch stations, and three generating units with the following capacities:

<u>Unit</u>	<u>Capacity</u>	<u>Manufacturer</u>	<u>Installation</u>
2	1800 KW	Nordberg	1957
4	1000 KW	Nordberg	1952
5	2800 KW	Nordberg	1967
14	2000 KW	Caterpillar	2016
15	2000 KW	Caterpillar	2016
16	2000 KW	Caterpillar	2016

New Generation Project

In December 2015, the City of Osawatomie issued \$6,095,000 in revenue bonds for a \$5.9 million project which will increase the capacity of the System, provide for a more secure source of power and reduce operating costs. The project includes the acquisition and installation of six 2 megawatt diesel powered generators, each of which has approximately two thousand hours (more or less) of run time. The generators are 2006 Caterpillar 3516 generators with diesel engines. The generators come with 480 volt step-up transformers and switch gear. As of the end of 2017, 3 of the generators were online and operable.

The project also provides for an upgrade to the 7th Street Substation and, the construction of a new 9th Street substation to replace the current power plant substation. These upgrades will allow

the City to begin a self-funded, staff performed upgrade of the entire distribution system so the community can operate at the more efficient 12470 volts. The project also provides for the construction of a new 7,500 sq. ft., \$450,000 electric distribution building.

As mentioned above, the System has experienced a peak load of approximately 9.9 megawatts in recent years while maintaining production capability of 12.4 megawatts. Prior to 2016, of the 12.4 megawatts, 2.5 megawatts were provided pursuant to a contract with the Nearman Creek Power Plant (“Nearman”). Without the Nearman contract, the System’s ability to provide power and its peak usage has been approximately the same, thus providing no state-required reserve capacity (15% of peak load) or ability for future growth. With the City’s contract with Nearman expiring on December 31, 2015 it was not renewed.

When fully operational, the Project will replace the electricity provided by the Nearman contract and increase the System’s total capacity to provide energy to 21.9 megawatts. The capacity from the new generators alone will be sufficient for the System to provide all current necessary power to the City even if loses its connection to the regional electric distribution grid. The additional capacity will also allow the System to provide future service to a large area in the northern portion of the City that is currently undeveloped as well as potentially allow the System to sell electricity to other communities. Furthermore, due to the relatively high fixed and variable costs of the Nearman contract, the City anticipates realizing a net operating savings of approximately \$240,000 a year by purchasing power elsewhere or generating power itself.

At the end of calendar year 2015, the City secured the purchase of the generator units, had the units delivered to a temporary site, and engaged JEO Consulting Group and the project engineers to begin designing the details for the project. At the end of 2017 the City had \$951,635 remaining of the the \$5.85 million in bond proceeds to be expended on the project, primarily for final payments on the 9th Street Substation, communications for telemetry, and the new electric shop.

Generation Project Budget

	Updated Budget
PROJECT COSTS	
Generators	
Generator Units/Delivery	\$ 1,876,600
Warranty/Service Agreement (3 yrs)	110,000
Load Testing & Startup	137,000
Substations	
7th Street Substation Modifications	718,609
9th Street Substation	1,823,712
New Electric Shop	450,000
Engineering/Permitting	366,050
Contingencies	403,819
TOTAL PROJECT COSTS	\$ 5,886,390
FINANCING	
Bond Proceeds	\$ 5,848,570
<i>(Over)/Under Budget</i>	<i>\$ (37,820)</i>

Electric Production

The following table shows the System's production and sales for the past five years.

<u>Year</u>	<u>kWh Generated</u>	<u>kWh Purchased</u>	<u>kWh Sold</u>
2017	170,600	33,833,384	29,360,565
2016	9,800	35,492,725	30,822,864
2015	20,000	35,473,725	29,899,406
2014	2,300	35,547,773	29,546,809
2013	30,000	35,492,782	30,040,890

Note: The difference between kWh Generated and kWh Purchased less kWh Sold is primarily due to line loss and power provided for street lighting. As a result of undertaking the project and future improvements, the City anticipates eventually upgrading the system to a more efficient 12470 volts and reducing line loss to approximately 6-8%.

Power Supply Requirements

Peak demands and average energy loads are depicted in the following table. The City's staff believes that variation in peak and average is attributable to a number of factors including seasonal weather conditions.

<u>Year</u>	<u>Net Peak Demand</u>		<u>Average Load</u>	
	<u>mW</u>	<u>% Increase</u>	<u>mW</u>	<u>% of Peak</u>
2017	8.5	-4.5	3.86	45.4
2016	8.9	0	4.053	45.5
2015	8.9	2.3	4.052	45.5
2014	8.7	0	4.058	46.6
2013	8.7	-7.4	4.055	46.6

Electric Power Supply Resources

The City meets its supply obligations to its electric customers through a combination of resources including the operation of its own power production facilities and through purchasing power under the Supply Agreements described below.

Supply Agreements

The ability of the System to service its Debt Service Requirements is in part contingent on the availability of a supply of electric energy. The following outlines agreements the City has for supply of electric energy. All of these contracts, with the exception of the arrangement with EMP1, are of a "take or pay" nature. However, there is no guarantee that the suppliers will not default on the obligation to supply electric energy to the System or that circumstances will not prevent the supply of electric energy to the System.

Available Capacity (mW)	2016	2017	Current 2018

On-Site Generation	5.6	11.6	17.6
GRDA	3.0	3.0	3.0
SPA	0.4	0.4	0.4
WAPA	0.9	0.852	0.852
Nearman	-	-	-
Subtotal	9.9	15.85	21.85

Nearman Creek Power Plant (Nearman) - Nearman Creek Power Plant is a 235 MW coal fired power plant that is located in Kansas City, Kansas. The Kansas Municipal Energy Agency (KMEA) has a Participation Power Sales Agreement with the Kansas City, Kansas Board of Public Utilities (BPU) under which KMEA purchases electric power and energy. The City had an underlying participation agreement with KMEA under which the City purchases, on a take or pay basis, 2.5 mW hourly of Nearman power plant electric power and pays monthly demand, fuel, operation & maintenance, transmission, and KMEA administration charges. During the summer of 2014, the City voted to opt out of this agreement pursuant to an offer by BPU to buy out the current contract with many cities, in advance of a major facility upgrade to the Nearman plant. The Project, financed with proceeds of the Bonds, will replace the capacity the City previously acquired under the Nearman contract which ended December 31, 2015.

Grand River Dam Authority of Oklahoma (GRDA) - The City has a wholesale power agreement with the Grand River Dam Authority of Oklahoma (“GRDA”) via the Kansas Power Pool (“KPP”) in effect as of 2000 and expires in the year 2026. Under the terms of the agreement, GRDA agrees to supply 3.0 mW during summer months and 2.2 mW for all other months during a contract year at a formula based rate.

Southern Power Administration (SPA) - A Hydro Power Pooling Contract from SPA, originally signed with the Kansas Municipal Energy Agency (KMEA) on December 20, 1983, was extended until midnight, December 31, 2018, or for an extended period if mutually agreed upon. The hydro peaking power is obtained from the Southwestern Power Administration (SWPA) through KMEA subject to the terms of a contract between those agencies. The City is allocated 400 KW capacity under this contractual arrangement.

Western Area Power Administration (WAPA)- A Hydro Power Pooling Contract between WAPA and KMEA provides power to 47 participating Kansas cities, including the City, through the KMEA. Power under this contract is scheduled to allow the City and other participants to avoid demand charges and replace high-cost peak-hour energy. The pooling contract between WAPA and KMEA is effective until 2054. The City is allocated 852 KW during the summer months and 742 KW during the winter months under this arrangement.

Energy Management Project No. 1 (EMP1) Under the EMP1 arrangement, six participating Kansas cities of KMEA—Osawatomie, Baldwin, Gardner, Garnett, Ottawa and Pomona—have combined their electric systems for the purpose of purchasing power as a centrally dispatched group and to manage power resources in the Nearman, GRDA, SPA and WAPA projects. EMP1 is also used to jointly purchase load following service from Kansas City Power and Light. The EMP1 arrangement does not involve a minimum purchase amount or price.

Cost of Electricity by Source

The following table sets forth the City's cost of electric energy by source:

SOURCE	2017		2016		2015		2014	
	COST	mWh	COST	mWh	COST	mWh	COST	mWh
GRDA	1,025,203	21,906	\$ 895,404	21,960	\$ 1,066,267	21,784	\$ 1,144,455	22,198
Nearman*	-	-	-	-	281,122	1,237	433,918	5,145
WAPA	103,121	2,803	115,674	2,802	115,684	2,803	116,301	2,806
SPA	41,566	1,303	150,639	5,274	43,589	1,478	34,559	585
EMP1	128,574	2,982	181,207	4,308	238,679	7,164	351,480	4,629
Transmission	201,940	-	165,860	-	182,483	-	149,728	-
TOTAL	\$ 1,571,988	33,833	\$ 1,508,784	34,344	\$ 1,927,823	34,467	\$ 2,080,714	35,328

Note: Total annual cost figure shown above do not exactly match contractual costs of electric production shown in the City's audited financial statements due to timing of billing by power providers and payment by the City.

* The City's contract with Nearman expired December 31, 2015 and was not renewed.

Largest Electric Utility Customers

The following table lists the top 10 largest users of the System for 2017.

<u>Customer</u>	<u>Product or Service</u>	<u>Purchased kWh</u>	<u>Billing</u>	<u>Percentage of Total System Charges</u>
USD #367	School District	2,945,227	366,501	11.2%
City of Osawatomie	Government/Utilities	1,193,940	118,700	3.6%
Life Care	Nursing Home	947,680	134,576	4.1%
Casey's General Stores	2 Convenience Stores	658,018	61,503	1.9%
Vintage Park	Assisted Living	343,600	32,375	0.9%
Tri-Ko	Community Service Provider / Industry	293,536	35,029	1.0%
Sonic Drive-in	Restaurant	265,760	24,782	0.7%
Ron's Grocery Store	Grocery Store	250,560	24,523	0.7%
Dollar Tree Stores, Inc.	Discount Store	187,360	18,708	0.5%
Union Pacific Railroad	Transportation	159,275	21,312	0.7%
Subtotal		7,244,956	819,301	25.3%

Sales

The following table indicates the sales by type of customer for 2017.

<u>Type</u>	<u>2016 Sales</u>	<u>Active Meters</u>	<u>2017 Sales</u>	<u>Active Meters</u>
Residential	\$ 2,057,619	1,840	\$ 2,101,912	1,836
Commercial	1,111,300	227	1,033,989	244
Industrial	13,235	3	15,694	2
City	<u>116,314</u>	<u>15</u>	<u>118,700</u>	<u>15</u>
Total	\$ 3,298,468	2,085	\$ 3,270,295	2,097
Total kWh	30,822,864		29,360,565	

Historical Customers

The following table sets forth the historic number of customers served by the System for the years indicated

<u>Year</u>	<u>Customers</u>
2017	2,097
2016	2,085
2015	1,987
2014	2,000
2013	1,994

Note: Increase in customers is a result from how multiple meters at an address are counted. Only minor changes in the number of meters.

RATES AND CHARGES

Utility System Billings and Collections

The System bills customers monthly on an individual basis. Under present policies, utility bills are due when received, but contain a delinquency date which provides ten day for payments. Service is terminated if full payment is not received within 20 days after notice of termination is given. Customers can request a hearing after notice of termination is given and termination may be postponed under certain circumstances.

State and Federal Regulation

The rates, fees and charges for electric service through the System as currently constructed and operated will be exempt from rate regulation by the Kansas Corporation Commission. The precise nature and extent future government regulation and the resulting impact of such regulation on the operation and profitability of the System cannot now be determined. The City has covenanted in the Resolution to comply with all such governmental regulation.

Electric Service Rates

Effective December 13, 2012, the City charges the following rates for power produced by the System using a usage block rate system which charges for energy ranging as listed below. The 2012 rate change reduced the monthly Residential and Small General meter charges by \$1. The prior rate structure was implemented September 25, 2008.

While the City did not raise rates in 2015, it did make a change in the ECA calculation method to capture the savings from the termination of the Nearman contract and the application of that savings to the bond payments for the project. The City did not raise rates on 2017 sales, but a 2018 rate increase was approved for 2018. The 3.95% increase would have generated an additional \$135,000 if it had been in place for 2017. The need for the increase was the result of increased operational costs, mild weather for several years, the loss of the grocery store in 2016, who was a major customer, and delays in selling some of the system's excess capacity.

Residential*	
Meter Charge	\$11.00
First 500 kWh per month	\$0.107
All kWh over 500 kWh per month	\$0.081
Small General*	
Meter Charge	\$14.00
First 500 kwh per month	\$0.107
Next 4,500 kwh per month	\$0.096
All over 5,000 kwh per month	\$0.081
Large General (Demand Meters)*	
Monthly Customer Charge	\$75.00
Demand	Minimum kW demand or 60% of highest
Demand Charge per kW of Demand	\$5.50
Usage Rate for first 150 demand kWh (150 x demand)	\$0.067
Usage Rate for next 150 demand kWh (150 x demand)	\$0.061
Usage Rate for all additional kWh	\$0.052
Minimum bill	demand + customer chg
School District*	
Demand Meters	
Monthly Customer Charge	\$75.00
Demand	Minimum kW demand or 60% of highest summer kW demand
Demand Charge per kW of Demand	\$5.50
Usage Rate for first 150 demand kWh (150 x demand)	\$0.063
Usage Rate for next 150 demand kWh (150 x demand)	\$0.057
Usage Rate for all additional kWh	\$0.052
Minimum bill	demand + customer chg
City Use & School District Non-Demand*	(school added)
Usage Rate kWh per month	\$0.088
Outside City limits	50% over rates listed above
Energy Cost Adjustment (ECA) Charge*	
Base Rate for Calculation (Calculation in Ordinance)	\$0.04/kWh beg. Feb 2016
ECA Calculation Period	Based on energy costs for actual billing period

* ECA applied to all electric rates.

Note: 15-312. Energy Cost Adjustment (ECA).

(a) All electric bills are subject to a monthly Energy Cost Adjustment (ECA) and shall be calculated as follows:

The rate for energy to which this adjustment is applicable shall be adjusted by \$.0001 per kilowatt-hour (kWh) in the aggregate cost of energy as computed by the following formula:

$$\frac{((P + G + O) / (K + C)) \times L}{\text{City Billed}} - (B) = \text{Adjustment}$$

P = The current month actual total cost of power purchased.

G = The current month actual total cost of City generation.

O = The current month actual total cost of any other associated power supply expenses.

K = The current month actual total kWh of the delivered purchased power.

C = The current month actual total kWh of the delivered City generation power.

L = The current City losses determined annually $\frac{((\text{Purchased Power} + \text{City Generation}) - \text{City Billed})}{\text{City Billed}}$.

B = The Base will be established by a fee resolution, as specified in Section 15-308.

Future Rate Increases

The City currently has no plans for another rate increase at this time, as the 2018 rate increase and planned sales of excess capacity should bolster the fund for the foreseeable future. Those increases are reflected in the projected financials below. The City maintains the right and has covenanted in the Ordinance authorizing the issuance of the Bonds to increase fees and charges as needed to insure adequate revenues to operate the utility, pay debt service on outstanding bonds, and provide required reserves.

Electric System Competition

The City has authority to provide electric service to customers within the boundaries of the City. The City is singly certificated and it alone is authorized to provide electric service in the City, except that the Osawatomie State Hospital and a small residential area that was annexed into the City within the last 10 years, are certificated by Kansas City Power and Light (KCPL). The City has not purchased the rights to those existing services at this time. The certificated area is surrounded by areas certificated to Kansas City Power and Light (KCPL).

2017 Annual Rate Comparisons to KCPL

<u>Customer Examples</u>	Osawatomie			KCPL Comparison		
	<u>kWh</u>	<u>Total Cost</u>	<u>\$/kWh</u>	<u>Total Cost</u>	<u>\$/kWh</u>	<u>% Diff</u>
Residential (non-demand)	10,606	\$ 1,311	\$ 0.124	\$ 1,662	\$ 0.157	26.8%
Small General Service (non-demand)	7,912	1,272	0.161	1,662	0.210	30.7%
Medium General Service (demand)	1,198,320	113,212	0.094	140,811	0.118	24.4%

Note: City has no Large General Service customers. No estimates given for rate differential.

DEBT STRUCTURE OF THE SYSTEM

Current Indebtedness of the System

The following table sets forth all of the outstanding obligations of the System as of December 31, 2017:

<u>Project</u>	<u>Series</u>	<u>Original Amount</u>	<u>Principal Outstanding</u>	<u>Final Maturity</u>
Electric Utility System Revenue	2015-A	\$6,230,000	\$5,735,000	09-01-35

Historical & Projected Financials

The following is a summary of the *historical* revenues, operating expenditures, and payments of bonds for the System.

	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>
Revenues	\$ 3,715,777	\$ 3,976,776	\$ 3,723,661	\$ 3,677,453	\$ 3,664,640
Operation & Maintenance Expense(1)	<u>3,277,083</u>	<u>3,278,817</u>	<u>3,078,544</u>	<u>2,710,395</u>	<u>2,766,515</u>
Net Income	\$ 438,694	\$ 697,959	\$ 645,117	967,058	898,247
Debt Service	\$ 0.00	\$ 0.00	\$ 0.00	\$ 339,334	\$ 435,725
Debt Service Coverage	--	--	--	2.85x	2.06x

The following is a projected summary of the *future* revenues, operating expenditures, and payments of Bonds for the System.

	<u>2018</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>
Revenues	\$ 4,000,828	\$ 4,018,399	\$ 4,082,180	\$ 4,217,469
Operation & Maintenance Expense (1)(2)	<u>3,015,259</u>	<u>3,046,105</u>	<u>3,181,361</u>	<u>3,278,290</u>
Net Income	\$ 985,569	\$ 972,293	\$ 900,819	\$ 939,179
Debt Service	\$ 435,725	\$ 432,500	\$ 434,100	\$ 435,350
Debt Service Coverage	2.26X	2.25X	2.08X	2.16X

- (1) Excludes capital outlay expenditures and discretionary transfers out of the System for non-utility related purposes (e.g. recreation, golf course, tourism, general capital improvements). Such transfers are subordinate to the repayment of the Bonds and may only be made from the Surplus Fund.
- (2) As a result of completion of the Project and termination of its purchase contract with Nearman Creek Power Plant, the City experienced a net decrease in operation and maintenance costs of approximately \$240,000 per year. Additionally, the City anticipates lower production costs due to reduction of line loss and future potential revenue growth from the sale of power made possible by the Project.

Sources: Historical Financials - Audited Financial Statements
 Revenue & Expense Projections – City of Osawatomie
 Debt Service Requirements - 2015-A Issuance Debt Service Schedule

CITY OF OSAWATOMIE



PROCLAMATION ISSUED BY THE MAYOR AND CITY COUNCIL

WHEREAS, September 17, 2018, marks the two hundred thirty-first anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, It is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary; and to the patriotic celebrations which will commemorate the occasion; and

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17th through September 23rd as Constitution Week;

NOW, THEREFORE, I, L. Mark Govea, Mayor of the City of Osawatomie, do hereby proclaim the week of September 17th through September 23, 2018 as

Constitution Week

and I urge all citizens to reaffirm the ideals that the Framers of the constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties, remembering that lost rights may never be regained

Proclaimed this 13th day of September, 2018.

L. Mark Govea, Mayor
City of Osawatomie

CITY OF OSAWATOMIE



STAFF AGENDA MEMORANDUM

DATE OF MEETING: September 13, 2018

AGENDA ITEM: Solid Waste Contracts

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: The Trash Committee reviewed RFP submissions from Waste Management (WM) and WCA, the only two respondents to the RFP. After reviewing the submissions, in person interviews were conducted by the Committee.

The Committee (comprised of Karen LaDuex, Kenny Diehm, Tammy Seamands, Blake Madden and myself) recommended to the City Council on August 23, that a public hearing be held on September 5th to gain feedback on both proposals. The recommendation was also that the City Manager begin negotiations with both entities on a contract to be considered at the September 13 meeting.

At the hearing, I summarized provisions in the contract and the Council took testimony from numerous individuals. Based on the discussions at that meeting, I prepared amendments to the WM contract and have presented them to WM for their consideration. As of the writing of this email, I am still awaiting a response. The City's proposed contract is included in the packet.

Also, after discussion with WCA after the public hearing, they believed that their proposal for curbside delivery was likely to not be accepted and we mutually agreed to make no other adjustments to the contract at this time. The City's proposed contract is included in the packet.

Attached is an updated summary of the proposals, as the contracts currently exist in their draft forms.

COUNCIL ACTION NEEDED: Consider the proposed contracts before the Council.

STAFF RECOMMENDATION TO COUNCIL: Approve by motion to authorize the Mayor to approve the contract as presented (if the contract is ready for adoption at the City Council meeting).

Waste Management Contract – Draft Proposal from City

Term

5 years, with 3 renewable one-year periods

Residential Services

Waste and Recycling. No carts supplied, but may be rented. Street and Alley pickup
Same Collection Schedule. Require publishing an Annual Schedule.

Monthly Bulky Item Pickup - 8'x8' 50 lb. limit

Annual Tire Pickup – 6 per household

Commercial Services

Waste. Dumpsters provided with rate.

If small commercial, treat like residential (no tires, or annual)

General Services

Single Axle Trucks Only

6 Holidays

No tipping or solicitation of tips

Designated City Contacts

City Website and Email

Notify Customers of non-pickup

Reporting of metrics

Yard Waste – see rates

Consideration & Billing

WM bills and receives payment directly.

Franchise Fee option for City.

3% annual increase, after first 2 years locked.

City Option to take over billing in with four months' notice.

Penalty provisions for unresolved complaints or “bounce-back” complaints.

Insurance

\$1.0 million liability policies and accident and death policies; worker's comp

Required notification of insurance cancellation.

Performance Bond of 100% of first year value or \$500,000 in-lieu of estimate.

Miscellaneous

City option to opt out of assignment of contract if within the first 24 months of the contract.

WM CHARGES FOR SERVICE

RESIDENTIAL ACCEPTABLE WASTE:

RATE

Single family dwellings, duplexes, and apartments	\$17.25 (monthly)/ billed quarterly in advance
Curbside Recycling (weekly)	Included in Residential Rate
One Large Item Pick-Up (monthly)	Included in Residential Rate

OTHER SERVICES:

Container Rental (per resident request)	
65 gallon	\$2.50 (monthly)/billed quarterly in advance
95 gallon	\$2.50 (monthly)/billed quarterly in advance
Citywide Cleanup	Included in Residential Rate
Tire Pickup	\$250.00 + landfill disposal costs
Yard Waste (When Called by City)	See Below

COMMERCIAL & INDUSTRIAL:

<i>Monthly Rates in \$</i>	Collection times per week					
Container Size*	1	2	3	4	5	6
Less than ½ yard	17.80	19.71	26.37	37.64	45.72	N/A
½ yard	20.98	36.10	52.36	73.71	87.70	N/A
1 yard	39.15	49.31	77.17	104.44	120.71	148.73
2 yard	61.68	70.98	99.64	112.50	140.22	166.30
4 yard	102.85	112.56	161.90	222.57	278.71	334.11
6 yard	155.03	167.92	254.14	334.11	415.90	500.28
8 yard	213.18	233.30	334.16	444.97	555.68	667.21
* "yard" and "yd." = cubic yard						

YARD WASTE SERVICES

- Johnson County Topsoil - \$155.00 hauling charge + \$0 disposal fee
- Reno - \$155.00 hauling charge + \$75 disposal fee
- Lawn Corps - \$165.00 hauling charge + \$120 disposal fee

WCA Contract – Draft Proposal from City

Term

7 years, with 3 renewable one-year periods

Residential Services

Waste and Recycling. 95-gallon carts supplied, one of each. Curbside Only Pickup Collection Schedule 3 days/week. Require publishing an Annual Schedule.

Monthly Bulky Item Pickup - 8’x8’ 50 lb. limit

Annual Tire Pickup – 6 per household

Commercial Services

Waste. Dumpsters provided with rate.

If small commercial, treat like residential (no tires, or annual)

General Services

Dual Axle Allowed

3 Holidays

No tipping or solicitation of tips

Designated City Contacts

City Website and Email

Notify Customers of non-pickup

Reporting of metrics

Yard Waste – see rates

Consideration & Billing

City bills and collects payments. Payments passed on to WCA.

City Administrative Fee built into rate

Franchise Fee option for City

3% annual increase, after first 2 years locked

WCA annual \$7,500 donation for enhancements to the Library, Parks & Public Facilities

Insurance

\$1.0 million liability policies and accident and death policies; worker’s comp

Required notification of insurance cancellation.

Performance Bond of 100% of first year value or \$500,000 in-lieu of estimate.

Miscellaneous

City option to opt out of assignment of contract if within the first 24 months of the contract.

WCA CHARGES FOR SERVICE

RESIDENTIAL ACCEPTABLE WASTE:

RATE

Single family dwellings, duplexes, and apartments	\$17.98 (monthly) + City \$0.65 Admin Fee
Curbside Recycling (weekly)	Included in Residential Rate
One Large Item Pick-Up (monthly)	Included in Residential Rate

OTHER SERVICES:

Citywide Cleanup	\$250.00/ton
Tire Pickup	\$250.00/ton
Yard Waste (When Called by City)	First six free per year, \$200.00/per pickup

COMMERCIAL & INDUSTRIAL:

<i>Monthly Rates in \$</i>	Collection times per week					
Container Size*	1	2	3	4	5	6
96-Gallon Container	17.98	N/A	N/A	N/A	N/A	N/A
2 yard	69.06	138.13	207.19	287.31	372.95	447.54
3 yard	91.16	182.33	273.49	364.66	455.82	546.99
4 yard	121.55	243.11	364.66	486.21	607.77	729.32
6 yard	164.10	314.93	472.40	629.87	787.33	944.80
8 yard	209.96	419.97	629.87	751.42	994.53	1259.73
* "yard" and "yd." = cubic yard						

MUNICIPAL RECYCLING AND WASTE AGREEMENT

This Municipal Recycling and Waste Agreement (the “Agreement”) is entered into on September 13, 2018 (the “Effective Date”), by and between The City of Osawatomie, Kansas, a municipal corporation created under the laws of the State of Kansas (“City”), and **Waste Management of Kansas, Inc** (“WMK”), a Kansas corporation.

WITNESSETH:

WHEREAS, the City desires to provide its citizens with environmentally sound solid waste collection and disposal and recyclable materials collection; and

WHEREAS, WMK and its affiliates have extensive experience in providing solid waste and recyclable materials collection, disposal and processing; and

WHEREAS, the City has determined that it would be in the best interests of its citizens to contract with WMK for the collection of its residential solid waste and recyclable materials according to the terms and conditions contained herein.

NOW THEREFORE, WMK, for and in consideration of the compensation to be paid by the City in the manner set forth herein, hereby agrees and binds itself and its successors as follows:

I. DEFINITIONS

a. Acceptable Waste – shall mean all non-hazardous solid waste generated by households in the ordinary course including food wastes and discarded papers, cardboard, plastics, cloth, glass and metal materials, but excluding Excluded Waste as defined herein. Waste shall be considered “Acceptable Waste” only if properly contained with 96-gallon Carts placed at the curbside on the proper weekly collection day, but occasional overflow of waste is permitted if properly sealed in plastic garbage bags in proximity to the Cart. As used herein, the term “waste” shall mean Acceptable Waste unless the context demonstrates otherwise. Title to Acceptable Waste shall transfer to WMK upon collection in WMK vehicles.

b. Excluded Waste – shall mean, without limitation, any regulated quantity of a Hazardous Waste or Hazardous Substance as defined by federal, state or local laws or regulations; containerized wastes, the contents of which are not able to be identified; sludges; waste from a pollution control process or cleanup of a spill of a chemical substance or commercial product; waste tires; biohazards or regulated medical waste; friable asbestos; construction and demolition waste; soil, sod, tree branches and stumps; paint; motor oil; excessive storm debris or debris resulting from weather events such as hurricanes or tropical storms; or any item too large or heavy to be contained within a 96-gallon Cart. Title to and liability for Excluded Waste shall remain with the resident that generated the Excluded Waste at all times.

c. Commercial or Industrial Unit – shall mean a building or operation within the corporate limits of the City used by a person or persons, corporation, limited liability company, or other entity for conducting commerce or other business activity. as a domicile. Apartment or condominium buildings with four (4) or more individual dwellings are considered as Commercial Units for the purpose of this Agreement.

d. Recyclables or Recyclable Materials – shall mean all such materials as defined in Exhibit A. Title to Recyclable Materials shall transfer to WMK upon collection in WMK vehicles.

e. Residential Unit – shall mean a dwelling within the corporate limits of the City used by a person or persons as a domicile. Apartment or condominium buildings with four (4) or more individual dwellings shall not be considered Residential Units and are, therefore, considered as Commercial Units.

f. Service Area – shall mean the service area covered by this Contract, which is all residential, commercial and industrial business establishments within the city limits of the City of Osawatomie, Kansas, excluding Osawatomie State Hospital.

g. Service Complaints – shall mean missing a collection on a scheduled day; failure to return containers to their proper location in good order; spillage; unreturned calls; or hold times over 15 minutes for callers.

h. Follow-up Complaints – shall mean contact with the City by a customer after speaking with a WMK representative, where the customer complaint was not resolved, whether or not WMK eventually resolved the complaint rather as prescribed in the contract.

II. TERM

The initial term of this Agreement shall be for five (5) years commencing on January 1, 2019, and expiring December 31, 2023, and thereafter shall automatically renew for three (3) successive renewal terms of one (1) year each, unless either Party gives the other Party written notice of its intention to terminate the Agreement at least ninety days prior to the end of the then-current term. All notices shall be served by certified mail, return receipt requested, or by a nationally recognized overnight courier service.

III. SERVICES TO BE PERFORMED

a. Residential Units. WMK shall furnish the labor, equipment, licenses, permits, and other requirements necessary to provide Acceptable Waste and Recyclable Materials collection to all Residential Units of the City, which currently consists of approximately 1,500 Residential Units (the “Service”). As part of the Service, WMK shall:

- i. Carts Not Supplied. Each Residential Unit shall provide their own trash receptacles. Household waste containers or bags must be approximately thirty (30) gallon in size with a maximum of three (3) containers or bags per week. One ninety-five (95) gallon trash receptacle will also be considered acceptable. Residential Units will also be required to provide their own bins for recycling. Residents may use their own containers with the exception of any type of bag. If additional containers are used, residents need to make sure that they are clearly marked RECYCLING.
- ii. Rental of Carts. WMK has carts available to rent at the sizes and rates in Exhibit B of this Agreement. The Carts and equipment WMK furnishes Residents and the City shall remain WMK’s property.
- iii. Acceptable Waste Collection Frequency, Days and Times. WKM shall provide the Service from the alley or curbside once per week from each Residential Unit on a weekday or weekdays to be agreed by WMK and City in this Agreement. Collections shall occur during ordinary hours but in no instance earlier than 7:00 A.M. WMK may not, in any case, collect on arterial streets before

9:00 AM or between 4:00 and 6:00 PM on weekdays. All Acceptable Waste must be placed at the curb by customers for collection no later than 7:00 A.M. on scheduled day of collection.

- iv. Recyclable Materials Collection Frequency, Days and Times. WMK shall provide recycling collection services to Residential Units on a weekly basis, subject to the terms and conditions in Exhibit A. The City and Residential Units shall ensure that only materials acceptable in accordance with Exhibit A are placed in the recycling containers. WMK reserves the right to refuse recycling services where the materials are not properly segregated from waste or other non-recyclable material.
 - v. Monthly Bulky Item Pickup. WMK shall provide one (1) additional item pickup per residential household customer per month for bulky items, in conjunction with the first trash pickup of the month. These items must not be larger than 8' x 8', and must weigh less than 50 pounds. Collection shall be provided for all residential refuse customers. Bulky item pickup shall not include bags or boxes of regular trash, loose or scattered materials, construction or debris, liquid waste, or hazardous materials. Residents will be required to put the item for bulky item pickup at the same location as trash pickup.
 - vi. Collection Schedule. WMK will adhere to the following agreed residential collection schedule to the greatest extent possible. Residential recycling will be collected on Wednesday of each week. Residential refuse will be collected on Thursday of each week. Should a schedule change occur that deviates from the published Annual Schedule, WMK shall publish notice of the change in the City of Osawatomie's official newspaper at WMK's expense.
 - vii. Annual Schedule. Upon review and approval of the City, WMK shall publish an annual schedule for pickup no later than 30 days prior to the beginning of each calendar year. The schedule shall include pickup days on each week for waste and recycling, for monthly bulky item pickups, and for the annual cleanup day and/or waste tire pickup. The schedule shall be made available in hard format to as a handout to citizens as well as for publishing on the City's website.
 - viii. Annual Tire Pickup. Once each year tires will be picked up with a limit of six (6) tires per household. This service will not be included in the price for bulky item pickup. The City will be responsible for payment of this service. See Exhibit B for charges. WMK will present records of the tonnage to the City when invoicing the City for reimbursement.
- b. Commercial or Industrial Units. WMK shall furnish the labor, equipment, licenses, permits, and other requirements necessary to provide Acceptable Waste and Recyclable Materials collection to all Commercial or Industrial Units of the City, which currently consists of approximately 100 Commercial or Industrial Units (the "Service"). As part of the Service, WMK shall:
- i. Bins or Carts Supplied. WMK shall provide bins or carts for Commercial and Industrial units whenever accessible, outside location on a hard surface according to individual agreement. The bins, carts and equipment WMK furnishes Commercial or Industrial Units and the City shall remain WMK's property.
 - ii. Acceptable Waste Collection Frequency, Days and Times. WMK shall provide the Service according to individual agreements with commercial or industrial customers, but in no case, less than once per week. Collections shall occur during ordinary hours but in no instance earlier than 7:00 A.M. WMK may not, in any case, collect on arterial streets before 9:00 AM or between 4:00 and 6:00 PM on weekdays. All Acceptable Waste must be placed in the bins or carts

provided on scheduled day(s) of collection. WMK may decline to collect refuse in bins not so placed.

- iii. Small Commercial Customers. Any Commercial customer requesting a small service with one pickup per week shall be billed and treated as a Residential Customer, except that they shall not be eligible for the annual cleanup day and the waste tire pickup.

c. General Services. Acceptable Waste Collection services apply to both Residential Units and Commercial or Industrial Units:

- i. Exclusions from the Service – Acceptable Waste and Recyclable Materials collection by WMK shall not include yard waste collection, bulk or white goods collection, construction or demolition waste collection, or Christmas tree collection.
- ii. Disposal. WMK shall dispose or arrange to dispose of the Acceptable Waste collected under this Agreement only at solid waste disposal facilities that are licensed and permitted to accept such solid waste.
- iii. Holiday Schedule. The following shall be designated holidays on which service shall not be provided: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. If a designated holiday falls on a regularly scheduled Service day, the Services for that day and the remaining days in the week be pushed back one day.
- iv. Bin/Cart Replacement. WMK shall replace at no charge to the City or the customer any bin or cart that becomes damaged or destroyed during the provision of the Service, or that becomes unusable because of ordinary wear and tear. However, if a bin or cart in the possession of a customer is lost, stolen, damaged, or destroyed through no fault of WMK, the customer shall be responsible to compensate WMK the fair market value for the replacement of such bin or cart. The customer shall be billed separately for such replacement cost.
- v. City-wide Clean-up Event. WMK shall provide an adequate number of packer trucks at no cost for at least one (1) event per year for city-wide clean-up, providing house-to-house curbside collection. WMK will be responsible for payment of this service, as it is included in the customer rates. See Exhibit B for charges. WMK will present records of the tonnage to the City after each event.
- vi. Yard Waste Site. WMK will set Roll-Off container(s) for the City located at the City Forestry Site behind the Power Plant at 101 11th Street for the use of hauling Yard Waste materials. This service work will be performed on an on-call basis, meaning the City will call WMK when they need to have a roll-off container delivered and they will call WMK to have the roll-off container emptied. City acknowledges that it will be in care, custody and control of the roll-off container owned by WMK and will accept the responsibility for the roll-off container and its contents. Roll-off containers can only be filled level full and will not be hauled off by WMK if they exceed the legal weight limit which is currently eight (8) tons. See Exhibit C for charges related to Yard Waste haul-off.

d. Compliance with Laws. WMK shall perform all services under this agreement in accordance with all applicable Federal, State and local laws, ordinances, orders and regulations. Residential and Commercial or Industrial waste collected by WMK shall only be disposed of at an approved Subtitled D landfill or an approved transfer station approved by the City. Residential and Commercial recycling collection by WMK shall only be disposed of at an approved commingled recycling facility. All disposal

costs are the responsibility of the WMK. WMK shall observe all City ordinances relating to obstructing streets and keeping passageways open. WMK is granted the privilege of using the streets for the purpose of doing work specified in City but is not granted the exclusive use of the streets. WMK shall perform all work in a manner that will cause the least inconvenience and annoyance to the general public and to the property owners.

e. Personnel and Equipment.

- i. Personnel. All personnel shall be appropriately licensed with valid permits to operate vehicles throughout their employment with the vendor. They shall be neatly dressed, courteous, and competent. They shall be appropriately trained and equipped and shall operate their vehicles in a safe and responsible manner.
- ii. Drivers. Drivers shall be cautioned to stay within the curb lines and roadways. Any incident of a vehicle driving over a curb and damaging a sprinkler or other property will result in charges for damage repair, together with administrative charges being assessed the vendor.
- iii. Tipping. No tipping is allowed and no soliciting of tips by any personnel will be allowed.
- iv. Equipment and Containers. All refuse and wastes shall be collected and transported in a watertight vehicle or container and shall be fully enclosed or securely covered. All collection vehicles and equipment shall be maintained in a safe, clean and sanitary condition, and shall be so constructed and maintained and operated as to prevent spillage of solid waste. The vehicles and other equipment shall be clearly identified with the name of the company and phone number and shall be affixed to each vehicle and piece of equipment. Vehicles used for regular collection of acceptable waste and recycling shall not have greater than a total of two axles, not including a drop-down axle on the rear of the vehicle for weight distribution purposes on state highways.
- v. City Contacts. WMK will supply one “ambassador” equipped and empowered to resolve complaints in a timely manner. WMK will name a management level employee to liaison with designated City personnel.

f. Customer Service Standards.

- i. Initial Contact with Customers. No later than 60 days prior to the initiation of service, WMK shall have prepared and distributed an informational brochure to all customers. This brochure shall at a minimum contain the name, phone number, e-mail address and hours of operation of WMK. It shall also communicate the collection days and hours. It shall also contain the holidays observed by WMK and the alternative collection days for those holidays. It shall also contain information concerning alternative days should the vendor be unable to collect on regularly scheduled days due to snow/ice. Regulations regarding the preparation of waste, solid waste, recycling and bulky item pickup will also be communicated. It is expected WMK will promote recycling through this communication and periodically (minimally twice) through the year.
- ii. Contact for Customers. WMK will maintain a website and e-mail address for the timely communication of Osawatomie customers with the company. Additionally, it will maintain an office with a toll-free telephone line staffed by trained personnel at the minimum between the hours of 8:00 AM and 5:00 PM Monday through Friday except for holidays. There shall be a supervisor with authority to handle problems and complaints as they may arise. During non-business hours the telephone may be maintained by an answering machine or answering service. In the event, phones are busy during working hours and a message must be left, all such calls

must be returned within the business day. In all instances, the phone shall be answered promptly and courteously.

- iii. Complaints and Missed Pick-Ups. All complaints as to WMK’s provision of services, including alleged missed pick-ups, shall be given prompt and courteous attention. WMK shall attempt to resolve all complaints, and cure all missed pick-ups that are not the result of force majeure events within one (1) weekday, conditions permitting. All complaints are meant to come directly to WMK. In the event complaints are received first by the City, the details of those complaints will be forwarded to WMK’s “ambassador” as defined in this agreement.
- iv. Notification to Customers of Pickup Issues. If products are left in bins because they have not been prepared properly for acceptable waste disposal or recycling, the WMK will leave the customer notice as to why the materials were left.
- v. Trash Lost in Transit. In the event, items fall from the bin or collection vehicle, either at the point of pick-up or during hauling, the items are to be retrieved immediately or within one hour of notice.

g. Anti-Discrimination. In performing services, WMK shall not discriminate against any person on the basis of race, religion, sex, national origin, political affiliation, or physical and mental disability.

h. Exclusive. The City grants the exclusive right to perform the services set forth in this Agreement. The City agrees that it will not allow anyone other than WMK to engage in Acceptable Waste and Recyclable Materials collection within the City.

i. Favored Nations. Should WMK enter into a residential solid waste and recycling services agreement with the cities of Spring Hill, Paola or Louisburg, Kansas and the provisions of that contract are more financially favorable, the City will have the right to modify this contract to incorporate the same or similar benefits.

j. Reporting. WMK will be required to provide metrics on the entire waste stream. This shall include solid-waste, recycling, and monthly bulky item pickup. This will allow a more complete and accurate determination of diversion rates. All vehicles will be weighed and the aggregated results reported monthly to the City.

IV. CONSIDERTION AND BILLING

a. Consideration. WMK shall be paid for its services by customers directly.

b. Billing. Contractor is responsible for all billing to Residential, Commercial and Industrial customers within the City. No charges or fees, other than reasonable late fees and interest or any mandatory federal, state or local tax or fee, shall be charged to a customer, unless covered by this Agreement, as outlined in Exhibit B or in this Section.

c. Franchise Fee. The City requests that WMK collect a Franchise Fee of up to three percent (3.0%) on its billings. The Franchise Fee would be returned to the City on a quarterly basis and will be placed in the City’s Street Improvement Fund for repairs and maintenance to the City’s streets and alleys. The Franchise Fee amount will be set by the City Council in the Annual Fee Resolution. The City will provide WMK with at least forty-five-days (45) notice prior to the of the initiation or change in the Franchise Fee. The City will coordinate with WMK to make sure that any change in the Franchise Fee will occur when a quarterly bill is sent to residential customers.

d. Community Donation. WMK will provide an annual donation of \$ ____ to the City of Osawatomie to be used for the City Library, City Parks, or Public Facilities. Such a donation would be considered in addition to sponsorship or support of community events.

e. Annual Increase. Annually, the monthly fee per Residential Unit and Commercial or Industrial Until shall be adjusted on each anniversary of the effective date of this Agreement by a three percent (3%) increase, except that no fee increase shall occur for the first two (2) years of this agreement.

f. Future Collection and Payment. The City retains the right to resume billing responsibilities ~~beginning in 2020~~, should it be so directed by the City Council. Should the City exercise this option, it will notify WMK of its intention no later than ~~September 1, 2019~~ four (4) months prior to the beginning of the month in which City billing operations would resume. One the resumption of City billing for trash services, ~~and~~ the base rate for all monthly service rates paid to WMK will be reduced by \$0.30 ~~for 2020~~. The City and WMK will then modify the language in this Section IV to allow for the billing and collection of fees by the City with collections being passed on to WMK. At that time, the City may also be eligible to add an additional fee for billing and administrative services to the rate, which will be retained by the City. Reporting and other such provisions may be amended to this Agreement on the approval of both parties.

g. Changes in Law. Notwithstanding anything to the contrary in this Agreement, WMK may modify the rates, with at least 90-days notice to the City, to account for any increase in costs due to uncontrollable circumstances, including, without limitation, changes in local, state or federal laws or regulations, sudden increases (at least a twenty percent increase over a three-year average in a 12-month period) in disposal or processing costs, imposition of taxes, fees or surcharges, municipal franchise fee increases and acts of God such as floods, fires, etc.

V. PENALTIES

a. Penalties for Service Complaints. In the event of a Service Complaints, not including Follow-up Complaints, where it conclusive that WMK failed to resolve the complaint or deliver service as prescribed in the contract, shall constitute a violation and be subject to penalties per the following schedule: The first violation at a given address during any twelve-month (12) period shall not incur a penalty, the second violation at the same location during the same twelve-month (12) period shall result in a penalty of \$50.00, the third and subsequent violations at the same location during the same twelve-month (12) period shall result in a penalty of \$100.00 per violation.

b. Penalties for Follow-up Complaints. In the event of Follow-up Complaints, where it conclusive that a customer contacted the City after WMK failed to resolve the complaint shall constitute a violation and be subject to penalties per the following schedule: More than 2 violations in any month, or more than 10 violations in any 12-month period, regardless of the service location, shall incur a penalty of \$100.00 per violation, and any subsequent violations during either the applicable monthly or 12-month periods, shall result in a penalty of \$100.00 per violation, except that any such violation may only be subject to one \$100.00 penalty.

c. Penalties for Failure to Perform. In addition to the provisions of the Performance Bond, if WMK fails to provide services on a timely basis to a neighborhood or the entire community, WNK shall forfeit payment for services not performed unless remedied to the satisfaction of the City or caused by an act of God. WMK shall pay as penalty the amount of five Hundred Dollars (\$500) per day for failure to comply with the provisions of the contract, to the City.

d. Appeal of Penalties. WMK shall have the opportunity to appeal penalties imposed to the City's governing body.

e. Payment of Penalties. The City shall either (i) invoice WMK for penalties on a monthly basis, if applicable, and paid within 45 days of receipt, or (ii) make an agreement with WMK deduct any such penalties from the City's payments to WMK for any services rendered to the City under this Agreement.

VI. DEFAULT AND TERMINATION

The failure of either Party to perform a material obligation under this Agreement shall be considered a breach of this Agreement, and the breaching Party shall be in default. In the event of default, the non-defaulting Party shall give written notice of the default, and the defaulting Party shall have: (i) ten (10) days from the receipt of the notice to cure any failure to pay money under this Agreement, or (ii) thirty (30) days from the receipt of the notice to cure any other default under this Agreement. If the defaulting Party fails to cure the breach within the allotted time, the non-defaulting Party may, at its option, immediately terminate the Agreement. In the event of a default, the defaulting Party agrees to pay all damages caused by said default, to include, without limitation reasonable attorneys' fees and costs associated with enforcement of this Agreement. Under no circumstances shall the Parties be liable for any consequential, indirect, punitive or special damages for any alleged default under this Agreement.

VII. FORCE MAJEURE

WMK's performance of the Service may be suspended and its obligations hereunder excused during the pendency of a cause or causes beyond its reasonable control, such as by way of example and not limitation: acts of war, public enemy, civil disturbance, riot or disorder; epidemic or pandemic; acts of God such as landslide, lightning, earthquake, fire, storm, the impending approach of a storm, or flood; explosion; restraining orders, interference by civil or military authorities, strike, statute, ordinance, government order or ruling; or other similar causes. In the event of an occurrence of a *force majeure* event, WMK shall notify the City immediately, in writing, describing the particulars of the circumstances preventing performance of the Service and its expected duration. Notice shall be provided after the effect of such occurrence has ceased.

VIII. INDEMNIFICATION

a. To the fullest extent permitted by law, the City agrees to indemnify, defend, and hold WMK harmless from and against all claims and actions, suits, debts, damages, liabilities and costs whatsoever, including but not limited to attorneys' fees and costs of defense, based upon or arising out of the City's breach of this Agreement, and based upon or arising out of any injuries (including death) to persons, or damage to property, to the extent caused in whole or in part by the negligent acts or omissions of the City, or any of its directors, officers, employees, agents, or subcontractors, in the performance of this Agreement.

b. WMK agrees to indemnify, defend, and hold the City harmless from and against all claims and actions, suits, debts, damages, liabilities and costs whatsoever, including but not limited to attorneys' fees and costs of defense, based upon or arising out of the breach of this Agreement, and based upon or arising out of any injuries (including death) to persons, or damage to property, to the extent caused in whole or in part by the negligent acts or omissions of WMK, or any of its directors, officers, employees, agents, or subcontractors, in the performance of this Agreement, including any claim made by virtue of Worker's Compensation.

c. The indemnification obligations of this section shall survive the termination or expiration of this Agreement for any reason.

VIII.IX. INSURANCE

a. Liability Insurance. WMK shall maintain, at all times during the term of this Contract, employer's liability, automobile liability and general liability insurance in the amount of one million dollars (\$1,000,000.00), single limit coverage. The insurance coverage shall list the City as an additional insured under the provisions of the policy or policies. Such insurance coverage shall protect WMK and the City against all claims arising from injuries to any person or damage to property of others arising out of any act or omission of WMK, its agents or employees.

b. Personal Injury Liability Insurance. WMK shall provide and maintain insurance with a minimum limit of one million dollars (\$1,000,000.00) to protect the City against any and all claims for damages for personal injury, including accidental death, as well as claims under this contract, whether such operations are by WMK, by any of its agents or employees, or by anyone directly or indirectly employed by WMK. Such insurance policy shall name the City as an additional insured under the provisions of the policy.

c. Insurance Cancellation Notification. The policies of insurance referred to in this Section shall provide that no cancellation or change shall be made with regard to said policy unless the insurance company first gives the City thirty (30) days written notice by certified mail prior to the cancellation or change. The lapse of any insurance coverage required under this Contract shall result in immediate termination of this Contract.

d. Worker's Compensation Insurance. Further, WMK shall maintain Worker's Compensation insurance to fully protect performance of this Contract. WMK shall file with the City a certificate from the insurer that the policy or policies are in full force and effect and that the same will not be altered, amended or terminated without a thirty (30) day prior written notice having been given the City.

e. Performance Bond. As additional security, a Performance Bond is required by the City in the case of WMK's failure to perform contracted services. The bond is to be issued by a recognized Surety Company or a Cashier's or certified check of WMK's drawn on a responsible bank in the amount of 100 percent (100%) of the estimated first-year value of the Agreement, or in lieu of an estimate, \$500,000. The performance bond shall be in effect for the duration of the contract and any extensions.

IX.X. MISCELLANEOUS PROVISIONS

a. Independent Contractor. WMK shall perform the Service as an independent contractor. WMK, its officers, employees, agents, contractors or subcontractors, are not and shall not be considered employees, agents or servants of the City for any purpose whatsoever under this Agreement or otherwise. WMK at all times shall have exclusive control of the performance of the Service. Nothing in this Agreement shall be construed to give the City any right or duty to supervise or control WMK, its officers, employees, agents, contractors or subcontractors, nor to determine the manner in which WMK shall perform its obligations under the Agreement.

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

c. Amendments. No amendment to this Agreement shall be made except upon the written consent of both Parties.

d. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties hereto with respect to the subject matter and supersedes any prior and contemporaneous agreements and understandings, express or implied.

e. Waiver. A waiver by either Party of any breach of any provision hereof shall not be taken or held to be a waiver of any subsequent breach, whether similar or dissimilar, or as a waiver of any provision itself. No payment or acceptance of compensation for any period subsequent to any breach shall be deemed a waiver of any right or acceptance of defective performance.

f. Severance. In the event that any provision of this Agreement is found by a court of competent jurisdiction to be void, invalid, or unenforceable, the balance of this Agreement shall remain in effect and binding on the Parties.

g. Choice of Law. This Agreement shall be governed by the laws of the state where the services are being performed, without regard to choice of law rules.

h. Assignment. Neither Party may assign its rights and obligations under this Agreement without the prior written consent of the other Party, except that WMK may assign its rights and obligations under this Agreement to any WMK affiliate without the City’s consent. An assignment shall not relieve the assignee of any obligations under this Agreement. However, any assignment of this Agreement within the first twenty-four (24) months of this Agreement, shall provide the City with the option to opt-out of the agreement within six (6) months of notification of the Assignment and to terminate within six (6) to eighteen (18) months of such notification by the City to the Contractor to opt-out of the Agreement.

i. Notice. All notices required or permitted under this Agreement shall be in writing and shall be personally delivered, sent by certified mail, return receipt requested, or by overnight courier, with copies to counsel for the respective Parties.

IN WITNESS THEREOF, the parties have executed this Municipal Recycling and Waste Agreement as of the Effective Date indicated above.

WMK of Missouri, LLC

City of Osawatomie

Name, Title

L. Mark Govea, Mayor

EXHIBIT A

SINGLE STREAM RECYCLING SPECIFICATIONS

RECYCLABLES must be dry, loose (not bagged) and include **ONLY** the following:

Aluminum cans - empty	Newspaper
PET bottles with the symbol #1, screw tops only – empty	Mail
HDPE plastic bottles with the symbol #2 (milk, water bottles detergent, and shampoo bottles, etc.) – empty	Uncoated paperboard (ex. cereal boxes; food and snack boxes)
Steel and tin cans – empty	Uncoated printing, writing and office paper
Phone books	Old corrugated containers/cardboard (uncoated)
Magazines, glossy inserts and pamphlets	

RECYCLABLES may include the following with the written consent of COMPANY:

Plastic containers with symbols #3-#7 – empty (no expanded polystyrene), empty	Glass food and beverage containers – brown, clear, or green - empty
Aseptic containers	Cartons

NON-RECYCLABLES include, but are not limited to the following:

Plastic bags and bagged materials (even if containing recyclables)	Microwavable trays
Mirrors	Window or auto glass
Light bulbs	Coated cardboard
Porcelain and ceramics	Plastics unnumbered
Expanded polystyrene	Coat hangers
Glass and metal cookware/bakeware	Household appliances and electronics,
Hoses, cords, wires	Yard waste, construction debris, and wood
Flexible plastic or film packaging and multi-laminated materials	Needles, syringes, IV bags or other medical supplies
Food waste and liquids, containers containing such items	Textiles, cloth, or any fabric (bedding, pillows, sheets, etc.)
Excluded Materials or containers which contained Excluded Materials	Napkins, paper towels, tissue, paper plates, paper cups, and plastic utensils
Any Recyclable materials or pieces of such less than 4” in size in any dimension	Propane tanks, batteries

DELIVERY SPECIFICATIONS:

Material delivered by or on behalf of Customer may not contain Non-Recyclables or Excluded Materials. “Excluded Materials” means radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, bio-hazardous or toxic substance or material, or regulated medical or hazardous waste as defined by, characterized or listed under applicable federal, state, or local laws or regulations, materials containing information (in hard copy or electronic format, or otherwise) which information is protected or regulated under any local, state or federal privacy or data security laws, including, but not limited to the Health Insurance Portability and Accountability Act of 1996, as amended, or other regulations or ordinances.

Company reserves the right to refuse to provide recycling services when Recyclables are not properly segregated from waste or Non- Recyclables More specifically, Company may “tag and leave” carts or containers when Company determines in its sole discretion that Non-Recyclables have been placed in the recycling cart or container. The tag will identify the reason for non-collection. Company may also collect recyclables that have not been properly segregated from waste or other Non-Recyclables and dispose of the contaminated recyclables at Customer’s sole cost.

Company may reject in whole or in part, or may process, in its sole discretion, Recyclables not meeting the specifications, including wet materials, and Customer shall pay Company for all costs, losses and expenses incurred with respect to such non-conforming Recyclables including costs for handling, processing, transporting and/or disposing of such non-conforming Recyclable Materials which charges may include an amount for Company's operating or profit margin. Without limiting the foregoing, and Customer shall pay a contamination charge for additional handling, processing, transporting and/or disposing of Non-Recyclables, Excluded Materials, and/or all or part of non-conforming loads and additional charges may be assessed for bulky items such as appliances, concrete, furniture, mattresses, tires, electronics, pallets, yard waste, propane tanks, etc.

Company reserves the right upon notice to discontinue acceptance of any category of materials set forth above as a result of market conditions related to such materials and makes no representations as to the recyclability of the materials.

EXHIBIT B

CHARGES FOR SERVICE

City of Osawatomie, Kansas

<u>RESIDENTIAL ACCEPTABLE WASTE:</u>	<u>RATE</u>
Single family dwellings, duplexes, and apartments	\$17.25 (monthly)/ billed quarterly in advance
Curbside Recycling (weekly)	Included in Residential Rate
One Large Item Pick-Up (monthly)	Included in Residential Rate

<u>OTHER SERVICES:</u>	
Continer Rental (per resident request)	
65 gallon	\$2.50 (monthly)/billed quarterly in advance
95 gallon	\$2.50 (monthly)/billed quarterly in advance
Citywide Cleanup	Included in Residential Rate
Tire Pickup	\$250.00 + landfill disposal costs
Yard Waste (When Called by City)	See Exhibit C

COMMERCIAL & INDUSTRIAL:

<i>Monthly Rates in \$</i>	Collection times per week					
	1	2	3	4	5	6
Container Size*						
Less than ½ yard	17.80	19.71	26.37	37.64	45.72	N/A
½ yard	20.98	36.10	52.36	73.71	87.70	N/A
1 yard	39.15	49.31	77.17	104.44	120.71	148.73
2 yard	61.68	70.98	99.64	112.50	140.22	166.30
4 yard	102.85	112.56	161.90	222.57	278.71	334.11
6 yard	155.03	167.92	254.14	334.11	415.90	500.28
8 yard	213.18	233.30	334.16	444.97	555.68	667.21

* "yard" and "yd." = cubic yard

EXHIBIT C

YARD WASTE SERVICES

The Rates for this Service Work will be as follows:

1. If WMK can haul the material to 'Johnson County Top Soil' the rate will be: \$155.00 hauling charge. The City will be allowed to put the following items in the containers going to this compost facility: Grass, Leaves, Flowers and Garden Plants. These items can be placed in the container in a loose fashion or in compostable bags. This compost site does not allow any type of wood (tree limbs/branches), trash or plastic bags. If trash is found in the container it will have to be taken to the landfill/transfer station and the City will be charged \$155.00 hauling charge + \$42.00 per ton.
2. If the 'Johnson County Top Soil' site becomes full and can no longer accept the containers from the City, then WMK will have to haul to Reno. The rate for taking the containers to Reno will be: \$155.00 hauling fee + \$75.00 for disposal. The City will be allowed to put the following items in the containers going to this facility: Grass, Leaves, Flowers, Garden Plants and Wood (tree limbs/branches). These items can be placed in the container in a loose fashion or in compostable bags. If trash is found in the container it will have to be taken to the landfill/transfer station and the City will be charged \$155.00 hauling charge + \$42.00 per ton.
3. If it becomes unacceptable to take Yard Waste / Compost material to Reno and the site at 'Johnson County Top Soil' is full, then WMK will have to take the loads to Lawn Corp's. The rate for taking the containers to Lawn Corp's will be: \$165.00 hauling fee + \$120.00 for disposal. The City will be allowed to put the following items in the containers going to this compost facility: Grass, Leaves, Flowers, Garden Plants and Wood (tree limbs/branches). These items can be placed in the container in a loose fashion or in compostable bags. If trash is found in the container it will have to be taken to the landfill/transfer station and the City will be charged \$155.00 hauling charge + \$42.00 per ton.

MUNICIPAL RECYCLING AND WASTE AGREEMENT

This Municipal Recycling and Waste Agreement (the “Agreement”) is entered into on September 13, 2018 (the “Effective Date”), by and between The City of Osawatomie, Kansas, a municipal corporation created under the laws of the State of Kansas (“City”), and **WCA of Missouri, LLC** (“WCA”), a Missouri limited liability company.

WITNESSETH:

WHEREAS, the City desires to provide its citizens with environmentally sound solid waste collection and disposal and recyclable materials collection; and

WHEREAS, WCA and its affiliates have extensive experience in providing solid waste and recyclable materials collection, disposal and processing; and

WHEREAS, the City has determined that it would be in the best interests of its citizens to contract with WCA for the collection of its residential solid waste and recyclable materials according to the terms and conditions contained herein.

NOW THEREFORE, WCA, for and in consideration of the compensation to be paid by the City in the manner set forth herein, hereby agrees and binds itself and its successors as follows:

I. DEFINITIONS

a. Acceptable Waste – shall mean all non-hazardous solid waste generated by households in the ordinary course including food wastes and discarded papers, cardboard, plastics, cloth, glass and metal materials, but excluding Excluded Waste as defined herein. Waste shall be considered “Acceptable Waste” only if properly contained with 96-gallon Carts placed at the curbside on the proper weekly collection day, but occasional overflow of waste is permitted if properly sealed in plastic garbage bags in proximity to the Cart. As used herein, the term “waste” shall mean Acceptable Waste unless the context demonstrates otherwise. Title to Acceptable Waste shall transfer to WCA upon collection in WCA vehicles.

b. Excluded Waste – shall mean, without limitation, any regulated quantity of a Hazardous Waste or Hazardous Substance as defined by federal, state or local laws or regulations; containerized wastes, the contents of which are not able to be identified; sludges; waste from a pollution control process or cleanup of a spill of a chemical substance or commercial product; waste tires; biohazards or regulated medical waste; friable asbestos; construction and demolition waste; soil, sod, tree branches and stumps; paint; motor oil; excessive storm debris or debris resulting from weather events such as hurricanes or tropical storms; or any item too large or heavy to be contained within a 96-gallon Cart. Title to and liability for Excluded Waste shall remain with the resident that generated the Excluded Waste at all times.

c. Commercial or Industrial Unit – shall mean a building or operation within the corporate limits of the City used by a person or persons, corporation, limited liability company, or other entity for conducting commerce or other business activity. as a domicile. Apartment or condominium buildings with four (4) or more individual dwellings are considered as Commercial Units for the purpose of this Agreement.

d. Recyclables or Recyclable Materials – shall mean all such materials as defined in Exhibit A. Title to Recyclable Materials shall transfer to WCA upon collection in WCA vehicles.

e. Residential Unit – shall mean a dwelling within the corporate limits of the City used by a person or persons as a domicile. Apartment or condominium buildings with four (4) or more individual dwellings shall not be considered Residential Units and are, therefore, considered as Commercial Units.

f. Service Area – shall mean the service area covered by this Contract, which is all residential, commercial and industrial business establishments within the city limits of the City of Osawatomie, Kansas, excluding the Osawatomie State Hospital.

II. TERM

The initial term of this Agreement shall be for seven (7) years commencing on January 1, 2019, and expiring December 31, 2025, and thereafter shall automatically renew for three (3) successive renewal terms of one (1) year each, unless either Party gives the other Party written notice of its intention to terminate the Agreement at least ninety days prior to the end of the then-current term. All notices shall be served by certified mail, return receipt requested, or by a nationally recognized overnight courier service.

III. SERVICES TO BE PERFORMED

a. Residential Units. WCA shall furnish the labor, equipment, licenses, permits, and other requirements necessary to provide Acceptable Waste and Recyclable Materials collection to all Residential Units of the City, which currently consists of approximately 1,500 Residential Units (the “Service”). As part of the Service, WCA shall:

- i. Carts Supplied. Each Residential Unit shall be provided a 96-gallon Cart for Acceptable Waste and a separate 96-gallon Cart for Recyclable Materials. The Carts and equipment WCA furnishes Residents and the City shall remain WCA’s property.
- ii. Acceptable Waste Collection Frequency, Days and Times. WCA shall provide the Service from the curbside once per week from each Residential Unit on a weekday or weekdays to be agreed by WCA and City. Collections shall occur during ordinary hours but in no instance earlier than 7:00 A.M. WCA may not, in any case, collect on arterial streets before 9:00 AM or between 4:00 and 6:00 PM on weekdays. All Acceptable Waste must be placed at the curb by customers for collection no later than 7:00 A.M. on scheduled day of collection.
- iii. Recyclable Materials Collection Frequency, Days and Times. WCA shall provide Service to Residential Units on a weekly basis, subject to the terms and conditions in Exhibit A. The City and Residential Units shall ensure that only materials acceptable in accordance with Exhibit A are placed in the recycling containers. WCA reserves the right to refuse recycling services where the materials are not properly segregated from waste or other non-recyclable material.
- iv. Monthly Bulky Item Pickup. WCA shall provide one (1) additional item pickup per residential household customer per month for bulky items, on a schedule to be established by mutual agreement of both parties and provided on the annual schedule. These items must not be larger than 8’ x 8’, and must weigh less than 50 pounds. Collection shall be provided for all residential refuse customers. Bulky item pickup shall not include bags or boxes of regular trash, loose or scattered materials, construction debris, liquid waste, or hazardous materials. Residents will be required to put the item for bulky item pickup at the same location as trash pickup.
- v. Collection Schedule. WCA will adhere to the collection Schedule in Appendix C to the greatest extent possible. Should a schedule change occur that deviates from the published Annual

Schedule, WMK shall publish notice of the change in the City of Osawatomie's official newspaper at WMK's expense.

- vi. Annual Schedule. WCA shall publish an annual schedule for pickup no later than 30 days prior to the beginning of each calendar year. The schedule shall include pickup days on each week for waste and recycling, for monthly bulky item pickups, and for the annual cleanup day and/or waste tire pickup. The schedule shall be made available in hard format to as a handout to citizens as well as for publishing on the City's website.
 - vii. Annual Tire Pickup. Once each year tires will be picked up with a limit of six (6) tires per household. This service will not be included in the price for bulky item pickup. The City will be responsible for payment of this service. See Exhibit B for charges. WCA will present records of the tonnage to the City when invoicing the City for reimbursement.
- b. Commercial or Industrial Units. WCA shall furnish the labor, equipment, licenses, permits, and other requirements necessary to provide Acceptable Waste and Recyclable Materials collection to all Commercial or Industrial Units of the City, which currently consists of approximately 100 Commercial or Industrial Units (the "Service"). As part of the Service, WCA shall:
- i. Bins or Carts Supplied. WCA shall provide bins or carts for Commercial and Industrial units whenever accessible, outside location on a hard surface according to individual agreement. The bins, carts and equipment WCA furnishes Commercial or Industrial Units and the City shall remain WCA's property.
 - ii. Acceptable Waste Collection Frequency, Days and Times. WCA shall provide the Service according to individual agreements with commercial or industrial customers, but in no case, less than once per week. Collections shall occur during ordinary hours but in no instance earlier than 7:00 A.M. WCA may not, in any case, collect on arterial streets before 9:00 AM or between 4:00 and 6:00 PM on weekdays. All Acceptable Waste must be placed in the bins or carts provided on scheduled day(s) of collection. Contractor may decline to collect refuse in bins not so placed.
 - iii. Small Commercial Customers. Any Commercial customer requesting a single cart service with one pickup per week shall be billed and treated as a Residential Customer, except that (A) they shall not be eligible for additional services where the city pays an additional costs, including, but not limited to the annual cleanup day and the waste tire pickup, or (B) may receive an alley pickup if located in the downtown commercial area.
- c. General Services. Acceptable Waste Collection services apply to both Residential Units and Commercial or Industrial Units:
- i. Exclusions from the Service – Acceptable Waste and Recyclable Materials collection by WCA shall not include yard waste collection, bulk or white goods collection, construction or demolition waste collection, or Christmas tree collection.
 - ii. Disposal. WCA shall dispose or arrange to dispose of the Acceptable Waste collected under this Agreement only at solid waste disposal facilities that are licensed and permitted to accept such solid waste.
 - iii. Holiday Schedule. The following shall be designated holidays on which the Service shall not be provided: New Year's Day, Thanksgiving Day, and Christmas Day. If a designated holiday falls

on a regularly scheduled Service day, the Services for that day and the remaining days in the week be pushed back one day.

- iv. Bin/Cart Replacement. WCA shall replace at no charge to the City or the customer any bin or cart that becomes damaged or destroyed during the provision of the Service, or that becomes unusable because of ordinary wear and tear. However, if a bin or cart in the possession of a customer is lost, stolen, damaged, or destroyed through no fault of WCA, the customer shall be responsible to compensate WCA the fair market value for the replacement of such bin or cart. The customer shall be billed separately for such replacement cost.
- v. City-wide Clean-up Event. WCA shall provide an adequate number of packer trucks at no cost for at least one (1) event per year for city-wide clean-up, providing house-to-house curbside collection. The City will be responsible for payment of this service. See Exhibit B for charges. WCA will present records of the tonnage to the City when invoicing the City for reimbursement.
- vi. Yard Waste Site. WCA will set Roll-Off container(s) for the City located at the City Forestry Site behind the Power Plant at 101 11th Street for the use of hauling Yard Waste materials. This service work will be performed on an on-call basis, meaning the City will call WCA when they need to have a roll-off container delivered and they will call WCA to have the roll-off container emptied. City acknowledges that it will be in care, custody and control of the roll-off container owned by WCA and will accept the responsibility for the roll-off container and its contents. Roll-off containers can only be filled level full and will not be hauled off by WCA if they exceed the legal weight limit which is currently eight (8) tons. See Exhibit B for charges related to Yard Waste haul-off.

d. Compliance with Laws. WCA shall perform all services under this agreement in accordance with all applicable Federal, State and local laws, ordinances, orders and regulations. Residential and Commercial or Industrial waste collected by Contractor shall only be disposed of at an approved Subtitled D landfill or an approved transfer station approved by the City. Residential and Commercial recycling collection by Contractor shall only be disposed of at an approved commingled recycling facility. All disposal costs are the responsibility of the WCA. WCA shall observe all City ordinances relating to obstructing streets and keeping passageways open. WCA is granted the privilege of using the streets for the purpose of doing work specified in City but is not granted the exclusive use of the streets. WCA shall perform all work in a manner that will cause the least inconvenience and annoyance to the general public and to the property owners.

e. Personnel and Equipment.

- i. Personnel. All personnel shall be appropriately licensed with valid permits to operate vehicles throughout their employment with the vendor. They shall be neatly dressed, courteous, and competent. They shall be appropriately trained and equipped and shall operate their vehicles in a safe and responsible manner.
- ii. Drivers. Drivers shall be cautioned to stay within the curb lines and roadways. Any incident of a vehicle driving over a curb and damaging a sprinkler or other property will result in charges for damage repair, together with administrative charges being assessed the vendor.
- iii. Tipping. No tipping is allowed and no soliciting of tips by any personnel will be allowed.
- iv. Equipment and Containers. All refuse and wastes shall be collected and transported in a watertight vehicle or container and shall be fully enclosed or securely covered. All collection

vehicles and equipment shall be maintained in a safe, clean and sanitary condition, and shall be so constructed and maintained and operated as to prevent spillage of solid waste. The vehicles and other equipment shall be clearly identified with the name of the company and phone number and shall be affixed to each vehicle and piece of equipment. Vehicles used for regular collection of acceptable waste and recycling shall not have greater than a total of three axles, not included a drop down axle on the rear of the vehicle for weight distribution purposes on state highways.

v. City Contacts. WCA will supply one “ambassador” equipped and empowered to resolve complaints in a timely manner. WCA will name a management level employee to liaison with designated City personnel.

f. Customer Service Standards.

i. Initial Contact with Customers. No later than 60 days prior to the initiation of service, WCA shall have prepared and distributed an informational brochure to all customers. This brochure shall at a minimum contain the name, phone number, e-mail address and hours of operation of WCA. It shall also communicate the collection days and hours. It shall also contain the holidays observed by WCA and the alternative collection days for those holidays. It shall also contain information concerning alternative days should the vendor be unable to collect on regularly scheduled days due to snow/ice. Regulations regarding the preparation of waste, solid waste, recycling and bulky item pickup will also be communicated. It is expected WCA will promote recycling through this communication and periodically (minimally twice) through the year.

ii. Contact for Customers. WCA will maintain a website and e-mail address for the timely communication of Osawatomie customers with the company. Additionally, it will maintain an office with a toll-free telephone line staffed by trained personnel at the minimum between the hours of 8:00 AM and 5:00 PM Monday through Friday except for holidays. There shall be a supervisor with authority to handle problems and complaints as they may arise. During non-business hours the telephone may be maintained by an answering machine or answering service. In the event, phones are busy during working hours and a message must be left, all such calls must be returned within the business day. In all instances, the phone shall be answered promptly and courteously.

iii. Complaints and Missed Pick-Ups. All complaints as to WCA’s provision of services, including alleged missed pick-ups, shall be given prompt and courteous attention. WCA shall attempt to resolve all complaints promptly, and shall cure all missed pick-ups that are not the result of force majeure events within one (1) weekday, conditions permitting. All complaints are meant to come directly to WCA. In the event complaints are received first by the City, the details of those complaints will be forwarded to WCA’s “ambassador” as defined in this agreement.

iv. Notification to Customers of Pickup Issues. If products are left in bins because they have not been prepared properly for acceptable waste disposal or recycling, the contractor will leave the customer notice as to why the materials were left.

v. Trash Lost in Transit. In the event, items fall from the bin or collection vehicle, either at the point of pick-up or during hauling, the items are to be retrieved immediately or within one hour of notice.

g. Anti-Discrimination. In performing services, WCA shall not discriminate against any person on the basis of race, religion, sex, national origin, political affiliation, or physical and mental disability.

h. Exclusive. The City grants the exclusive right to perform the services set forth in this Agreement. The City agrees that it will not allow anyone other than WCA to engage in Acceptable Waste and Recyclable Materials collection within the City.

i. Favored Nations. Should WCA enter into a residential solid waste and recycling services agreement with the cities of Spring Hill, Paola or Louisburg, Kansas and the provisions of that contract are more financially favorable, the City will have the right to modify this contract to incorporate the same or similar benefits.

j. Reporting. WCA will be required to provide metrics on the entire waste stream. This shall include solid-waste, recycling, and monthly bulky item pickup. This will allow a more complete and accurate determination of diversion rates. All vehicles will be weighed and the aggregated results reported monthly to the City.

IV. HOUSE COUNT AND ADJUSTMENTS

The estimated house count at the approval of this agreement shall be 1,500 Residential Units and 100 Commercial or Industrial Units; however, the Parties shall verify this house count prior to the initial billing under this Agreement and shall adjust the house count for billing purposes accordingly. Either Party may propose a prospective adjustment to the house count at any time during the term of this Agreement upon reasonable notice to the other Party, which adjustment shall be investigated jointly by the Parties to establish a new house count to apply thereafter. WCA shall keep accurate route sheets and/or a Residential Unit database that shall be provided to City promptly upon its request.

V. FEES AND PAYMENTS

a. Service Fees. The fees to be paid by the City to WCA are based on the services and amounts listed in Exhibit B of this agreement.

b. Annual Increase. Annually, the monthly fee per Residential Unit shall be adjusted on each anniversary of the effective date of this Agreement by a three percent (3%) increase, except that no fee increase shall incur until the City's first billing occurring after January 1, 2021.

c. Collection and Payment. WCA will be paid for its services by the City by passing along collected monthly receipts from customers. The total compensation paid to WCA will fluctuate in relation to the City's collection of monthly receipts by the City for services. Payment to WCA of the collected receipts will be made by the City by the 15th of the month for the previous month's receipts. The fees charged by the Contractor for residential, commercial and industrial collection for each calendar year shall be established by the terms of this Agreement and Exhibit B of this Agreement. Billing for city-wide cleanup, or any other non-routine services included in this contract, shall be invoiced to the City by WCA for such services.

d. Administrative Fee. The City shall be allowed to collect an Administrative Fee, which will be included in the overall City trash rates provided to the customer. The fee will be set by the City Council in the City's Annual Fee Resolution and will be retained by the City for the purposes off-setting costs associated with costs of billing and managing the billing process.

e. Franchise Fee. The City shall be allowed to collect a Franchise Fee of up to three percent (3.0%) franchise fee to be remitted to the City on all customer charges, not including late fees or penalties. This fee will be in addition to any Administrative Fee and will be placed in the City's Street Improvement Fund

for repairs and maintenance to the City's streets and alleys. The Franchise Fee shall be established by the City Council in the City's Annual Fee Resolution.

f. **Community Donation.** WCA will provide an annual donation of \$ ____ to the City of Osawatomie to be used for enhancements to the City Library, City Parks, or Public Facilities. Such a donation would be considered in addition to sponsorship or support of community events.

g. **Changes in Law.** Notwithstanding anything to the contrary in this Agreement, WCA may modify the rates, with at least 90-days notice to the City, to account for any increase in costs due to uncontrollable circumstances, including, without limitation, changes in local, state or federal laws or regulations, sudden increases (at least a twenty percent increase over a three-year average in a 12-month period) in disposal or processing costs, imposition of taxes, fees or surcharges, municipal franchise fee increases and acts of God such as floods, fires, etc.

VI. DEFAULT AND TERMINATION

The failure of either Party to perform a material obligation under this Agreement shall be considered a breach of this Agreement, and the breaching Party shall be in default. In the event of default, the non-defaulting Party shall give written notice of the default, and the defaulting Party shall have: (i) ten (10) days from the receipt of the notice to cure any failure to pay money under this Agreement, or (ii) thirty (30) days from the receipt of the notice to cure any other default under this Agreement. If the defaulting Party fails to cure the breach within the allotted time, the non-defaulting Party may, at its option, immediately terminate the Agreement. In the event of a default, the defaulting Party agrees to pay all damages caused by said default, to include, without limitation reasonable attorneys' fees and costs associated with enforcement of this Agreement. Under no circumstances shall the Parties be liable for any consequential, indirect, punitive or special damages for any alleged default under this Agreement.

VII. FORCE MAJEURE

WCA's performance of the Service may be suspended and its obligations hereunder excused during the pendency of a cause or causes beyond its reasonable control, such as by way of example and not limitation: acts of war, public enemy, civil disturbance, riot or disorder; epidemic or pandemic; acts of God such as landslide, lightning, earthquake, fire, storm, the impending approach of a storm, or flood; explosion; restraining orders, interference by civil or military authorities, strike, statute, ordinance, government order or ruling; or other similar causes. In the event of an occurrence of a *force majeure* event, WCA shall notify the City immediately, in writing, describing the particulars of the circumstances preventing performance of the Service and its expected duration. Notice shall be provided after the effect of such occurrence has ceased.

VIII. INDEMNIFICATION

a. To the fullest extent permitted by law, the City agrees to indemnify, defend, and hold WCA harmless from and against all claims and actions, suits, debts, damages, liabilities and costs whatsoever, including but not limited to attorneys' fees and costs of defense, based upon or arising out of the City's breach of this Agreement, and based upon or arising out of any injuries (including death) to persons, or damage to property, to the extent caused in whole or in part by the negligent acts or omissions of the City, or any of its directors, officers, employees, agents, or subcontractors, in the performance of this Agreement.

b. WCA agrees to indemnify, defend, and hold the City harmless from and against all claims and actions, suits, debts, damages, liabilities and costs whatsoever, including but not limited to attorneys' fees and costs of defense, based upon or arising out of the breach of this Agreement, and based upon or arising

out of any injuries (including death) to persons, or damage to property, to the extent caused in whole or in part by the negligent acts or omissions of WCA, or any of its directors, officers, employees, agents, or subcontractors, in the performance of this Agreement, including any claim made by virtue of Worker's Compensation.

c. The indemnification obligations of this section shall survive the termination or expiration of this Agreement for any reason.

IX. INSURANCE

a. Liability Insurance. WCA shall maintain, at all times during the term of this Contract, employer's liability, automobile liability and general liability insurance in the amount of one million dollars (\$1,000,000.00), single limit coverage. The insurance coverage shall list the City as an additional insured under the provisions of the policy or policies. Such insurance coverage shall protect WCA and the City against all claims arising from injuries to any person or damage to property of others arising out of any act or omission of Contractor, its agents or employees.

b. Personal Injury Liability Insurance. WCA shall provide and maintain insurance with a minimum limit of one million dollars (\$1,000,000.00) to protect the City against any and all claims for damages for personal injury, including accidental death, as well as claims under this contract, whether such operations are by WCA, by any of its agents or employees, or by anyone directly or indirectly employed by WCA. Such insurance policy shall name the City as an additional insured under the provisions of the policy.

c. Insurance Cancellation Notification. The policies of insurance referred to in this Section shall provide that no cancellation or change shall be made with regard to said policy unless the insurance company first gives the City thirty (30) days written notice by certified mail prior to the cancellation or change. The lapse of any insurance coverage required under this Contract shall result in immediate termination of this Contract.

d. Worker's Compensation Insurance. Further, Contractor shall maintain Worker's Compensation insurance to fully protect performance of this Contract. Contractor shall file with the City a certificate from the insurer that the policy or policies are in full force and effect and that the same will not be altered, amended or terminated without a thirty (30) day prior written notice having been given the City.

e. Performance Bond. As additional security, a Performance Bond is required by the City in the case of WCA's failure to perform contracted services. The bond is to be issued by a recognized Surety Company or a Cashier's or certified check of WCA's drawn on a responsible bank in the amount of 100 percent (100%) of the estimated first-year value of the Agreement, or in lieu of an estimate, \$500,000. The performance bond shall be in effect for the duration of the contract and any extensions.

X. MISCELLANEOUS PROVISIONS

a. Independent Contractor. WCA shall perform the Service as an independent contractor. WCA, its officers, employees, agents, contractors or subcontractors, are not and shall not be considered employees, agents or servants of the City for any purpose whatsoever under this Agreement or otherwise. WCA at all times shall have exclusive control of the performance of the Service. Nothing in this Agreement shall be construed to give the City any right or duty to supervise or control WCA, its officers, employees, agents, contractors, or subcontractors, nor to determine the manner in which WCA shall perform its obligations under the Agreement.

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

c. Amendments. No amendment to this Agreement shall be made except upon the written consent of both Parties.

d. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties hereto with respect to the subject matter and supersedes any prior and contemporaneous agreements and understandings, express or implied.

e. Waiver. A waiver by either Party of any breach of any provision hereof shall not be taken or held to be a waiver of any subsequent breach, whether similar or dissimilar, or as a waiver of any provision itself. No payment or acceptance of compensation for any period subsequent to any breach shall be deemed a waiver of any right or acceptance of defective performance.

f. Severance. In the event that any provision of this Agreement is found by a court of competent jurisdiction to be void, invalid, or unenforceable, the balance of this Agreement shall remain in effect and binding on the Parties.

g. Choice of Law. This Agreement shall be governed by the laws of the state where the services are being performed, without regard to choice of law rules.

h. Assignment. Neither Party may assign its rights and obligations under this Agreement without the prior written consent of the other Party, except that WCA may assign its rights and obligations under this Agreement to any WCA affiliate without the City’s consent. An assignment shall not relieve the assignee of any obligations under this Agreement. However, any assignment of this Agreement within the first twenty-four (24) months of this Agreement, shall provide the City with the option to opt-out of the Agreement within six (6) months of notification of the Assignment and to terminate within six (6) to eighteen (18) months of such notification by the City to the Contractor to opt-out of the Agreement.

i. Notice. All notices required or permitted under this Agreement shall be in writing and shall be personally delivered, sent by certified mail, return receipt requested, or by overnight courier, with copies to counsel for the respective Parties.

IN WITNESS THEREOF, the parties have executed this Municipal Recycling and Waste Agreement as of the Effective Date indicated above.

WCA of Missouri, LLC

City of Osawatomie

Name, Title

L. Mark Govea, Mayor

EXHIBIT A

SINGLE STREAM RECYCLING SPECIFICATIONS

RECYCLABLES must be dry, loose (not bagged) and include **ONLY** the following:

Aluminum cans - empty	Newspaper
PET bottles with the symbol #1, screw tops only – empty	Mail
HDPE plastic bottles with the symbol #2 (milk, water bottles detergent, and shampoo bottles, etc.) – empty	Uncoated paperboard (ex. cereal boxes; food and snack boxes)
Steel and tin cans – empty	Uncoated printing, writing and office paper
Phone books	Old corrugated containers/cardboard (uncoated)
Magazines, glossy inserts and pamphlets	

RECYCLABLES may include the following with the written consent of COMPANY:

Plastic containers with symbols #3-#7 – empty (no expanded polystyrene), empty	Glass food and beverage containers – brown, clear, or green - empty
Aseptic containers	Cartons

NON-RECYCLABLES include, but are not limited to the following:

Plastic bags and bagged materials (even if containing recyclables)	Microwavable trays
Mirrors	Window or auto glass
Light bulbs	Coated cardboard
Porcelain and ceramics	Plastics unnumbered
Expanded polystyrene	Coat hangers
Glass and metal cookware/bakeware	Household appliances and electronics,
Hoses, cords, wires	Yard waste, construction debris, and wood
Flexible plastic or film packaging and multi-laminated materials	Needles, syringes, IV bags or other medical supplies
Food waste and liquids, containers containing such items	Textiles, cloth, or any fabric (bedding, pillows, sheets, etc.)
Excluded Materials or containers which contained Excluded Materials	Napkins, paper towels, tissue, paper plates, paper cups, and plastic utensils
Any Recyclable materials or pieces of such less than 4” in size in any dimension	Propane tanks, batteries

DELIVERY SPECIFICATIONS:

Material delivered by or on behalf of Customer may not contain Non-Recyclables or Excluded Materials. “Excluded Materials” means radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, bio-hazardous or toxic substance or material, or regulated medical or hazardous waste as defined by, characterized or listed under applicable federal, state, or local laws or regulations, materials containing information (in hard copy or electronic format, or otherwise) which information is protected or regulated under any local, state or federal privacy or data security laws, including, but not limited to the Health Insurance Portability and Accountability Act of 1996, as amended, or other regulations or ordinances.

Company reserves the right to refuse to provide recycling services when Recyclables are not properly segregated from waste or Non- Recyclables More specifically, Company may “tag and leave” carts or containers when Company determines in its sole discretion that Non-Recyclables have been placed in the recycling cart or container. The tag will identify the reason for non-collection. Company may also collect recyclables that have not been properly segregated from waste or other Non-Recyclables and dispose of the contaminated recyclables at Customer’s sole cost.

Company may reject in whole or in part, or may process, in its sole discretion, Recyclables not meeting the specifications, including wet materials, and Customer shall pay Company for all costs, losses and expenses incurred with respect to such non-conforming Recyclables including costs for handling, processing, transporting and/or disposing of such non-conforming Recyclable Materials which charges may include an amount for Company's operating or profit margin. Without limiting the foregoing, and Customer shall pay a contamination charge for additional handling, processing, transporting and/or disposing of Non-Recyclables, Excluded Materials, and/or all or part of non-conforming loads and additional charges may be assessed for bulky items such as appliances, concrete, furniture, mattresses, tires, electronics, pallets, yard waste, propane tanks, etc.

Company reserves the right upon notice to discontinue acceptance of any category of materials set forth above as a result of market conditions related to such materials and makes no representations as to the recyclability of the materials.

EXHIBIT B

CHARGES FOR SERVICE

City of Osawatomie, Kansas

<u>RESIDENTIAL ACCEPTABLE WASTE:</u>	<u>RATE</u>
Single family dwellings, duplexes, and apartments (includes 96-gallon bin)	\$17.98 (monthly) + City \$.65 Admin Fee
Curbside Recycling (weekly-includes bin) (includes 96-gallon bin)	Included in Residential Rate
One Large Item Pick-Up (monthly)	Included in Residential Rate

OTHER SERVICES:

City-wide Cleanup	\$250.00/ton
Tire Pickup	\$250.00/ton
Yard Waste (When Called by City)	First six free per year, \$200.00/per pickup

COMMERCIAL & INDUSTRIAL:

<i>Rates in \$</i>	Collection times per week					
Container Size*	1	2	3	4	5	6
96-Gallon Container	17.98	N/A	N/A	N/A	N/A	N/A
2 yard	69.06	138.13	207.19	287.31	372.95	447.54
3 yard	91.16	182.33	273.49	364.66	455.82	546.99
4 yard	121.55	243.11	364.66	486.21	607.77	729.32
6 yard	164.10	314.93	472.40	629.87	787.33	944.80
8 yard	209.96	419.97	629.87	751.42	994.53	1259.73

* "yard" and "yd." = cubic yard

EXHIBIT C

COLLECTION SCHEDULE

TBD



CITY OF OSAWATOMIE



STAFF AGENDA MEMORANDUM

DATE OF MEETING: September 5, 2018

AGENDA ITEM: Sidewalk Contract for Phase II of Main Street Improvements Project

PRESENTER: Blake Madden, Director of Public Works and Utilities

ISSUE SUMMARY: The Kansas Department of Commerce's Community Development Block Grant (CDBG) program conducted its final monitoring of the Main Street Improvements Project - Phase II on August 22. The City was found to be in compliance with the state and federal program. The public hearing held tonight officially closes out the project and allows the City to proceed with construction of sidewalks along Main Street and 12th Street.

I requested and received the attached quote from Kansas Heavy Construction, LLC (KHC), the contractor for the street pavement portion of the project. City staff recommends and requests that the City Council authorize the City to enter into a contract with KHC for the construction of the sidewalks in the amount of \$210,493.75 for the following reasons:

- Issuing an official request for bids would only delay the construction of the sidewalks (CDBG would not allow an advertisement for bids until the street project was officially closed out, which occurred tonight).
- With familiarity of the project site and being the low bidder on the street pavement portion of the project, KHC would likely be low bidder should the project be advertised for bid.
- With concrete forms already on site, KHC would likely have a lower mobilization cost than another contractor.
- If the contract were awarded to another contractor, problems would likely arise due to the "blending" of the two projects.

It is the staff's belief that the lack of sidewalks presents a threat to the public's health, welfare, and safety which, in turn, exempts the sidewalk construction from competitive bidding.

FUNDING SOURCE: Funding for the sidewalks would be from CIP monies in the street fund.

COUNCIL ACTION NEEDED: Discuss and determine whether to authorize the City to enter into a contract with KHC for sidewalk construction along Main Street and 12th Street.

STAFF RECOMMENDATION TO COUNCIL: Authorize the City to enter into a contract with KHC for sidewalk construction along Main Street and 12th Street in the amount of \$210,493.75.



Kansas Heavy Construction, LLC

19425 State Avenue
Tonganoxie, Kansas 66086
(913) 845 – 2121
Fax: 845 – 2813

September 4, 2018
Mr. Blake Madden
City of Osawatomie, KS
RE: Concrete sidewalk unit pricing

Mr. Madden:

Please see sidewalk pricing below for the completion of sidewalk per updated plans received from BG Consultants on June 7th, 2018. Pricing below is based on quantities listed in the plans.

Line Item	Description	Quantity	Unit	Unit Price	Total Price
1	Contractor Construction Staking	1	LS	\$ 1,275.00	\$ 1,275.00
2	Mobilization	1	LS	\$ 750.00	\$ 750.00
3	Traffic Control	1	LS	\$ -	\$ -
4	Sidewalk Construction (4")(AE)	3451	SY	\$ 56.25	\$ 194,118.75
5	Concrete Steps	20	LF	\$ 425.00	\$ 8,500.00
6	Handrail	30	LF	\$ 195.00	\$ 5,850.00
				Grand Total	\$ 210,493.75

This pricing includes all grading, compaction, and backfill for the sidewalk along Main Street between 7th and 12th. This price does not include any seeding or sodding. If pricing is approved and work can begin in the next 15-30 days, traffic control will not be of additional cost. If the work cannot be started within that timeframe, additional cost will be added to cover traffic control. Please feel free to call or email if you have any questions or concerns.

Matt Gripka
Kansas Heavy Construction.

Main Street Improvements - Phase 2

Main Street from 7th to 12th, 12th from Main to Parker

Budget - Concrete Reconstruction

<i>5-Sep-18</i>	BG Estimate Jan-17	with Low Bid Oct-17	Revised Jan-18	Spent To Date
EXPENSES				
Contractor				
<u>CDBG</u>				
Subtotal - CDBG	\$ 1,758,400	\$ 1,545,300	\$ 1,545,300	\$ 1,676,837
<u>Sidewalks</u>				
Sidewalks	\$ 90,500	\$ 90,500	\$ 90,500	\$ 210,494
Subtotal Contractor	\$ 1,848,900	\$ 1,635,800	\$ 1,635,800	\$ 1,887,330
Other Costs				
Contingency	\$ 231,389	\$ 259,489	\$ 248,389	\$ -
Miscellaneous	-	-	-	6,683.85
Subtotal - Construction Cost	\$ 2,080,289	\$ 1,895,289	\$ 1,884,189	\$ 1,894,014
<u>CDBG</u>				
Design Engineering	\$ 143,900	\$ 143,900	\$ 144,050	\$ 133,835
Construction Observation	107,900	40,000	40,000	-
Grant Administration	25,000	25,000	25,000	21,045
Subtotal - CDBG Other	\$ 276,800	\$ 208,900	\$ 209,050	\$ 154,880
<u>Sidewalk</u>				
Design Engineering - Sidewalk	\$ 28,200	\$ 28,200	\$ 28,200	\$ 28,200
Construction Observation	21,100	7,000	7,000	-
Subtotal - Storm/Sidewalk	\$ 49,300	\$ 35,200	\$ 35,200	\$ 28,200
Street Lighting - By City	-	122,000	133,100	104,240
Geology	5,000	5,000	5,000	3,446
Temporary Financing	30,000	30,000	30,000	15,139
Subtotal Other Costs	\$ 592,489	\$ 660,589	\$ 660,739	\$ 312,589
TOTAL EXPENSES	\$ 2,441,389	\$ 2,296,389	\$ 2,296,539	\$ 2,199,919
FINANCING				
Grant Funds	\$ 400,000	\$ 400,000	\$ 400,000	\$ 398,000
County Sales Tax*	500,000	500,000	500,000	-
Funds Already Borrowed	241,389	130,000	130,000	130,000
Funds From Other Projects		116,389	116,389	134,219
<i>New Permanent Notes</i>	<u>1,300,000</u>	<u>1,150,000</u>	<u>1,150,000</u>	<u>1,657,450</u>
TOTAL FINANCING	\$ 2,441,389	\$ 2,296,389	\$ 2,296,389	\$ 2,319,669
Over/(Under) Needed	\$ -	\$ -	\$ (150)	\$ 119,750

* Borrowed with Temp Notes, Not available until Dec 2018

AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is by and between City of Osawatomie, Kansas ("Owner") and
Kansas Heavy Construction, LLC ("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

2018 MAIN STREET SIDEWALK IMPROVEMENTS

ARTICLE 2 – THE PROJECT

2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows:

The Work described in Article 1 is the same as the Project in its entirety.

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by BG Consultants, Inc. of Lawrence, Kansas.

3.02 The Owner has retained BG Consultants, Inc. ("Engineer") to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 *Contract Times: Days*

The Work will be substantially completed within **30 working days** after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within **40 working days** after the date when the Contract Times commence to run.

4.03 *Liquidated Damages*

A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time.

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Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. Substantial Completion: Contractor shall pay Owner \$800.00 for each working day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$800.00 for each working day that expires after such time until the Work is completed and ready for final payment.
3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

4.04 *Special Damages*

Deleted

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

- A. For all Work, at the prices stated in Contractor’s Bid, attached hereto as an exhibit, and whose total is listed below.

Two hundred and ten thousand, four hundred and ninety-three dollars and seventy-five cents.	\$210,493.75
--	--------------

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor’s Applications for Payment on or about the last week before the end of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract
 - a. 95 percent of Work completed (with the balance being retainage);
 - b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

- B. Upon Substantial Completion of the entire construction to be provided under the Contract Documents, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

ARTICLE 7 – INTEREST

7.01 All amounts not paid when due shall bear interest at the rate of 10 percent per annum.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
- B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
- E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.
- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 9 – CONTRACT DOCUMENTS

9.01 *Contents*

- A. The Contract Documents consist of the following:
 - 1. This Agreement (pages 1 to 7, inclusive).
 - 2. Performance bond (pages 1 to 3, inclusive).
 - 3. Payment bond (pages [] to [], inclusive).
 - 4. Other bonds.
 - a. Statutory Bond (pages 1 to 2, inclusive). (Statutory)
 - 5. General Conditions (pages 1 to 77, inclusive).
 - 6. Supplementary Conditions (pages 1 to 14, inclusive).
 - 7. Specifications as listed in the table of contents of the Project Manual.
 - 8. Drawings (not attached but incorporated by reference) consisting of 61 sheets with each sheet bearing the following general title: 2017 Main Street Improvements .
 - 9. Addenda (numbers [] to [], inclusive).
 - 10. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (pages [] to [], inclusive).
 - b. Documentation submitted by Contractor prior to Notice of Award (pages [] to [], inclusive).
 - c. Contractor's Bid Pricing (pages 1 to 1, inclusive).
 - 11. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. KDHE Notice of Transfer of Ownership.
 - c. Work Change Directives.
 - d. Change Orders.
 - e. Field Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.

- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 10 – MISCELLANEOUS

10.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

10.06 *Other Provisions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or “track changes” (redline/strikeout), or in the Supplementary Conditions.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on _____ (which is the Effective Date of the Contract).

OWNER:

CONTRACTOR:

City of Osawatomie

Kansas Heavy Construction, LLC

By: _____

By: _____

Title: _____

Title: _____

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

Attest: _____

Title: _____

Title: _____

Address for giving notices:

Address for giving notices:

439 Main St

PO Box 860603

PO Box 37

Shawnee, KS 66286

Osawatomie, KS 66064-0037

License No.: _____

(where applicable)

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

CITY OF OSAWATOMIE



STAFF AGENDA MEMORANDUM

DATE OF MEETING: September 13, 2018

AGENDA ITEM: Restoration of Auditorium Marquee

PRESENTER: Blake Madden, Director of Public Works and Utilities

ISSUE SUMMARY: Over the past couple of months, the City has been in discussions with three area contractors involving proposals to install a new roof and reinstall the metal fascia and soffit of the marquee on the front of the auditorium. I've included the proposal received by the City to date.

Because the new roof will mate with the fascia and the fascia will mate with the soffit, City staff believes that the installation of the roof, fascia, and soffit is best accomplished by the contractor as one complete project. The complete project includes removal of the existing roof and decking, installation of new decking, installation of a new roof and roof drain inserts, installation of wood blocking for attachment of the metal fascia and soffit, and installation of the previous metal fascia and soffit which was salvaged by the City.

J.B. Turner & Sons, Inc. and Premier Contracting, Inc. have provided proposals that include this complete project. The City has received a proposal by Hensley Coating, Inc. for the roof but not the fascia and soffit installation. The City has not received a response for the request to revise its proposal to include the fascia and soffit.

Hensley Coating, Inc. submitted a proposal with a total cost of \$5,506.00 for the *roof only*. Hensley's proposal includes a 10-year warranty on the roof and a 2-year warranty on workmanship.

J.B. Turner & Sons, Inc. submitted a proposal with a total cost of \$22,120.00 for the complete project. J.B. Turner & Sons' proposal includes a 15-year warranty on the roof and a 2-year warranty on workmanship.

Premier Contracting, Inc. submitted a proposal with a total cost of \$17,900.00 for the complete project. Premier's proposal includes a 20-year warranty on the roof and a 2-year workmanship warranty.

FUNDING SOURCE: Capital Improvements – Grants/Buildings (Fund #27)

COUNCIL ACTION NEEDED: Review, discuss, and determine whether to award a contract at this time, and if so, which contractor should be awarded the contract.

STAFF RECOMMENDATION TO COUNCIL: Staff recommends awarding a contract for the restoration of the auditorium marquee to Premier Contracting, Inc. in the amount of \$17,900.00.



PROJECT: Auditorium Canopy
 439 Main St.
 Osawatomie, KS 66064

DATE: 9/13/18

Premier Contracting, Inc. proposes and agrees to perform the following work on the above mentioned structure for the price stated hereinafter.

SCOPE OF WORK

Reroof approximately 505 square feet.

1. Tear off all roof layer down to existing metal roof deck and properly dispose of same.
2. Install all new wood blocking at perimeters for proper roof installation.
3. Install one layer of 1.5" thick Polyiso roof insulation fastened down through existing roof and into metal deck below.
4. Install 60 mil adhered white TPO membrane roof system as per manufacturer's specifications and detail drawings.
5. Membrane base flashing at roof to wall location to run up wall and terminate with counter flashing.
 - a. Premier will utilize existing through wall reglet.
6. Flash all roof curbs and miscellaneous roof penetrations as per manufacturer specifications and detail drawings
7. Install 24 gauge pre-finished metal gravel stop edging at outside perimeter, complete with hold down clip
 - a. Premier to also install Stainless Steel fascia supplied by owner.
8. Premier Contracting Inc. to provide 2 years workmanship warranty.

TOTAL: \$9,050.00 Initial _____

Add to remove existing metal deck and install new: \$3,000.00 Initial _____

Add to install owners supplied soffit: \$5,850.00 Initial _____
 (Premier includes framing for soffit)

Notes/Exclusions:

1. Excludes anything not specifically spelled out in scope of work above.
2. This proposal does not include any asbestos testing or abatement.
3. No electrical or air conditioner work is included in our quotation.
 - a. If any mechanical, plumbing, or electrical work is needed, the cost to be reasonability of the owner.
4. Owner to be responsible for moving, relocation, and readjusting all satellite dishes.
5. No interior protection is included in this quote.
6. New drains are not included.
7. Premier not responsible for any bent or damaged metal soffit or fascia supplied by owner. Premier will do our best to install it back to original.
8. Installation of lighting to be by others.

ACCEPTED: _____ DATE: _____

Labor and material, furnished, and installed F.O.B. Job site. Tax is NOT included.

We at Premier Contracting, Inc. appreciate this opportunity.

Casey Budenbender
 Project Manager



1. **Warranty.** PREMIER CONTRACTING INC., hereinafter called the Company, shall be responsible for faulty materials or workmanship and shall remedy any defects due thereto which shall appear within a period of two years from the date of completion; but at the expiration of said period of two years all liability of the Company with respect to the labor and material furnished pursuant to this contract shall cease. The Company's liability under such circumstances shall be limited to the repair of such defects, and the Company shall not be liable for, and Second Party shall hold the Company harmless for the cost of, consequential damages to the building or contents. The Company shall in no event be liable for damages occasioned by the work of others, including, but without limitation, repair openings made for flues, vents, drains, sign braces or other equipment fastened to or set on the roof, and time and material expended pursuant to any requests for the investigation or repair of damage so occasioned shall be paid for by the party so requesting. This guarantee shall not be or become effective unless and until the Contractor has been paid in full for said roof in accordance with the agreement pursuant to which such roof was applied. This guarantee is in lieu of all other guarantees or warranties, express or implied. **THERE ARE NO WARRANTIES OR GUARANTEES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF.**

- A. **Exclusions.** No repairs to the roof deck, installation of wood strips or cant strips, furnishing and application of sheet metal work or roof drains, repairs or alterations to the building, or work preparatory or incidental to the application of our work is included in this contract unless such items are specifically stated in writing.
- B. **Additional Charges.** Addition or deviation from the specifications above described; damage to our work by others; temporary protection of the building not originally included in this agreement; premature notice to start work causing unnecessary trips; trips back to the job to repair openings made for flues, vents, drains, sign braces or other equipment fastened to or set upon the roof; and any labor required to be done other than during regular working hours – all shall be considered as an addition to the contract price and charged on a time and material basis.
- C. **Insurance.** The Company agrees to carry sufficient Workmen's Compensation and Public Liability Insurance to protect the Owner against any claims arising due to the Company's operations.
- D. **Facilities.** Second Party agrees to provide the Company without charge sufficient storage room for all materials and reasonable use of such facilities as scaffolding, elevators, and such other equipment as may be available for handling materials; and Second party agrees to permit the Company to use driveways and paved areas leading to or adjacent to the job for its equipment without liability to the Company occasioned by such use.
- E. **SERVICE or FINANCE CHARGES** are applicable on past due accounts at the rate of 1½% per month on amounts 30 days past due, which is equal to an ANNUAL PERCENTAGE RATE of 18%. Such charges are shown as "SERVICE CHARGE". There is no SERVICE CHARGE if accounts are paid within 30 days of the end of the month in which purchases are made.

2. **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.

PREMIER CONTRACTING INC.

Signature: _____

By: _____

Date: _____

Note: This Proposal subject to revision if not accepted within thirty days

Proposal

J.B. Turner & Sons Roofing & Sheet Metal

P.O. Box 19525

Topeka, KS 66619

Phone (785) 233-9603 FAX (785) 233-3868

SUBMITTED TO City of Osawatomie	PHONE 913-755-4525	DATE 8/24/2018
STREET	JOB NAME Osawatomie City Hall Canopy	
CITY, STATE, & ZIP	JOB LOCATION Osawatomie KS	
ATTENTION: Blake Madden	CELL PHONE	FAX

J.B. Turner & Sons Roofing & Sheet Metal will do the following:

- Remove and properly dispose of all existing roofing material, flashing and metal deck.
- Provide and install new metal deck, attached to existing structural members.
- Provide and install wood blocking necessary for soffit, fascia and drip edge installation.
- Provide and install tapered PolyISO rigid insulation on canopy. Taper to existing drains. Provide and install drain inserts if needed.
- Provide and install 60-mil white TPO, adhered to rigid insulation.
- Provide and install counterflashing. Install soffit and fascia material provided by owner.
- Provide 15 year warranty on TPO roof and 2 year contractor warranty on all work performed.

Does NOT include anywork related to tension rod, any lights, electrical, structural or plumbing, or the soffit/fascia material.

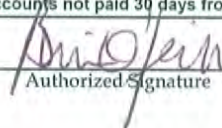
Exclusions: Does not include tax, permits, bonds, deck sheathing, deck replacement, skylights, curbs, any electrical or plumbing work, through-wall flashing, sill flashing, window flashing, plywood, any structural, hat channel, ladders, wood blocking, lightning protection or associated membrane.

We propose, hereby, to furnish material and labor, complete in accordance with the above specifications, for the sum of:

Twenty two thousand one hundred twenty ----- Dollars \$22,120.00

Payment to be made as follows:
Net due in full upon completion. A service charge of 1 1/2% per month will be added to all accounts not paid 30 days from invoice date.

All material is guaranteed to be specified. All work to be completed in a workman like manner according to standard practices. Any alteration or deviation from the above specifications involving extra costs, will be executed only upon written orders, and will become an extra charge over and above the original proposed 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 Workman's Compensation Insurance. One (1) year of Completed Operations Insurance Coverage is included with any / all other insurance policies maintained by J.B. Turner & Sons Roofing & Sheet Metal on behalf of themselves and our customers.


 Authorized Signature
 Brian O'Neill - Estimator

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

Signature _____

Date of Acceptance: _____

Signature _____

HENSLEY COATING inc.

Conklin Master Contractor

SPECIALIZING IN COMMERCIAL AND INDUSTRIAL ROOFING.

31899 Somerset Road
Paola, KS 66071
913-294-2550 ph 913-294-5146 fax



PROPOSAL SUBMITTED TO City of Osawatomie	PHONE CELL	DATE: 08-17-18
STREET 439 Main	JOB NAME Osawatomie Auditorium entry	
CITY, STATE, ZIP Osawatomie, KS 66064	JOB LOCATION auditorium	
CONTRACTOR: Dan Hensley	SYSTEM:	

We hereby submit specifications and estimates for:

Remove and replace roof

1. Prices do not include sandblasting and I-beam coating or new copper flashing.
2. Remove all current roofing and metal roof deck.
3. Install new primed 20 gauge steel decking
4. Install roof recovery board to deck
5. Install 60 mill single ply roofing membrane for roof covering.
6. Issue Conklin 10 year nonprorated material warranty
7. Issue 2 year workmanship warranty.

We Propose hereby to furnish material and labor complete in accordance with above specifications, for the sum of:

Five Thousand Five Hundred Six Dollars (\$ 5,506.00)

Payment to be made as follows: The balance at the completion of project, \$ 5,506.00. If the balance is not paid within 10 days, 1.5% interest will be added monthly until paid, and all collection cost will be added to the amount. Checks should be made payable to HENSLEY COATING INCORPORATED.

All material is guaranteed to be as specified. All work to be completed 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. Not responsible for water damage before or during project. All agreements are contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance.

Authorized Signature _____
Dan Hensley

NOTE: This proposal may be withdrawn by us if not accepted with 30 days.

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

Signature _____

Signature _____

Date of Acceptance: _____

CITY OF OSAWATOMIE



STAFF AGENDA MEMORANDUM

DATE OF MEETING: September 13, 2018

AGENDA ITEM: Grocery Store Incentive

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: Approximately one year ago the City “purchased” the equipment from the Grocery Store in order to keep it from being sold off. Specifically, the City took out a Lease-Purchase with First Option Bank for one year to allow time for the foreclosure process to work itself out.

At that time, the City proposed an incentive that would allow a new operator to lease-purchase the equipment from the City, with a recommended 2/3 forgivable loan over 5 years. The proposal would have been just one of many possible incentives based on input from all the parties involved.

Over the past few months, as First Option Bank (FOB) was going through a foreclosure process to clear the building’s title, staff has been working on a proposal to attract a new owner. We have worked closely with FOB and Associated Wholesale Grocers (AWG) to provide a program that would be immediately attractive and hopefully put the project on the fast-track. At the end of July, the title was cleared by the bank and the City immediately worked with FOB for a plan that worked with both parties and also was deemed attractive by AWG. In late August, we unveiled this plan by providing a brochure (see attached) with information on the store and the incentive plan details.

Incentive Proposal

Generally, the incentive proposal is a lease-purchase agreement for 7 years, with no money down for the building or equipment. The details are as follows:

1. The operator would have a triple-net lease, where they would be responsible for insurance, taxes and rent on the property.
2. At the end of the lease-purchase agreement, the lease payment portion attributable to the store building would be applied to the principal of the building, leaving a balloon payment at the end of the 7 years. The payment would be approximately 28% of the building’s initial purchase price.

3. The store equipment would not have a balloon payment, but instead would be owned outright at the end of the period. Over the term, the City will have received approximately 72% of the \$150,000 paid for the equipment.
4. The City would provide an additional incentive of \$150,000 in rebates spread over the 7-years of the agreement. This incentive will be set up on at least annually rebates, as long as the owner meets certain guidelines, like being current on city utility bills and taxes.
5. As part of the arrangement, the City will purchase the grocery store building from FOB and lease the property back to the operator. This allows FOB to sell the property and receive their portion of the loan backing from the Small Business Administration.
6. To purchase the building, the City will have a no/low-interest loan with FOB for both the equipment and building. The loan will be paid by the City through rental payments and internal revenues generated from the operation of the store (see incentive breakdown).
7. However, this does arrangement would not leave the City holding the bag. The City would have a contingent agreement with FOB where the City would not take ownership until a lease-purchase agreement is executed. The agreement would also state that should the operator walk away before the end of the lease purchase term, the City will not be held responsible for repaying any of the loan and all assets would revert back to FOB.

This arrangement accomplishes many goals for all the parties involved:

First Option Bank – It gets the building sold and they can recapture their loan guarantee. It also puts the building and equipment back together as one entity once the agreement begins.

Operator – An operator will be able to get into the building with much less up-front cost than a traditional arrangement. It also provides incentives at the beginning of the business life where unforeseen costs may arise and market experience is limited. It also provides an opportunity to build equity quickly over the first seven years of operation.

City – The City is able to get a major economic engine restarted in the community and the City can cover the costs of the incentive with the taxes generated by the project. The City has limited exposure because the bank will take on the assets should default occur.

COUNCIL ACTION NEEDED: Review and Discuss.

STAFF RECOMMENDATION TO COUNCIL: Authorize City staff to begin drafting an agreement with First Option Bank for the above proposal and for a general lease-purchase/incentive agreement for any prospective operator.

Grocery Store - Proposed City Incentives

	Year	1	2	3	4	5	6	7	TOTAL
Grocery Store	Value	\$ 200,000	\$ 225,000	\$ 250,000	\$ 275,000	\$ 300,000	\$ 325,000	\$ 350,000	
<u>Principal</u>	<u>APR</u>								
\$200,000	2.00%								
<u>yrs</u>									
7									
Principal Payment		\$ 26,902	\$ 27,440	\$ 27,989	\$ 28,549	\$ 29,120	\$ 29,702	\$ 30,296	\$ 200,000
Interest Payment		<u>4,000</u>	<u>3,462</u>	<u>2,913</u>	<u>2,353</u>	<u>1,782</u>	<u>1,200</u>	<u>606</u>	<u>16,317</u>
Total Payment - <i>Paid by City</i>		\$ 30,902	\$ 30,902	\$ 30,902	\$ 30,902	\$ 30,902	\$ 30,902	\$ 30,902	\$ 216,317
Equipment									
<u>Principal</u>	<u>APR</u>								
\$150,000	2.00%								
<u>yrs</u>									
7									
Principal Payment		\$ 20,177	\$ 20,580	\$ 20,992	\$ 21,412	\$ 21,840	\$ 22,277	\$ 22,722	\$ 150,000
Interest Payment		<u>3,000</u>	<u>2,596</u>	<u>2,185</u>	<u>1,765</u>	<u>1,337</u>	<u>900</u>	<u>454</u>	<u>12,238</u>
Total Payment - <i>Paid by City</i>		\$ 23,177	\$ 23,177	\$ 23,177	\$ 23,177	\$ 23,177	\$ 23,177	\$ 23,177	\$ 162,238
Lease Payments									
Price per sq. ft.		\$ 1.00	\$ 1.20	\$ 1.40	\$ 1.60	\$ 1.80	\$ 2.00	\$ 2.00	
Store - prorata share		13,143	15,771	18,400	21,029	23,657	26,286	26,286	\$ 144,571
Equipo - prorata share		<u>9,857</u>	<u>11,829</u>	<u>13,800</u>	<u>15,771</u>	<u>17,743</u>	<u>19,714</u>	<u>19,714</u>	<u>108,429</u>
Total - <i>Paid by Operator</i>		\$ 23,000	\$ 27,600	\$ 32,200	\$ 36,800	\$ 41,400	\$ 46,000	\$ 46,000	\$ 253,000
Balloon Payment for Store	Value less Store Share of Lease Payments								\$ 55,429
<i>Paid by Operator</i>									
City Incentive - Rebate		\$ 22,000	\$ 22,000	\$ 22,000	\$ 22,000	\$ 22,000	\$ 22,000	\$ 18,000	\$ 150,000
<i>Paid by City to Operator</i>									
City Impact									
<u>City Loss</u>		\$ (53,079)	\$ (48,479)	\$ (43,879)	\$ (39,279)	\$ (34,679)	\$ (30,079)	\$ (26,079)	\$ (275,554)
<u>City Est Gains</u>									
Sales Tax		\$ 29,180	\$ 29,700	\$ 30,225	\$ 30,755	\$ 31,290	\$ 31,831	\$ 32,378	\$ 215,358
Ded. Sales Tx		6,656	6,775	6,894	7,015	7,137	7,261	7,385	49,124
Property Tax		3,456	3,888	4,320	4,752	5,184	5,616	6,048	33,266
Electric Profit		<u>5,000</u>	<u>5,000</u>	<u>5,000</u>	<u>5,000</u>	<u>5,000</u>	<u>5,000</u>	<u>5,000</u>	<u>35,000</u>
Subtotal		\$ 44,292	\$ 45,362	\$ 46,439	\$ 47,522	\$ 48,612	\$ 49,708	\$ 50,811	\$ 332,748
<i>City Gain/(Loss)</i>		\$ (8,787)	\$ (3,117)	\$ 2,560	\$ 8,243	\$ 13,933	\$ 19,629	\$ 24,732	\$ 57,193

AN EXCEPTIONAL RETAIL OPPORTUNITY

Available Now in Osawatomie, Kansas

Contact:

City of Osawatomie

913-755-2146

www.osawatomieks.org



Our Story

It was the mid-1960s when Osawatomie businessman Willard Maichel and his partners decided to build a new grocery store at Sixth and Pacific. For the next four decades, the business proudly served the community as a vital resource. As times changed, and other groceries closed their doors, the local IGA store flourished, eventually becoming the only market in town.

Years passed, and Maichel retired, selling the business to a partner. The store continued serving the community, until August 2016 when the owner reached a lease agreement with an eager new operator. Once the business opened that fall, officials noticed an immediate 15-percent increase in sales. Despite steady growth, the doors were abruptly closed less than a year later - immediately leaving the community without its sole source of fresh produce, quality meat and other items. But the decision to close didn't result from a lack of community support. Rather, it was the debt created by the operator's \$1 million investment in equipment purchases, upgrades and significant building improvements that caused cash flow issues.

However, since the store's closing in February 2017, those investments and upgrades have been protected, stored in a climate-controlled setting while plans were put into motion for their transfer to a new operator. City council members responded to the community's demand for a new store operator by working with a local lender to acquire those assets. Without it, the town of approximately 4,300 must settle on a limited supply of grocery items available at Dollar General or Casey's General Stores - its only local source for pantry staples.



Just The Details



Building Specifics:

- ▶ Commercial, stand-alone building is located on a major street in Osawatomie's downtown business district with ample on-site and off-street parking
- ▶ Structure has 23,070 square feet of dedicated building space. Additional room is available for sales and office areas
- ▶ Recent improvements include roof and interior updates
- ▶ 2018 Miami County appraisal value of \$440,250



All The Equipment You Need:

- ▶ Fully-furnished and ready to go
- ▶ 32 high-efficiency commercial refrigeration and retail display cases, including walk-in and reach-in display cooler/freezer models. Brands include Zero Zone and HillPhoenix
During a recent appraisal, nearly 99 percent of these display cases were rated as "Very Good"
- ▶ 250 adjustable gondola display racks, uprights and shelving
- ▶ Deli and butcher shop equipment and appliances
- ▶ Five checkout lanes and point of sale system
- ▶ Carts, displays and other assorted equipment



Affordable Utility Rates

- ▶ Based on actual usage data, previous municipal electric rates were more reasonably priced than those offered through area providers - including 7.6-percent lower than Westar Energy, and 25.3 percent lower than Kansas City Power & Light

An Exciting Opportunity



Let's Make A Deal



We're serious about finding the right individual to operate our local grocery store, and are willing to offer some attractive incentives to help reach an agreement. While we're always open to selling the grocery store and equipment, we also want to help potential operators make their dreams a reality by offering a lease-purchase option**.

- ▶ A lease-purchase agreement is available, with terms ranging from five to eight years. As an added bonus, the city is willing to offer a total of \$150,000 in rebates to be allocated during the first six years of the agreement.
- ▶ Affordable rental rates are available, starting as low as \$1 per square foot. Beginning in Year Two, rates will incrementally increase each year, up to \$2 per square foot in Year Six.
- ▶ Once the end of the lease-purchase agreement is reached, a final balloon payment for the building is required. Though the payment amount is negotiable, it is expected to be half, if not more, than the negotiated value of the store. The equipment would be owned outright.
- ▶ Annual net-cash profits are estimated at \$60,000-\$70,000 during the first six years of the agreement. Operators can anticipate earning more than \$110,000 annually in subsequent years.
- ▶ Revenue estimates are based on \$64,000 in average weekly sales, with 1.75 percent or less annual growth. Sales potential can be demonstrated, and proformas are available upon request.

The City of Osawatomie is excited to partner with state and nationally recognized programs, including The Food Trust, the Kansas Healthy Foods Initiative, IFF and NetWork Kansas.

Depending on buyer eligibility, assistance may include a mix of grants, low-interest loans and technical assistance. The site is also located in an area eligible for New Market Tax Credits and the Federal Opportunity Zone.

City officials have worked closely with AWG and First Option Bank (the building owner) to put together the proforma and incentives.

**The above estimates make the following assumptions:

- ▶ Wholesale membership through Associated Wholesale Grocers.
- ▶ Assumes a current AWG operation, providing for an annual rebate of 2.6 percent. If a new AWG member, the rebate will be 40 percent less for the first four years, as that portion will be placed in a bond for the member.
- ▶ Private inventory financing of \$300,000 at 6 percent with 10 percent down. For members in good-standing, assistance inventory financing may be available through AWG.

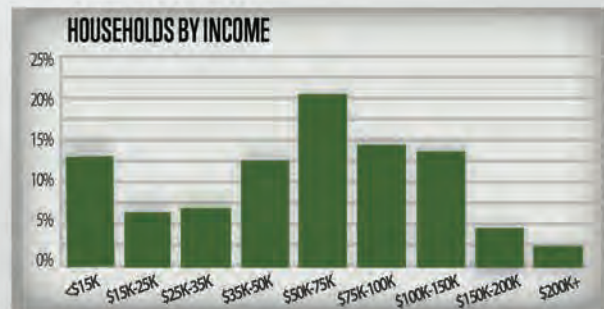
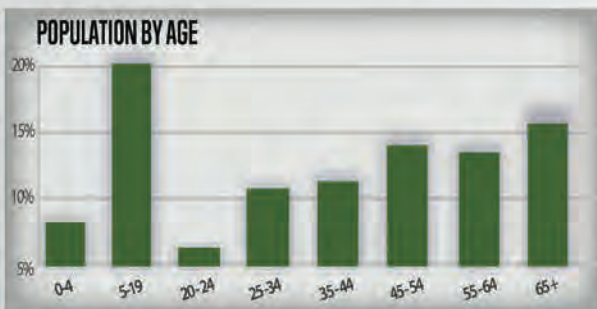
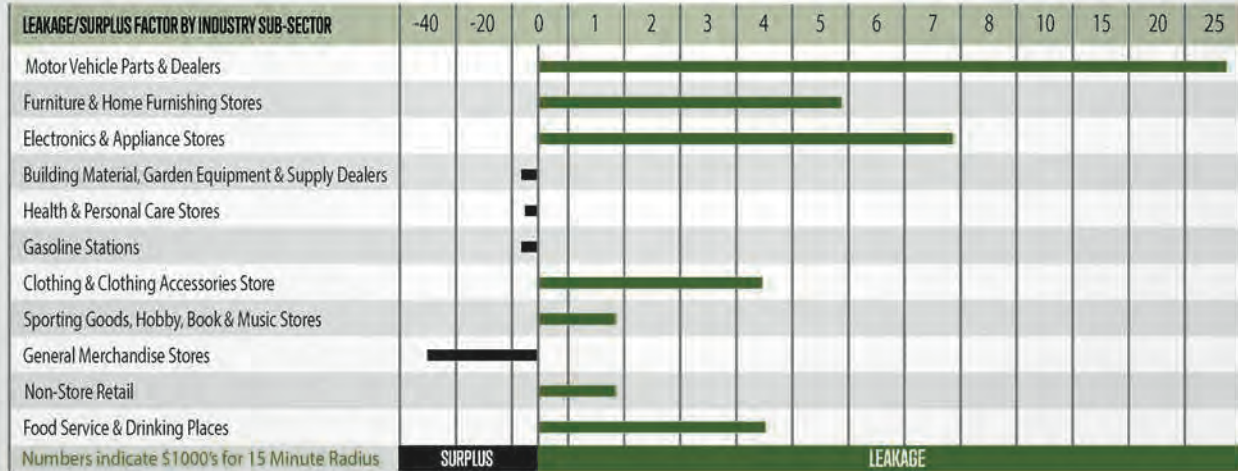
BENEFITS OF OSAWATOMIE

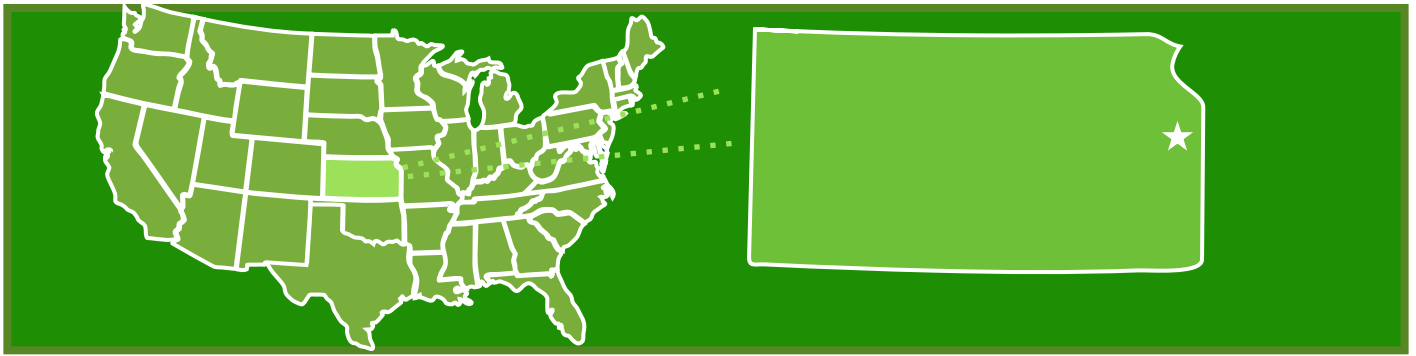
Join These National Retailers



Total Grocery Store **demand**
\$7,496,744

TRADE POTENTIAL VARIABLES	15 MINUTE	20 MINUTE	30 MINUTE
Estimated Household Count	6,104	8,072	22,789
Total Retail Demand	\$221,716,380	\$311,706,627	\$976,555,383
Total Retail Supply	\$223,223,574	\$272,497,695	\$770,306,970
Leakage/Surplus	(\$1,507,194)	\$39,208,932	\$206,248,413
Traffic Count	10,100		
Employment by Type	White Collar: 54.5%	Blue Collar: 16.2%	Services: 29.3%





DRIVE TIMES

Minutes From Osawatomie:

Logistics Park, Kansas City, 38

Village West, 50

Three Trails Crossing, 50

Downtown Kansas City, 54



CONTACT:

City of Osawatomie
 Don Cawby, City Manager
 913-755-2146

www.osawatomieks.org

CITY OF OSAWATOMIE



STAFF AGENDA MEMORANDUM

DATE OF MEETING: September 13, 2018

AGENDA ITEM: **Neighborhood Revitalization Program Reauthorization**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: The Osawatomie Neighborhood Revitalization Plan is set to expire at the end of 2018. Currently, the plan offers an incremental tax rebate for new construction with a minimum increase of \$15,000 in appraised value. The original plan was approved and passed by Ordinance 3659 at the end of 2008.

All property within city limits is eligible for the program except the property in Parkview East, Parkview West, Hickory Valley, Slayman Heights, Northland and South of the Pottawatomie Creek Levee System (see the included map). In the event of a transfer of ownership of a parcel during the eligible rebate period, such parcel and the new owner thereof shall remain eligible to apply for the rebate. Rebates shall be eligible for the rebate only after the application is made and approved. Rebates approved for payment shall be made within 30 days of the June 5th distribution.

The plan may be extended by the council as is at a regular council meeting. However, if the council wishes to make any amendments to the plan, the council must conduct a public hearing and publish notice of public hearing at least once for two consecutive weeks prior to. Any extension or amendments made to the Neighborhood Revitalization Program must be made by the passage of a new ordinance.

The city council has the ability to decide exactly what criteria must be met by the homeowner to qualify for Neighborhood Revitalization for example, in Paola, all real property within city limits is eligible to apply for revitalization that has a minimum increase of \$10,000 in appraised value. Whereas the current Osawatomie plan requires a minimum \$15,000 increase and some property is ineligible for Neighborhood Revitalization.

The program has seen limited success since its implementation in 2008. City staff believes it is in the best interest of the City of Osawatomie to expand the program to all property within city limits and extend the program for an additional ten years. The recent purchase of land made by the city in the Slayman Heights area would currently be ineligible for Neighborhood Revitalization. Staff believes Neighborhood Revitalization is crucial to the potential development of this land.

Some changes to consider might be:

- NRP is only applicable to residences if they maintain their current or fewer numbers of units. For example, a single family, must stay single family. You could not take a single-family residence and make 2 units, even if zoning allows.
- Expand the years on the rebate for homes and businesses based on the amount of tax increase.
- Reduce the top rebate to 90%.
- Possibly differentiate between owner-occupied vs. non-owner-occupied issue where residential and commercial/industrial buildings are considered.
- Consider implications on spec homes. Should there be an exception to include them?
- Will NRP be allowed if other economic development tools are used, such as special assessments for infrastructure.

COUNCIL ACTION NEEDED: Review and discuss

STAFF RECOMMENDATION TO COUNCIL: Provide direction to staff for updates to the plan.

County

(Published in the Osawatomie Graphic, December 17, 2008) 1t

ORDINANCE NO. 3659

AN ORDINANCE REPEALING ORDINANCE NO. 3471 AND 3540, IMPLEMENTING A NEW NEIGHBORHOOD REVITALIZATION PLAN, AND DESIGNATING A REVITALIZATION AREA, ALL AS PROVIDED FOR IN K.S.A. 12-17,114 ET SEQ., THE NEIGHBORHOOD REVITALIZATION ACT.

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

SECTION ONE: Hearing. The Governing Body of the City of Osawatomie pursuant to Notice of Public Hearing did hold a public hearing on December 11, 2008 to hear and consider public comment on the Neighborhood Revitalization Plan as required by K.S.A. (1994 Supp.) 12-17,117(b).

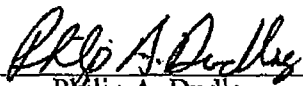
SECTION TWO: Adoption of New Neighborhood Revitalization Plan. There is hereby incorporated by reference for the purpose of establishing the Neighborhood Revitalization Act Plan the document entitled "Neighborhood Revitalization Program for the City of Osawatomie." The document shall be marked or stamped "Official Copy as adopted by the Code of the City of Osawatomie" and which there shall be attached a copy of this section. Said official copy shall be filed with the city clerk and shall be open to inspection and available to the public at all reasonable hours. All departments of the city shall be supplied with copies of such rules and regulations as may be deemed necessary.

SECTION THREE: Repeal of Existing Neighborhood Revitalization Plan. The Governing Body of the City of Osawatomie does hereby repeal ordinances numbered 3471 and 3540 effective as of December 31, 2008.

SECTION FOUR: Effective Date. This ordinance shall take effect on January 1, 2009.

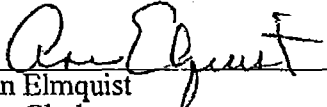
PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas, this 11th day of December, 2008.

APPROVED AND SIGNED by the Mayor.


Philip A. Dudley
Mayor

(SEAL)

ATTEST:


Ann Elmquist
City Clerk

RECEIVED

DEC 12 2008

MIAMI COUNTY
CLERK

NEIGHBORHOOD REVITALIZATION:

BEFORE THE GOVERNING BODY OF THE
CITY OF OSAWATOMIE, MIAMI COUNTY, KANSAS:

In the matter of adoption of a Neighborhood Revitalization Plan:

REVITALIZATION PLAN

The Governing Body of the City of Osawatomie, Miami County, Kansas pursuant to the Kansas Neighborhood Revitalization Act, KSA 12-17,114 et seq., does hereby adopt a Neighborhood Revitalization Plan (herein referred to as the "plan") for the City of Osawatomie as follows:

FINDINGS

Pursuant to KSA 12-17,116, the Governing Body finds as of December 11, 2008:

- (a) The City of Osawatomie's economic indicators reflect a population of 65% low and moderate household incomes in the community;
- (b) Population by age is a helpful indicator for planning and community needs. A significant portion of the Osawatomie households, 13% are over 65 years of age while the other cities in the immediate area have a greater portion of the households in the 35-44 years of age range;
- (c) The City of Osawatomie has a total of 1,807 households. The number of households with income over \$50,000 total 423 which represents 23% of all household incomes in the city. The households with incomes of \$20,000 to \$35,000 totals 27% of the community, while 25% of the households earning incomes are over 65 years of age;
- (d) Osawatomie's residential development has been dominated by the single-family home. Residential construction is almost entirely single-family. Much of the housing in Osawatomie is older, built in the WWII era with little growth in residential development since then. The growth that has taken place has been largely in mobile homes or manufactured housing. Approximately 11% of all residential units in the city are mobile homes;
- (e) The market value of single-family homes in Osawatomie is largely in one category. The average market value for homes, including mobile homes, is \$72,869. There are very few homes in Osawatomie that have a market value over \$100,000, in fact, less than 10%;
- (f) The population of Osawatomie has been stagnant. The total population in general has ranged from 1960 to the present year, between 4,300 and 4,600. The shift of retail purchases from community businesses to the regional trade centers continues to impact the economic wellness of Osawatomie. The Miami County trade pull factor is .62 while Johnson County and Douglas County are .93 and 1.56, respectively;

REVITALIZATION PLAN FOR THE CITY OF OSAWATOMIE

1. Legal Description of Area in Plan.

(a) A legal description of the real estate forming the boundaries of the area is as follows: All that part of Sections 10, 11, 12, and 14 Township 14 South, Range 22 East of the Sixth Principal Meridian, Miami County, Kansas being more particularly described as follows. BEGINNING at the Southeast Corner of the Southeast Quarter of said Section 10; thence West along the South line of said Southeast Quarter, to a point on the extended centerline of Twelfth Street from the North; thence Northeasterly along said centerline and its extension, to a point on the centerline of Pacific Avenue from the West; thence Westerly along said centerline to a point on the centerline of Fourteenth Street; thence North along said centerline to a point on the centerline of Brown Avenue; thence West along said centerline, to a point on the West line of the Southwest Quarter of said Section 10; thence North along said West line, to the Southwest Corner of Smith Subdivision III to the City of Osawatomie; thence Continuing North along said West line and along the West line of said Smith Subdivision III, to the Northwest Corner of the Southwest Quarter of said Section 10, said point being on the centerline of Parker Avenue; thence East along the North line of said Southwest Quarter, and centerline of Parker Avenue, to a point on the extended West line of Smith Subdivision I to the City of Osawatomie, Kansas; thence North along the West line and its extension of said Smith Subdivision I, a distance of 335.0 feet, to the Southeast Corner of Lot 41 of said Smith Subdivision I; thence West 150.0 feet along the South line of Lots 41 through 39 of said Smith Subdivision I, to the Southwest Corner of said Lot 39; thence North 270.0 feet along the West line of Lots 39 and 38 of said Smith Subdivision I, to the Northwest Corner of said Lot 38; thence continuing North along the extension of the West line of said Lots 39 and 38, a distance of 130.0 feet; thence East 150.0 feet to a point on the West line of Lot 31 and 130.0 feet North of the Southwest Corner of Lot 33 of said Smith Subdivision I; thence North along the West line of said Smith Subdivision I and its extension, to a Point on the South bank of the Marais Des Cygnes River; thence Easterly along said South bank to a point on the East line of the Northeast Quarter of Section 10, Township 18 South, Range 22 East, and Eighth Street; thence Continuing Easterly along said South bank, to a point on the West line of the Northwest Quarter of Section 12, Township 18 South, Range 22 East, thence South along said West line to the Southwest Corner of the Northwest Quarter of said Section 12; thence East along the South line of said Northwest Quarter to a point on the Westerly Right-Of-Way line of Kansas Highway No. 169; thence Southwesterly along said Westerly Right-Of-Way line to a point on the North bank of Pottawatomie Creek; thence Northwesterly along said North bank, to the East line of the West One-Half of the Northwest Quarter of Section 14, Township 18 South, Range 22 East of the Sixth Principal Meridian, Miami County, Kansas; thence North along said East line to the Northeast Corner of the West One-Half of the Northwest Quarter of said Section 12; thence West along the North line of said Northwest Quarter to the point of BEGINNING.

Maps depicting the existing corporate limits covered by this plan have been prepared and are on file in the office of the County Appraiser of Miami County, attached to this plan, and the same are adopted as a part of the plan by reference.

2. Assessed Valuation. The existing (2007 tax roll) assessed valuation of the real estate included in the plan, listing land and building values separately, is as follows:

Land –
Buildings –
Total –

3. Names and Addresses of Owners. A list of the names and addresses of the owners of record of the real estate included within the plan constitutes a part of the records in the office of the County Appraiser of Miami County, and such list is adopted in and made a part of this plan by reference. The County Appraiser will verify names and addresses of the owners at the time of application.

4. Zoning Classifications. The existing zoning classifications and zoning district boundaries and the existing land uses within the area included in the plan are as set forth in the official zoning maps, records, resolutions, and ordinances of the City of Osawatomie.

5. Municipal Services. The plan does not include any proposals for improving or expanding municipal services as described in KSA 12-17,177(a)(5) and, if any proposals for any such improvements or expansions of municipal services are hereafter proposed by the Governing Body, then any such proposal will be prepared and considered independently of this plan.

6. Real Property Eligible. Generally speaking, all property annexed into the city of Osawatomie as of the effective date of this plan lying within the following boundaries shall be eligible for participation: South of the Marais des Cygne levee system and North of the Pottawatomie Creek levee system, East of 12th Street. Additionally, all property annexed into the city of Osawatomie as of the effective date of this plan lying North of Brown Avenue and South of Parker Avenue and West of 12th Street shall be eligible for participation in the plan. Additionally, all properties located along 14th, 15th, and Charles Street, North of Parker Avenue shall also be eligible to participate in this plan. All property highlighted on the attached map is considered eligible for participation in the Osawatomie Neighborhood Revitalization Plan.

7. Criteria for Eligibility; Procedure to Complete Application to Qualify.

- (a) The criteria to be used by the Governing Body to determine what specific real property is eligible for revitalization and for property tax increment rebates is as follows:
- i. Construction of an improvement must have begun on or after January 1, 2009, the effective date of this plan.
 - ii. Construction must be completed and such fact reported to the County Appraiser no later than the second January 1st following the date on which the County Appraiser conditionally approved the application under Part II of the Application to Qualify and to Participate; otherwise the conditional approval will become null and void and the improvements, if any theretofore completed, will not be eligible to participate in the plan and rebate program. ANY work performed on a qualified parcel intended to be used in this program shall have a building permit issued prior to any work beginning, regardless of other city permitting rules AND shall have such work inspected and a certificate of occupancy issued within 3 months

of completion for such work to remain eligible in the program. If a certificate of occupancy is not received by the County Appraiser prior to May 10th, then the rebate will be forfeited for that year under the program and will continue to be forfeited until the respective year the certificate is received by the County Appraiser.

- iii. In order to qualify for revitalization, a parcel of real estate must have a minimum increase of \$15,000 in the County Appraiser's appraised value, directly resulting from a qualified construction and improvement, for a parcel of residential, recreational, commercial and/or industrial real estate in order to be eligible to receive a rebate.
- iv. All new construction and all improvements to existing property must comply with all zoning and building codes, rules, and regulations in effect at the time the improvements are made, AND;
- v. To maintain its eligibility, such parcel must continue to remain in compliance with all zoning and building codes, rules, and regulations during the entire period of time the parcel remains eligible for rebates.
- vi. Any parcel that is delinquent in the payment of any ad valorem property tax assessment or special assessment shall not be eligible for any rebate for that year. If the payment of any tax assessment or special assessment remains unpaid at the close of business on the last working day in October for that tax year, the property will be removed from eligibility in the tax rebate program entirely.
- vii. The owner of commercial or industrial property eligible for property tax increment rebates under any adopted neighborhood revitalization plan and also, eligible for property tax exemption under KSA 79-201a Second or any other existing ad valorem tax exemption law will be eligible to secure relief under only one such plan or law.
- viii. Eligibility for rebates are subject to the adoption and approval of a plan by each taxing district. See County Clerk for taxing districts who have adopted a neighborhood revitalization plan.
- ix. In the event of a transfer of ownership of a parcel during the eligible rebate period, such parcel and the new owner thereof shall remain eligible to apply for the rebate during the remainder of the time for which such parcel remains eligible for rebates.
- x. Multiple qualified improvements to the same parcel completed within one calendar year shall be treated as one improvement.
- xi. In the event of multiple qualified improvements made to the same parcel in different or succeeding years, which meet the required minimum requirements in any given year, and therefore create an additional qualification for a period of eligibility for a rebate, the total rebate in any succeeding year will be calculated and determined after the initial qualified rebate is determined, and will be based upon the additional increase in the assessed value directly resulting from the succeeding qualified improvement.

- xii. Rebates shall be payable only after Application is made and approved therefore pursuant to Sections 8, 9 and 10 of the Plan. Rebates approved for payment shall be made within 30 days of the June 5th Distribution.
- b. In completing an Application to Qualify and to Participate, the applicant shall:
 - i. Secure a building permit prior to filing application and provide a copy of the completed and approved application of the building permit to the County Appraiser.
 - ii. Prior to commencement of construction, complete all parts of Part I of the application, sign and date the application, and file all copies thereof in the office of the County Appraiser.
 - iii. Concurrently with filing the application with the County Appraiser, the applicant shall pay to the County Appraiser, a non-refundable application fee of \$150.
 - iv. Within fifteen (15) working days following filing of the application, the County Appraiser will take action on the application and will complete Part II thereof. Immediately following completion of Part II, the County Appraiser shall deliver a true and correct copy of complete Parts I and II of the application to the County Clerk.
 - v. When Parts I and II of the application are completed and filed in the Office of the County Clerk, the County Appraiser shall deliver a copy thereof to the owner by personal delivery or via US Mail, first class, postage prepaid.
 - vi. As to any construction and improvement which is only partially completed as of the January 1st immediately following the County Appraiser's conditional approval under Part II of the application, the owner shall report such fact in person to the County Appraiser and shall complete Part III(a) of the application. Such report shall be completed by the owner within fifteen (15) working days following January 1st. Failure to report partial completion of the construction within 15 working days to the Office of the County Appraiser shall eliminate the project from inclusion in the plan.
 - vii. As to any construction and improvement which is reported by the owner pursuant to (vi) above as being only partially completed, the County Appraiser shall view, value, and appraise such partially completed construction and improvement as of the January 1st immediately following the County Appraiser's conditional approval under Part II of the application and such partially completed construction and improvement shall have taxes levied, assessed, and collected thereon in the usual and customary manner and the same shall not be eligible in the year of such levy and assessment as a partially completed construction and improvement for a rebate under the plan.
 - viii. Within fifteen (15) working days after any construction and improvement is completed, the owner shall report such fact in person to the County Appraiser and shall complete Part III(b) of the application. Failure to

- report completion of the construction within 15 days to the office of the County Appraiser shall eliminate the project from inclusion in the plan.
- ix. Within fifteen (15) working days after the owner shall have completed Part III (b) of the application and filed the same with the County Appraiser, the County Appraiser shall conduct an on-site inspection of the construction and improvement completed on the parcel of real estate described in the application. In addition, the County Appraiser shall determine a preliminary increase in the appraised value of the parcel of real estate described in the application which is directly attributable to the construction and improvement described in Part I, II, and III of the application. If the inspection and appraisal cannot be completed within the designated period, the Appraiser shall make written notification to applicant, not later than 15 working days, of the extension. The notification of extension shall state the date of the extension deadline.
 - x. After June 15th and before August 1st of the first year that construction and improvement is completed on a parcel of real estate shall qualify for rebate, the County Appraiser shall make a final determination of the increase in the appraised value of the parcel of real estate which is directly attributable to the construction and improvement described in Parts I, II, and III of the application. The County Appraiser shall complete Part IV of the application and deliver a true and correct copy of the fully completed application to the County Clerk thereby certifying that the application and the construction and improvement completed pursuant thereto are now qualified to participate in the rebate program pursuant to the plan. The value attributable to the construction and improvement as determined by the County Appraiser for the initial rebate period shall be used as the increase in value of the remaining years of the plan. In the event that there is a reduction in appraised value in future years, the base value prior to construction and improvement shall not be reduced.
 - xi. In addition to complying with (x) above, if Part IV is approved by the County Appraiser, the County Appraiser shall also forthwith deliver a true and correct copy of the fully completed, fully approved application to the owner by personal delivery or via US Mail, first class, postage prepaid.
 - xii. If the owner is aggrieved by any act, action or omission by the County Appraiser pursuant to Parts II and/or IV of the application the owner, if possible, shall complete such remedial action, as shall be necessary to secure the required approval, then the owner may appeal the County Appraiser's decision to the Board and thence to the District Court using the procedures provided therefore in Section 9(b)(iii) of the plan as set forth herein below.
 - xiii. In completing an Application to Qualify and to Participate all actions required under this Section 7(b) shall be made and completed in person by the owner or the owner's agent or attorney unless the County Appraiser shall, in writing, authorize the application to be prepared and filed by the US Mail or by some other alternative method.

- c. The form attached hereto as Exhibit A and entitled "Application to Qualify and to Participate" is hereby approved and adopted for use in completing an application pursuant to this Section 7.

8. Content of Application for Rebate. The content of an application for rebate as authorized under KSA 12-17,118 is as set forth in the document which is attached hereto as Exhibit B and adopted as a part of the plan by reference.

9. Procedure for Applying for Rebate. The procedure for submission of an Application for Rebate of Property Tax Increments is as follows:

- a. Application for rebate forms completed for owners of each parcel of real estate approved for revitalization can be obtained from the County Appraiser.
- b. The taxpayer will complete the application for rebate, with assistance from the County Appraiser where necessary, and upon completion thereof, shall submit the same to the County Appraiser for their consideration and approval. The application for rebate forms must be accompanied by certification from the city stating the construction meets all zoning and building codes, rules, and regulations.
 - i. Upon the County Appraiser's receipt of a completed application for rebate, the County Appraiser shall determine whether or not such application meets all of the criteria to qualify for a rebate under paragraphs (7) and (10) of the plan and the County Appraiser shall thereupon either approve or disapprove the application for rebate.
 - ii. If the County Appraiser approves the owner's application for rebate, then the Appraiser shall file such application with the County Clerk as per (c) next below.
 - iii. If the County Appraiser disapproves the application, then the owner, if possible, shall amend the application as necessary to secure the approval of the County Appraiser and shall thereupon proceed to file the application with the County Clerk as per (c) next below, or if the County Appraiser will not approve the application, then the owner may appeal the County Appraiser's decision to the Board. On the filing of any such appeal, the same shall be heard by the Board prior to the September 1st next following filing of any such appeal. If the Board likewise disapproves such application, then the taxpayer may appeal to the District Court in the manner authorized in KSA 60-2101.
- c. Following the filing of an approved application for rebate in the office of the County Clerk, the County Clerk shall thereupon proceed to process such application as a claim in the manner authorized and provided in KSA 12-105a and 12-105b.
- d. An application for rebate approved for payment as a claim pursuant to (a) through (c) above shall be paid by the County Treasurer, but such payment shall be made within thirty (30) days following the June 5th distribution of taxes by the County Treasurer pursuant to KSA 12-1678a(c) which follows the approval for payment of an application for rebate. Any parcel that is delinquent in the payment of any ad valorem property tax assessment or special assessment shall not be eligible for any rebate for that year. If the

payment of any tax assessment or special assessment remains unpaid at the close of business on the last working day in October for that tax year, the property will be removed from eligibility in the tax rebate program entirely.

- e. The application for rebate provided for in this Section 9 shall be made in person by the taxpayer or the taxpayer's agent or attorney unless the County Appraiser shall, in writing, authorize the application to be prepared and filed via the US Mail or some other alternative method.

10. Criteria to be Used When Considering Merit of Applications for Rebate. The standards or criteria to be used when reviewing applications for rebate for approval or disapproval thereof are as follows:

- a. The parcel must meet all criteria for eligibility as set forth in paragraph 7 above as of the date that the application for rebate is filed.
- b. The procedure for submission of an application for rebate as set forth in paragraph 9 above must have been fully and correctly complied with.
- c. All ad valorem taxes and special assessments levied against the parcel on which the rebate is sought must have been paid in full prior to filing of the application for rebate.
- d. The application for rebate must be filed on or before May 10th for the payment of all taxes for which the rebate is sought.
- e. The application for rebate must be accompanied by certification from the city stating the parcel currently meets all zoning and building codes, rules, and regulations.
- f. In the case of multiple owners of a property eligible for a rebate, absent a written agreement providing otherwise, the rebate will be made payable to all owners of record according to the County Treasurer's Tax Roll.

11. Maximum Tax Rebatale; Years of Eligibility.

Criteria for Commercial, Residential and Industrial Properties –

Rehabilitation, additions, and new construction in existing residential neighborhoods, residential districts and residential subdivisions as well as commercial and industrial properties for owner occupied structures only.

<u>Years of Eligibility</u>	<u>% of Property Tax Increment Rebatale</u>
Year 1	100%
Year 2	75%
Year 3	50%
Year 4	50%
Year 5	25%

Rehabilitation, additions, and new construction in existing residential neighborhoods, residential districts and residential subdivisions as well as commercial and industrial properties for non-owner occupied structures only.

<u>Years of Eligibility</u>	<u>% of Property Tax Increment Rebateable</u>
Year 1	70%
Year 2	50%
Year 3	50%
Year 4	50%
Year 5	30%

- a. The amount of the rebate is the resulting increase in the ad valorem tax, if any, which is directly attributable to the construction and improvement to the qualified parcel and to the increase in assessed valuation directly resulting there from, in any given year during the period of eligibility, calculated in accordance with the applicable percentage amounts as set forth in section 3 above.
- b. Seven and a half percent (7.5%) of the rebated tax on any given parcel, for any given year, shall be retained by Miami County for services rendered in connection with administration of the plan, subject however, to the condition that a minimum amount of \$50.00 shall be retained per rebate transaction.
- c. Property tax increment not rebated to the taxpayer in accordance the tables set forth above or retained by Miami County pursuant to (b) immediately above shall be distributed to the taxing district for whom the increment was collected.
- d. A parcel determined qualified for rebates shall be entitled to such rebates in decreasing percentage amounts for a period of five (5) years provided the property declared qualified shall continuously maintain such qualification.
- e. The increase in the ad valorem tax resulting from the qualified construction and improvement shall be paid over to the Neighborhood Revitalization Fund in accordance with the provisions of the NRA to be distributed as provided by law and this plan.

12. Duration of Plan; Continuation of Rebates on Qualified Property.

- a. Unless hereafter repealed prior thereto, this plan shall remain in full force and effect for a period of ten (10) years from and after January 1, 2009. The plan may also be extended by the Governing Body for additional periods of time.
- b. At any time during the period that this plan remains in effect, any owner of eligible real property may apply for revitalization of such real property pursuant to paragraph 7 of the plan. All real property and all improvements in the neighborhood revitalization district are eligible to apply for the tax rebate incentive plan in their classification.
- c. Unless otherwise provided by any law of the State of Kansas hereafter enacted, any and all real property which shall have qualified for revitalization and for rebates prior to the final termination date of the plan as provided in (a) and (b) above shall continue to be and remain qualified for rebates pursuant to paragraphs 8, 9, 10, and 11 of the plan notwithstanding the fact that other real property described in paragraph 1 above which has not theretofore qualified for participation under the plan will no longer be eligible to do so.

13. Severability and Administrative Corrections.

- a. If any clause, sentence, or section of this Neighborhood Revitalization Program is found to be invalid, it shall not affect the remaining provisions of the program.
- b. When in the event an administrative or clerical error is found to have been made on the part of any county or city staff member, the administrator(s) of this plan are hereby permitted to make such corrections as may be necessary. This section shall not be interpreted, or give authority to any administrator(s) of the plan, to make corrections or make changes to any application materials that are found to be in violation of this program which would ordinarily eliminate the applicant from the program.

14. Amendment or Repeal.

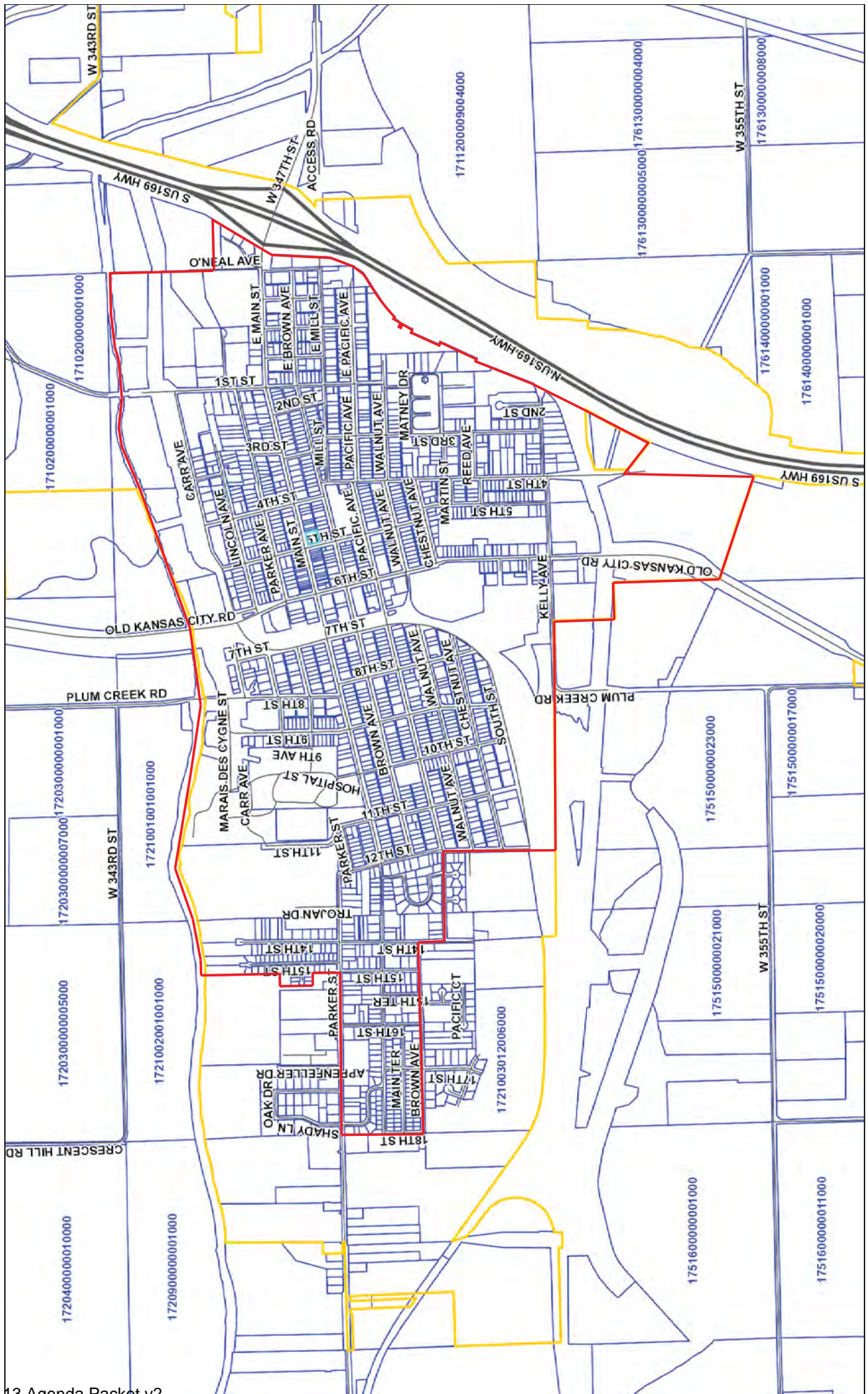
- a. This plan may at any time hereafter, in whole or in part, be amended, supplemented, or repealed using the procedures set forth in subparagraph (b) of this section. The plan shall be reviewed by a committee consisting of two members from each participating taxing entity every three years following adoption. The plan can be amended by a 2/3 majority vote of the Governing Body with the approval of all taxing entities.
- b. Prior to amending, supplementing, or repealing this plan, or any part thereof, the Governing Body shall first conduct a public hearing upon the feasibility of any such amendment or repeal after first publishing notice of any such hearing at least once each week for two (2) consecutive weeks in the Osawatimie Graphic. Such notice shall set forth the specific change or changes proposed, or a summary thereof, and shall advise of the time and place at which such proposed supplement, amendment or repeal shall be heard.

15. Definitions.

- a. When the words "applicant", "applicant for rebate", "owner" and "taxpayer" are used and referred to in the plan, the same where applicable, include the plural, as well as the singular.
- b. As used in this plan:
 - i. Applicant means and refers to each and every person filing an application pursuant to section 7 and section 9 of this plan. Such word also means and refers to "owner" and "taxpayer" as defined in this plan.
 - ii. Application means and refers to each and all applications which shall be filed pursuant to section 7 of this plan.
 - iii. Application for rebate means and refers to applications filed pursuant to section 8 and 9 of this plan.
 - iv. Board means and refers to the Governing Body or committee appointed by the Governing Body of the City of Osawatimie, Miami County, Kansas.
 - v. Construction and improvement means and refers to rehabilitation of and additions to exiting buildings or new construction, or both, which are completed and qualified under the plan.
 - vi. County Appraiser means and refers to the County Appraiser or officer appointed by the County Appraiser of Miami County, Kansas.

- vii. County Clerk means and refers to the County Clerk or officer appointed by the County Clerk of Miami County, Kansas.
- viii. County Treasurer means and refers to the County Treasurer or officer appointed by the County Treasurer of Miami County, Kansas.
- ix. District Court means and refers to the District Court of Miami County, Kansas.
- x. Governing Body means and refers to the Governing Body of the City of Osawatomie, Miami County, Kansas.
- xi. Increment means and refers to that amount of ad valorem taxes collected from the parcel qualified under the plan which is in excess of the amount which was produced from such parcel and was attributed to the assessed valuation of such parcel prior to the qualification of the parcel under the plan and which is directly attributable to that part of the assessed valuation of the parcel directly resulting from revitalization of the parcel under the plan. The term "property tax increment", where used in the plan, is synonymous with the word "increment" as defined herein.
- xii. NRA means and refers to the Kansas Neighborhood Revitalization Act as set forth in KSA 12-17,114 et. seq.
- xiii. Owner means the owner or lessor of real estate which is described in an application and in an application for rebate when filed pursuant to the plan. Owner also means and refers to "applicant" and "taxpayer" as defined in this plan.
- xiv. Parcel means and refers to the tract or piece or parcel of real estate which is described by County Appraiser parcel number and by legal description in the application and in the application for rebate.
- xv. Plan means and refers to this revitalization plan adopted pursuant to the NRA.
- xvi. Rebate means and refers to that part of the ad valorem property tax paid by a taxpayer on a parcel qualified under the plan that is attributable to the increase in the assessed valuation of the parcel which is directly attributable to revitalization and which is refundable to the taxpayer by a taxing district which has adopted a plan under the NRA.
- xvii. Revitalization means and refers to all construction and improvement completed on a parcel which is qualified under the plan.
- xviii. Taxpayer means and refers to the owner of a qualified parcel who pays the ad valorem property taxes levied and assessed thereon either directly to the County Treasurer, or through an authorized agent such as a mortgage company.
- xix. Taxing district means and refers to any and every unit of local government within the County of Miami which shall have adopted the City of Osawatomie plan and for whose use and purposes any property tax increment shall be hereafter levied and collected.

Neighborhood Revitalization Area



Yellow Line - City Limits; Red Line - NR Boundary

CASH TRANSACTIONS REPORT

YEAR: THROUGH JULY
City of Osawatomie

Page: 1
8/31/2018
3:24 pm

Account Number		Beginning Balance	Debit	Credit	Ending Balance
100.101 CASH & INVESTMENTS					
100.101 CASH & INVESTMENTS					
01-000-100.101	CASH & INVESTMENTS	359,414.51	1,846,271.24	1,577,876.87	627,808.88
02-000-100.101	CASH & INVESTMENTS	214,466.04	615,842.32	533,139.36	297,169.00
03-000-100.101	CASH & INVESTMENTS	435,765.21	2,298,106.06	2,220,246.64	513,624.63
04-000-100.101	CASH & INVESTMENTS	167,293.43	701,605.56	469,450.86	399,448.13
05-000-100.101	CASH & INVESTMENTS	13,817.59	40,566.21	44,543.82	9,839.98
06-000-100.101	CASH & INVESTMENTS	142,919.70	17,178.30	27,164.54	132,933.46
07-000-100.101	CASH & INVESTMENTS	0.00	18.27	18.27	0.00
08-000-100.101	CASH & INVESTMENTS	0.00	0.00	0.00	0.00
09-000-100.101	CASH & INVESTMENTS	91,669.73	27,204.50	14,028.46	104,845.77
10-000-100.101	CASH & INVESTMENTS	0.00	0.00	0.00	0.00
11-000-100.101	CASH & INVESTMENTS	82,338.03	15,401.10	38,243.46	59,495.67
12-000-100.101	CASH & INVESTMENTS	184,943.24	95,362.78	37,362.97	242,943.05
13-000-100.101	CASH & INVESTMENTS	193,896.28	574,311.36	130,640.00	637,567.64
14-000-100.101	CASH & INVESTMENTS	22,442.51	324,608.99	257,410.19	89,641.31
15-000-100.101	CASH & INVESTMENTS	0.84	40,300.50	40,300.50	0.84
16-000-100.101	CASH & INVESTMENTS	222,860.37	572,770.22	514,201.83	281,428.76
17-000-100.101	CASH & INVESTMENTS	0.00	2.28	2.28	0.00
18-000-100.101	CASH & INVESTMENTS	11,035.48	194,961.69	200,513.34	5,483.83
19-000-100.101	CASH & INVESTMENTS	0.00	0.00	0.00	0.00
20-000-100.101	CASH & INVESTMENTS	9,897.41	0.00	0.00	9,897.41
21-000-100.101	CASH & INVESTMENTS	0.00	0.00	0.00	0.00
22-000-100.101	CASH & INVESTMENTS	35,772.24	35,608.06	21,372.77	50,007.53
23-000-100.101	CASH & INVESTMENTS	12,899.79	0.00	0.00	12,899.79
24-000-100.101	CASH & INVESTMENTS	132,645.97	65,000.00	55,223.40	142,422.57
25-000-100.101	CASH & INVESTMENTS	1,730,623.32	289,405.26	1,678,794.55	341,234.03
26-000-100.101	CASH & INVESTMENTS	4,000.00	0.00	0.00	4,000.00
27-000-100.101	CASH & INVESTMENTS	269,023.13	16.90	280,266.04	-11,226.01
28-000-100.101	CASH & INVESTMENTS	0.00	0.00	0.00	0.00
30-000-100.101	CASH & INVESTMENTS	0.00	6,028,987.78	6,028,987.78	0.00
33-000-100.101	CASH & INVESTMENTS	951,631.80	11,791.99	674,707.87	288,715.92
43-000-100.101	CASH & INVESTMENTS	149,992.60	254,172.94	100,362.50	303,803.04
50-000-100.101	CASH & INVESTMENTS	62,520.36	26,149.35	19,089.29	69,580.42
51-000-100.101	CASH & INVESTMENTS	7,401.00	0.00	0.00	7,401.00
52-000-100.101	CASH & INVESTMENTS	15,251.54	16,600.67	15,542.67	16,309.54
53-000-100.101	CASH & INVESTMENTS	1,918.17	10,769.26	2,491.90	10,195.53
54-000-100.101	CASH & INVESTMENTS	0.00	0.00	0.00	0.00
55-000-100.101	CASH & INVESTMENTS	0.01	0.00	0.00	0.01
56-000-100.101	CASH & INVESTMENTS	0.00	239,334.88	5,685.19	233,649.69
Total for 100.101		5,526,440.30	14,342,348.47	14,987,667.35	4,881,121.42
Total for 100.101		5,526,440.30	14,342,348.47	14,987,667.35	4,881,121.42
Grand Totals:		5,526,440.30	14,342,348.47	14,987,667.35	4,881,121.42

Osawatomie Police Department
Activity Report

Aug-17		Prior Month	Change	Prior Year	Change
22	Warrant Arrests	37	(15)	33	(11)
65	Other Arrest and /or Charges filed	38	27	41	24
221	Traffic Stops	125	96	156	65
195	Suspicious Activ., Inv. Persons , Ped Checks, Prowlers	122	73	118	77
13	Traffic Accident Calls	6	7	9	4
33	Assist EMS	41	(8)	54	(21)
44	Fights , Disturbance , Assaults, Domestic, Harras, Violation of Protection Orders, Trespass	43	1	42	2
2	Sex crimes	4	(2)	1	1
33	Damage to Prop., Thefts , Burglarys,	39	(6)	40	(7)
3	Drug Case or Calls	1	2	3	0
39	Animal calls	39	0	63	(24)
4	Child in Need of Care, Runaways, Missing Children	6	(2)	6	(2)
16	Vehicle Lock outs	13	3	23	(7)
57	Escorts, Civil Stand-bys, 911 Misdiags, Motor Assist, X-Patrol, Alarm Calls, Welfare Checks	64	(7)	42	15
54	Citizen Inquires	63	(9)	117	(63)
97	Calls for service otherwise not classified	101	(4)	123	(26)
109	Assist Out Side Agency, Loud Music, , Traffic Haz, Driving Complaints, Drug Testing Finger Printing, Open Doors, Follow-ups, Found Property, Warrant Attempts, etc.	101	8	73	36
942	Calls handled by Officers	805	137	903	39
1294	* Totals occurrences for the month	1043	251	1246	48
61	Traffic Citations	49	12	64	(3)
75	Other Citations	54	21	16	59
136	Total Citations	103	33	80	56
* Total occurrences for the month include calls for service and dispatch activity, such as the issuance of burn permits, accepting fine payments, logging vehicle fuel, county fire calls, and other public assistance.					