

OSAWATOMIE CITY COUNCIL
SPECIAL MEETING

AGENDA

October 29, 2015

6:30 p.m., Memorial Hall

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

5. Unfinished Business
 - A. Main Street Water Line Project – Pay Application #1
 - B. Contract for Administration of CDBG Grant - Governmental Assistance Services
 - C. Contract for Design Services for CDBG Application – BG Consultants

6. New Business
 - A. Appointment – Brian King to Public Safety Committee
 - B. Waiver of Lien on 403 Chestnut
 - C. Proposal for Engineering Services for Generation/Distribution Project – JEO

7. Adjournment

REGULAR MEETING – November 12, 2015

REGULAR MEETING – November 19, 2015



STAFF AGENDA MEMORANDUM

DATE OF MEETING: October 29, 2015

AGENDA ITEM: **Main Street Water Line Project
Contractor's Application for Payment No. 1**

PRESENTER: Blake Madden, Director of Public Works and Utilities

ISSUE SUMMARY AND STAFF RECOMMENDATION TO COUNCIL: I have reviewed the Contractor's Application for Payment No. 1 from Nowak Construction for their work performed on the Main Street Water Line Project. I affirm the progress estimate shown in the application and recommend approval by the Council of payment to Nowak Construction in the amount of \$327,047.36.

Contractor's Application for Payment No. 1

		Application Period: Through 10/07/2015	Application Date: 10/13/2015
To (Owner): City of Osawatomie, KS	From (Contractor): Nowak Construction Co., Inc.	Via (Engineer): BG Consultants, Inc.	
Project: 2014 Main Street Waterline Improvements	Contract: 2014 Main Street Waterline Improvements		
Owner's Contract No.: N/A	Contractor's Project No.: 151020	Engineer's Project No.: 14-1101L	

Application For Payment
Change Order Summary

Number	Additions	Deductions		
Approved Change Orders			1. ORIGINAL CONTRACT PRICE.....	\$ 792,898.75
			2. Net change by Change Orders.....	\$
			3. Current Contract Price (Line 1 ± 2).....	\$ 792,898.75
			4. TOTAL COMPLETED AND STORED TO DATE (Column I on Progress Estimate).....	\$ 344,260.38
			5. RETAINAGE:	
			a. 5% X \$344,260.38 Total Completed and Stored	\$ 17,213.02
			6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5c).....	\$ 327,047.36
			7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application).....	\$
			8. AMOUNT DUE THIS APPLICATION.....	\$ 327,047.36
			9. BALANCE TO FINISH, PLUS RETAINAGE (Column K on Progress Estimate + Line 5 above).....	\$ 465,851.39
TOTALS				
NET CHANGE BY CHANGE ORDERS				

Contractor's Certification

The undersigned Contractor certifies that to the best of its knowledge: (1) all previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Applications for Payment; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to Owner at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to Owner indemnifying Owner against any such Liens, security interest or encumbrances); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

By: David Kher Date: 10/13/2015

Payment of: \$ 327,047.36
(Line 8 or other - attach explanation of the other amount)

is recommended by: Bob Wilson 10/20/15
(Engineer) (Date)

Payment of: \$ _____
(Line 8 or other - attach explanation of the other amount)

is approved by: _____
(Owner) (Date)

Approved by: _____
Funding Agency (if applicable) (Date)

Progress Estimate

Contractor's Application

For (contract): 2014 Main Street Waterline Improvements											Application Number: 1		
Application Period: Through 10/07/2015											Application Date: 10/13/2015		
A	B	C	D	E	F	G	H	I	J	K			
Bid Item No.	Description	Bid Quantity	Unit	Unit Price	Total	Units Previously Installed	Value Previously Installed	Units Installed This Period	Value Installed This Period	Materials Presently Stored (not in G)	Total Completed and Stored to Date (E+G+H)	% (I/C)	Balance to Finish
1	Mobilization	1	LS	\$ 23,800.00	\$ 23,800.00		\$ -	1	\$23,800.00		\$23,800.00	100.0%	
2	Clearing and Grubbing	1	LS	\$ 3,000.00	\$ 3,000.00		\$ -	0.5	\$1,500.00		\$1,500.00	50.0%	\$1,500.00
3	Contractor Construction Staking	1	LS	\$ 2,800.00	\$ 2,800.00		\$ -						\$2,800.00
4	Traffic Control	1	LS	\$ 10,100.00	\$ 10,100.00		\$ -	0.5	\$5,050.00		\$5,050.00	50.0%	\$5,050.00
5	Seeding	1	LS	\$ 12,100.00	\$ 12,100.00		\$ -						\$12,100.00
6	Erosion Control	1	LS	\$ 3,000.00	\$ 3,000.00		\$ -						\$3,000.00
7	10" PVC Waterline (C900)(HDD)	1969	LF	\$ 89.00	\$ 175,241.00		\$ -			\$37,555.75	\$37,555.75	21.4%	\$137,685.25
8	8" PVC Waterline (C900)(HDD)	3458	LF	\$ 76.00	\$ 262,808.00		\$ -	2154	\$163,704.00	\$15,830.11	\$179,534.11	68.3%	\$83,273.89
9	6" DIP Waterline (In Place)	23	LF	\$ 95.00	\$ 2,185.00		\$ -						\$2,185.00
10	10" M.J. Gate Valve	6	EA	\$ 2,450.00	\$ 14,700.00		\$ -			\$8,832.00	\$8,832.00	60.1%	\$5,868.00
11	8" M.J. Gate Valve	11	EA	\$ 1,600.00	\$ 17,600.00		\$ -	7	\$11,200.00		\$11,200.00	63.6%	\$6,400.00
12	10" Tapping Valve	3	EA	\$ 4,000.00	\$ 12,000.00		\$ -	1	\$4,000.00	\$4,470.00	\$8,470.00	70.6%	\$3,530.00
13	8" Tapping Valve	4	EA	\$ 2,700.00	\$ 10,800.00		\$ -	2	\$5,400.00		\$5,400.00	50.0%	\$5,400.00
14	4" Tapping Valve	3	EA	\$ 1,800.00	\$ 5,400.00		\$ -	1	\$1,800.00	\$1,500.00	\$3,300.00	61.1%	\$2,100.00
15	5 1/4" Standard Fire Hydrant Assembly	9	EA	\$ 3,400.00	\$ 30,600.00		\$ -	3	\$10,200.00	\$14,007.84	\$24,207.84	79.1%	\$6,392.16
16	Remove Existing Fire Hydrant	8	EA	\$ 200.00	\$ 1,600.00		\$ -						\$1,600.00
17	Connect to Existing Yard Hydrant	1	EA	\$ 600.00	\$ 600.00		\$ -						\$600.00
18	Connect to Existing Waterline	10	EA	\$ 1,200.00	\$ 12,000.00		\$ -						\$12,000.00
19	Disconnect Existing Waterline	9	EA	\$ 500.00	\$ 4,500.00		\$ -						\$4,500.00
20	3/4" Water Service (Short)	49	EA	\$ 840.00	\$ 41,160.00		\$ -			\$4,562.39	\$4,562.39	11.1%	\$36,597.61
21	3/4" Water Service (Long)	73	EA	\$ 1,335.00	\$ 97,455.00		\$ -			\$7,351.83	\$7,351.83	7.5%	\$90,103.17
22	New Water Meter Pit	122	EA	\$ 61.00	\$ 7,442.00		\$ -			\$7,320.00	\$7,320.00	98.4%	\$122.00
23	New Water Meter Setter	122	EA	\$ 111.00	\$ 13,542.00		\$ -			\$11,977.96	\$11,977.96	88.5%	\$1,564.04
24	New Water Meter Ring/Lid	122	EA	\$ 30.50	\$ 3,721.00		\$ -			\$3,660.00	\$3,660.00	98.4%	\$61.00
25	Tracer Wire	5427	LF	\$ 0.25	\$ 1,356.75		\$ -	2154	\$538.50		\$538.50	39.7%	\$818.25
26	Remove and Replace Surfacing (Asphalt)	31	SY	\$ 193.00	\$ 5,983.00		\$ -						\$5,983.00
27	Remove and Replace Surfacing (Gravel)	10	SY	\$ 30.00	\$ 300.00		\$ -						\$300.00
28	Remove and Replace Concrete Sidewalk (4")(AE)	14	SY	\$ 145.00	\$ 2,030.00		\$ -						\$2,030.00
29	Remove and Replace Concrete Sidewalk Ramp	35	SY	\$ 231.00	\$ 8,085.00		\$ -						\$8,085.00
30	Remove and Replace Curb & Gutter (AE)	20	LF	\$ 85.50	\$ 1,710.00		\$ -						\$1,710.00
31	Flowable Fill	48	CY	\$ 110.00	\$ 5,280.00		\$ -						\$5,280.00
Original Contract Price					\$ 792,898.75		\$ -	Totals	\$227,192.50	\$117,067.88	\$344,260.38	43.4%	\$448,638.37

CONTRACT FOR ADMINISTRATION SERVICES
FOR THE CITY OF OSAWATOMIE, KANSAS CDBG
STREET IMPROVEMENTS PROJECT

THIS CONTRACT made this 29TH day of OCTOBER, 2015, between GOVERNMENTAL ASSISTANCE SERVICES, 905 Joseph Dr., Lawrence, Kansas 66049, and the CITY OF OSAWATOMIE, KANSAS, **contingent upon grant award.**

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

WHEREAS, completion of this project requires the services of a qualified Administrator;

NOW, THEREFORE, THE CITY engages the services of GOVERNMENTAL ASSISTANCE SERVICES upon the following terms and conditions:

1. TERMINATION OF CONTRACT

A. FOR CAUSE

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

B. FOR CONVENIENCE

The CITY OF OSAWATOMIE may terminate this Contract, in whole or in part, at any time by written notice to GOVERNMENTAL ASSISTANCE SERVICES.

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

2. CHANGES

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

3. PERSONNEL

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

4. SERVICES OF GOVERNMENTAL ASSISTANCE SERVICES

Services outlined in this Contract are those necessary to effectively administer the project. The following summary of services is not intended to limit the scope of service, but is intended to illustrate the work and services to be provided by GOVERNMENTAL ASSISTANCE SERVICES.

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

- Preparation of reports and paperwork to be submitted to State departments involved in the project.
- Perform necessary account procedures, relating to this project, until project is completed.
- Assist the City and Contractors with adherence to Affirmative Action rules and regulations.

- Prepare documentation for procurement procedures.
- Review payment requests and check these against invoices.
- Process payment requests promptly.
- Assist with Environmental Assessment Report.
- Prepare documentation relating to Release of Funds from State departments involved.
- Prepare “No Significant Impact” certificate.
- Work closely with City Staff throughout entire project.
- Attend Meetings that are project related.
- Report schedule changes to Governing Body.
- Assist City in project related public hearings required throughout the entire project.
- Work closely with all State departments and furnish additional information they may request.
- Attend monitoring visits set up by State departments.
- Perform additional duties as may be required.
- Assist City in securing qualified Audit firm.
- Apply for any necessary time extensions.
- Provide proper close-out requested by State departments involved in project.
- Operate within Federal and State guidelines, specifically:
 1. Title VI Civil Rights Act of 1964
 2. Section 109 Certifications
 3. Section 504 Certifications
 4. Age Discrimination Act of 1975
 5. Fair Housing Amendments Act of 1988
 6. Executive Order 11063 Certifications

7. Kansas Act Against Discrimination
8. Executive Order 11246 Certifications
9. Section 3 Certifications
10. Title VIII of the Civil Rights Act of 1968 as amended by the Housing Act of 1974
11. Section 503 of the Rehabilitation Act of 1973 as amended
12. 24 CFR 85 as modified by CFR 570 Subpart J
13. Title 1 of the Housing & Community Development Act of 1974 as amended
14. Section 519 Public Law 101-144 (The 1990 HUD Appropriation Act)
15. Cranston-Gonzales National Affordable Housing Act (Section 906 & 912)

- Assist the City in developing a financial management system which will meet State and Local standards.
- Comply with all applicable laws, ordinances and codes for the State and Local governments.
- Will not discriminate against any employee or applicant for employment because of race, sex, creed, color or national origin. GOVERNMENTAL ASSISTANCE SERVICES will take Affirmative Action to ensure that applicants are employed, and that employees are treated equally during employment, without regard to their race, creed, sex, color or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

GOVERNMENTAL ASSISTANCE SERVICES agrees to post, in conspicuous places, available to employees and applicants for employment, notices to be provided by the CITY, setting forth the provisions of this non-discrimination clause.

5. AUDIT

THE CITY will be responsible for having the records relating to this project audited by a Certified Public Accountant at the completion of this project. The expense for this audit will be a responsibility of the City.

6. INTEREST OF THE CITY'S GOVERNING BODY

No member of the Governing Body of the CITY, and no other officer, employee or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program shall have any personal financial interest, direct or indirect, in this Contract, and GOVERNMENTAL ASSISTANCE SERVICES shall take appropriate steps to insure compliance.

7. INTEREST OF GOVERNMENTAL ASSISTANCE SERVICES AND EMPLOYEES

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

8. FEES

THE CITY, agrees to pay GOVERNMENTAL ASSISTANCE SERVICES a fee for the services outlined.

The fee, for these services, will be as follows:

Services will be billed at \$89.50 per hour not to exceed \$18,000.00 for the administration. If the project has an additional time extension past the projected 24-month completion date, and the \$18,000 has been expended for administration hours worked, all additional work hours will be billed at the current accepted rate of \$89.50.

In addition, the CITY will be charged a one-time fee of \$2,000 for completion of the Environmental Assessment to acquire the Release of funds.

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

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

Mayor

ATTEST: _____
City Clerk

(SEAL)

D. Garrett Nordstrom
Governmental Assistance Services



AGREEMENT CONSULTANT-CLIENT

THIS AGREEMENT made and entered into by and between BG CONSULTANTS, INC., party of the first part, (hereinafter called the CONSULTANT), and City of Osawatomie, KS, party of the second part, (hereinafter called the CLIENT).

WITNESSETH:

WHEREAS, the CLIENT is authorized and empowered to contract with the CONSULTANT for the purpose of obtaining Services for the following improvement:

Main Street Improvements

7th Street to 12th Street

WHEREAS, the CONSULTANT is licensed in accordance with the laws of the State of Kansas and is qualified to perform the Professional Services desired by the CLIENT now therefore:

IT IS AGREED by and between the two parties aforesaid as follows:

SECTION 1 – DEFINITIONS

As used in this Agreement, the following terms shall have the meanings ascribed herein unless otherwise stated or reasonably required by this contract, and other forms of any defined words shall have a meaning parallel thereto.

- 1.1 “Additional Services” means any Services requested by the CLIENT which are not covered by Exhibit 1 of this Agreement.
- 1.2 “Agreement” means this contract and includes change orders issued in writing.
- 1.3 “CLIENT” or “Client” means the agency, business or person identified on page 1 as “CLIENT” and is responsible for ordering and payment for work on this project.
- 1.4 “CONSULTANT” or “Consultant” means the company identified on page 1. CONSULTANT shall employ for the Services rendered, engineers, architects and surveyors licensed, as applicable, by the Kansas State Board of Technical Professions.
- 1.5 “Contract Documents” means those documents so identified in the Agreement for this Project, including Engineering, Architectural and/or Survey documents under this Agreement. Terms defined in General Conditions shall have the same meaning when used in this Agreement unless otherwise specifically stated or in the case of a conflict in which case the definition used in this Agreement shall prevail in the interpretation of this Agreement.
- 1.6 “Engineering Documents” or “Architectural Documents” or “Survey Documents” means plans, specifications, reports, drawings, tracings, designs, calculations, computer models, sketches, notes, memorandums or correspondence related to the work described in Exhibit 1 attached hereto.

- 1.7 “Consulting Services” or “Engineering Services” or “Architectural Services” or “Survey Services” means the professional services, labor, materials, supplies, testing and other acts or duties required of the CONSULTANT under this Agreement, together with Additional Services as CLIENT may request and evidenced by a supplemental agreement pursuant to the terms of this Agreement.
- 1.8 “Services” is a description of the required work as shown in **Exhibit 1**.
- 1.9 “Subsurface Borings and Testing” means borings, probings and subsurface explorations, laboratory tests and inspection of samples, materials and equipment; and appropriate professional interpretations of all the foregoing.

SECTION 2 – RESPONSIBILITIES OF CONSULTANT

2.1 **SCOPE OF SERVICES:** The CONSULTANT shall furnish and perform the various Professional Services of the Project to which this Agreement applies, as specifically provided in **Exhibit 1** for the completion of the Project.

2.2 **GENERAL DUTIES AND RESPONSIBILITIES**

2.2.1. **Personnel:** The CONSULTANT shall assign qualified personnel to perform professional Services concerning the Project. At the time of execution of this Agreement, the parties anticipate that the following individual will perform as the principal point of contact on this Project.

Name:	_____ Brian P. Kingsley _____
Address:	_____ 1405 Wakarusa Drive _____
	_____ Lawrence, KS 66049 _____
Phone:	_____ 785-749-4474 _____

2.2.2. **Standard of Care:** In the performance of professional Services, CONSULTANT will use that level of care and skill ordinarily exercised by reputable members of CONSULTANT’s profession currently practicing in the same locality under similar conditions. No other representation, guarantee or warranty, express or implied, is included or intended in this agreement or in any communication (oral or written) report, opinion, document or instrument of service.

2.2.3. **Independent Contractor:** The CONSULTANT is an independent contractor and as such is not an employee of the Client.

2.2.4. **Insurance:** CONSULTANT will maintain insurance for this Agreement in the following types: (i) worker’s compensation insurance as required by applicable law, (ii) comprehensive general liability insurance (CGL), (iii) automobile liability insurance for bodily injury and property damage and (iv) Professional liability insurance.

2.2.5. **Subsurface Borings and Material Testing:** If tests additional to those provided in Exhibit 1 are necessary for design, the CONSULTANT shall prepare a request for the necessary additional borings and procure at least two proposals, including cost, from Geotechnical firms who engage in providing Subsurface Borings and Testing Services. The CONSULTANT will provide this information to the Client and the Client will contract directly with the Geotechnical firm. The CONSULTANT will not charge an add-on percentage for the Geotechnical firm’s work. The Client will pay the Geotechnical firm separately from this Agreement.

- 2.2.6. **Service by and Payment to Others:** Any work authorized in writing by the Client and performed by a third party, other than the CONSULTANT or their subconsultants in connection with the proposed Project, shall be contracted for and paid for by the Client directly to the third party or parties. Fees for extra work shall be subject to negotiation between the CLIENT and the third party. Fees shall be approved by the CLIENT prior to the execution of any extra work. Although the CONSULTANT may assist the CLIENT in procuring such Services of third parties, the CONSULTANT shall in no way be liable to either the CLIENT or such third parties in any manner whatsoever for such Services or for payment thereof.
- 2.2.7. **Subcontracting of Service:** The CONSULTANT shall not subcontract or assign any of the architectural, engineering, surveying or consulting Services to be performed under this Agreement without first obtaining the approval of the Client regarding the Services to be subcontracted or assigned and the firm or person proposed to perform the Services. Neither the CLIENT nor the CONSULTANT shall assign any rights or duties under this Agreement without the prior consent of the other party.
- 2.2.8. **Endorsement:** The CONSULTANT shall sign and seal final plans, specifications, estimates and data furnished by the CONSULTANT according to Kansas Statutes and Rules and Regulations.
- 2.2.9. **Force Majeure:** Should performance of Services by CONSULTANT be affected by causes beyond its reasonable control, Force Majeure results. Force Majeure includes, but is not restricted to, acts of God; acts of a legislative, administrative or judicial entity; acts of contractors other than contractors engaged directly by CONSULTANT; fires; floods; labor disturbances; epidemics; and unusually severe weather. CONSULTANT will be granted a time extension and the parties will negotiate an equitable adjustment to the price of any affected Work Order, where appropriate, based upon the effect of the Force Majeure on performance by CONSULTANT.
- 2.2.10. **Professional Responsibility:** The CONSULTANT will exercise reasonable skill, care and diligence in the performance of its Services as is ordinarily possessed and exercised by a licensed professional performing the same Services under similar circumstances.
- 2.2.11. **Inspection of Documents:** The CONSULTANT shall maintain Project records for inspection by the CLIENT during the contract period and for three (3) years from the date of final payment.

SECTION 3 – CLIENT RESPONSIBILITIES

3.1 GENERAL DUTIES AND RESPONSIBILITIES

- 3.1.1. **Communication:** The CLIENT shall provide to the Consultant information and criteria regarding the CLIENT's requirement for the Project; examine and respond in a timely manner to the Consultant's submissions and give notice to the Consultant whenever the CLIENT observes or otherwise becomes aware of any defect in the Services.
- 3.1.2. **Access:** The CLIENT will provide access agreements for the Consultant to enter public and private property when necessary.
- 3.1.3. **Duties:** The CLIENT shall furnish and perform the various duties and Services in all phases of the Project which are outlined and designated in Exhibit 1 as the CLIENT's responsibility.

- 3.1.4. **Program and Budget:** The CLIENT shall provide full information stating the CLIENT's objectives, schedule, budget with reasonable contingencies and necessary design criteria so that Consultant is able to fully understand the project requirements.
- 3.1.5. **Testing:** Any additional tests required to supplement the Scope of Services or tests required by law shall be furnished by the CLIENT.
- 3.1.6. **Legal, Insurance, Audit:** The CLIENT shall furnish all legal, accounting and insurance counseling Services as may be necessary at any time for the Project. The CLIENT shall furnish all bond forms required for the Project.
- 3.1.7. **Project Representative:** The CLIENT will assign the person indicated below to represent the CLIENT in coordinating this Project with the CONSULTANT, with authority to transmit instructions and define policies and decisions of the CLIENT.

Name:	Don Cawby, City Manager
Address:	439 Main Street
	Osawatomie, KS 66064
Phone:	913-755-2146

SECTION 4 – PAYMENT

4.1 COMPENSATION

- 4.1.1. **Design Fee and Expense** The CLIENT agrees to pay the CONSULTANT a Lump Sum Fee according to **Exhibit 2** of this Agreement. The Lump Sum Fee for the design of this project is a total of \$ 117,500.00 Dollars plus reimbursable expenses as outlined in **Exhibit 2** and for the Scope of Services as shown in **Exhibit 1** of this Agreement. Payment of the Lump Sum Fee and reimbursables shall be made by the CLIENT according to the schedule and upon completion of work as shown in **Exhibit 2**. Other methods of compensation are allowed only after written approval by both parties to this Agreement. Payment is due within thirty (30) days of billing by the CONSULTANT and any late payment will incur an interest charge of one and one-half (1½) percent per month.

Engineering Admin Maximum Total Fee and Expense: The CLIENT agrees to pay the CONSULTANT a fee based on the actual hours expended on the Project at the rates indicated in the attached Fee Schedule; Exhibit 2 and the actual reimbursable expenses permitted under this Agreement and incurred on the Project, but not to exceed a maximum fee of \$ 35,000.00 Dollars. This fee is based on the scope of Services outlined in Exhibit 1 of this Agreement and shall be completed on or before January 1, 2017. Payment is due within thirty (30) days of billing by the CONSULTANT and any late payment will incur an interest charge of one and one-half (1½) percent per month.

Construction Observation Maximum Total Fee and Expense: The CLIENT agrees to pay the CONSULTANT a fee based on the actual hours expended on the Project at the rates indicated in the attached Fee Schedule; Exhibit 2 and the actual reimbursable expenses permitted under this Agreement and incurred on the Project, but not to exceed a maximum fee of \$ 88,000.00 Dollars. This fee is based on the scope of Services outlined in Exhibit 1 of this Agreement and shall be completed on or before January 1, 2017. Payment is due within thirty (30) days of billing by the CONSULTANT and any late payment will incur an interest charge of one and one-half (1½) percent per month.

- 4.1.2. **Hourly Rate:** Any Additional Services which are not set forth in this Agreement will be charged on the basis of BG Consultants, Inc. standard hourly rate schedule in effect at the time of services, unless stated otherwise in a properly executed addendum to this contract for Additional Services. No Additional Services or costs shall be incurred without proper written authorization of the CLIENT.
- 4.1.3. **Annual Rate Adjustment:** The payment amounts listed in this Agreement are based on the work being performed within one year of the contract date. Because of natural time delays that may be encountered in the administration and work to be performed for the project, each value will be increased at the rate of 3%, compounded annually, beginning after one year from the date of the contract and ending when that item is approved for billing.
- 4.1.4. **Reimbursable Expenses:** An estimate of reimbursable expenses plus ten (10) percent shall be included in the total estimate of cost for this project and as shown in **Exhibit 2**. Total estimated cost is calculated as Lump Sum plus reimbursable expenses plus ten (10) percent. Reimbursable expenses include, but are not limited to, expenses of transportation in connection with the Project; expenses in connection with authorized out-of-town travel; expenses of printing and reproductions; postage; expenses of renderings and models requested by the CLIENT and other costs as authorized by the CLIENT. Reimbursable expenses will not include overhead costs or additional insurance premiums.
- 4.1.5. **Sales Tax:** Compensation as provided for herein is exclusive of any sales, use or similar tax imposed by taxing jurisdictions on any amount of compensation, fees or Services. Should such taxes be imposed, the CLIENT shall reimburse the CONSULTANT in addition to the contractual amounts provided. The CLIENT shall provide tax exempt number, if required, and if requested by the CONSULTANT.
- 4.1.6. **Billing:** CONSULTANT shall bill the CLIENT monthly for services and reimbursable expenses according to **Exhibit 2**. The bill submitted by CONSULTANT shall state the services and reimbursable expenses for which payment is requested, notwithstanding any claim for interest or penalty claimed in a CONSULTANT's invoice. The CLIENT agrees to pay the CONSULTANT within ten (10) days of approval by the governing body.
- 4.1.7. **Timing of Services:** CONSULTANT will perform the Services in a timely manner according to Exhibit 2. However, if during their performance, for reasons beyond the control of the CONSULTANT, delays occur, the parties agree that they will negotiate in writing an equitable adjustment of time and compensation, taking in to consideration the impact of such delays.
- 4.1.8. **Change in Scope:** For modifications in authorized scope of services or project scope and/or modifications of drawings and/or specifications previously accepted by the CLIENT, when requested by the CLIENT and through no fault of the CONSULTANT, the CONSULTANT shall be compensated for time and expense required to incorporate such modifications at CONSULTANT's standard hourly rates. Provided, however, that any increase in contract price or contract time must be requested by the CONSULTANT and must be approved through a written supplemental agreement prior to performing such services. CONSULTANT shall correct or revise any errors or deficiencies in its designs, drawings or specifications without additional compensation when due to CONSULTANT's negligence, error or omission.
- 4.1.9. **Additional Services:** The CONSULTANT shall provide, with the CLIENT's concurrence, Services in addition to those listed in Exhibit 1 when such Services are requested in

writing by the CLIENT. Prior to providing Additional Services, the CONSULTANT will submit a proposal outlining the Additional Services to be provided, and an hourly or lump sum fee adjustment. Payment to the CONSULTANT, as compensation for these Additional Services, shall be in accordance with the mutually agreed adjustment to the CONSULTANT's fee. Reimbursable expenses incurred in conjunction with Additional Services shall be paid separately and those reimbursable expenses shall be paid at cost plus ten (10) percent. Records of reimbursable expenses and expenses pertaining to Additional Services and Services performed on an hourly basis shall be made available to the CLIENT if so requested in writing.

- 4.1.10. **Supplemental Agreement:** This Agreement may be amended to provide for additions, deletions and revisions in the Services or to modify the terms and conditions thereof by written amendment signed by both parties. The contract price and contract time may only be changed by a written supplemental agreement approved by the CLIENT, unless it is the result of an emergency situation, in which case the CLIENT may give verbal, e-mail or facsimile approval which shall be the same as written and approved supplemental agreement.

SECTION 5 – MUTUAL PROVISIONS

5.1 TERMINATION

- 5.1.1. **Notice:** The CLIENT reserves the right to terminate this Agreement for either cause or for its convenience and without cause or default on the part of the CONSULTANT, by providing written notice of such termination to the CONSULTANT. Such notice will be with Twenty Four (24) hour's notice.

Upon receipt of such notice from CLIENT, the CONSULTANT shall, at CLIENT's option as contained in the notice; immediately cease all Services and meet with CLIENT to determine what Services shall be required of the CONSULTANT in order to bring the Project to a reasonable termination in accordance with the request of the CLIENT. The CONSULTANT shall also provide to the CLIENT digital and/or mylar copies of drawings and documents completed or partially completed at the date of termination. The CONSULTANT is entitled to terminate this agreement by providing thirty (30) days written notice.

- 5.1.2. **Compensation for Convenience Termination:** If CLIENT shall terminate for its convenience, as herein provided, CLIENT shall compensate CONSULTANT for all Services completed to date prior to receipt of the termination notice.
- 5.1.3. **Compensation for Default Termination:** If the CLIENT shall terminate for cause or default on the part of the CONSULTANT, the CLIENT shall compensate the CONSULTANT for the reasonable cost of Services completed to date of its receipt of the termination notice. Compensation shall not include anticipatory profit or consequential damages, neither of which will be allowed. The CLIENT also retains all its rights and remedies against the CONSULTANT, including, but not limited to, its rights to sue for damages, interest and attorney fees.
- 5.1.4. **Incomplete Documents:** Neither the CONSULTANT, nor its subconsultant, shall be responsible for errors or omissions in documents which are incomplete as a result of an early termination under this section, the CONSULTANT having been deprived of the opportunity to complete such documents and certify them as ready for construction and/or complete.

5.2 DISPUTE RESOLUTION

5.2.1. If a claim, dispute or controversy arises out of or relates to the interpretation, application, enforcement or performance of Services under this Agreement, CONSULTANT and CLIENT agree first to try in good faith to settle the dispute by negotiations between senior management of CONSULTANT and CLIENT. If such negotiations are unsuccessful, CONSULTANT and CLIENT agree to attempt to settle the dispute by good faith mediation. If the dispute cannot be settled through mediation, and unless otherwise mutually agreed, the dispute shall be settled by litigation in an appropriate court in Kansas. CLIENT and CONSULTANT hereby waive the right to trial by jury for any disputes arising out of this Agreement. Except as otherwise provided herein, each party shall be responsible for its own legal costs and attorneys' fees.

5.3 OWNERSHIP OF INSTRUMENTS OF SERVICE

5.3.1. Reports, drawings, plans or other documents (or copies) furnished to CONSULTANT by the CLIENT shall, at CLIENT's written request, be returned upon completion of the Services hereunder; provided, however that CONSULTANT may retain one (1) copy of all such documents. Reports, drawings, plans, documents, software, field notes and work product (or copies thereof) in any form prepared or furnished by CONSULTANT under this Agreement are instruments of service. Exclusive ownership, copyright and title to all instruments of service remain with CONSULTANT. CLIENT's right of use of instruments of service, if any, is limited to that use on the Project. The instruments of service are not intended or represented to be suitable for reuse by CLIENT or others on extensions of the work or on any other project.

5.4 INDEMNIFY AND HOLD HARMLESS

5.4.1. CLIENT shall indemnify and save CONSULTANT, its offices and employees harmless from and against any liability, claim, judgment, demand or cause of action arising out of or relating to: (i) CLIENT's breach of this Agreement; (ii) the negligent acts or omissions of CLIENT or its employees, contractors or agents; (iii) site access or damages to any surface or subterranean structures or any damage necessary for site access.

5.4.2. In addition, where the Services include preparation of plans and specifications and/or construction observation activities for CLIENT, CLIENT agrees to have its construction contractors agree in writing to indemnify and save harmless CONSULTANT from and against loss, damage, injury, or liability attributable to personal injury or property damage arising out of or resulting from such contractors' performance or nonperformance of their work.

5.4.3. CONSULTANT shall indemnify and save CLIENT and its employees and officials from loss to the extent caused or incurred as a result of the negligence, errors or omissions of the CONSULTANT, its offices or employees in performance of Services pursuant to this Agreement.

5.5 ENTIRE AGREEMENT

5.5.1. This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to and accepted by both parties to this Agreement.

5.6 APPLICABLE LAW

5.6.1. This Agreement is entered into under and pursuant to, and is to be construed and enforceable in accordance with laws of the State of Kansas.

5.7 ASSIGNMENT OF AGREEMENT

5.7.1. This Agreement shall not be assigned or transferred by either the CONSULTANT or the CLIENT without the written consent of the other.

5.8 NO THIRD PARTY BENEFICIARIES

5.8.1. Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any third party.

5.9 LIMITATION OF LIABILITY

5.9.1. CLIENT's exclusive remedy for any alleged breach of CLIENT's standard of care hereunder shall be to require CONSULTANT to re-perform any defective Services. Notwithstanding any other provision of this Agreement, the total liability of CONSULTANT, its officers, directors and employees for liabilities, claims, judgments, demands and causes of action arising under or related to this Agreement, whether based in contract or tort, shall be limited to the total compensation actually paid to CONSULTANT for the Services. All claims by CLIENT shall be deemed relinquished unless filed within one (1) year after completion of the Services.

5.9.2. CLIENT agrees that any claim for damages filed against CONSULTANT by CLIENT or any contractor or subcontractor hired directly or indirectly by CLIENT will be filed solely against CONSULTANT or its successors or assigns and that no individual person shall be made personally liable for damages in whole or in part.

5.9.3. CONSULTANT and CLIENT shall not be responsible to each other for any special, incidental, indirect or consequential damages (including lost profits) incurred by either CONSULTANT or CLIENT or for which either party may be liable to any third party, which damages have been or are occasioned by Services performed or reports prepared or other work performed hereunder.

5.10 COMPLIANCE WITH LAWS

5.10.1 CONSULTANT shall abide by known applicable federal, state and local laws, ordinances and regulations applicable to this Project until the Consulting Services required by this Agreement are complete. CONSULTANT shall secure occupational and professional licenses, permits, etc., from public and private sources necessary for the fulfillment of its obligations under this Agreement.

5.11 TITLES, SUBHEADS AND CAPITALIZATION

5.11.1 Titles and subheadings as used herein are provided only as a matter of convenience and shall have no legal bearing on the interpretation of any provision of the Agreement. Some terms are capitalized throughout the Agreement but the use of or failure to use capitals shall have no legal bearing on the interpretation of such terms.

5.12 SEVERABILITY CLAUSE

5.12.1. Should any provision of this Agreement be determined to be void, invalid or unenforceable or illegal for whatever reason, such provisions shall be null and void; provided, however that the remaining provisions of this Agreement shall be unaffected hereby and shall continue to be valid and enforceable.

5.13 FIELD REPRESENTATION

5.13.1. Unless otherwise expressly agreed to in writing, CONSULTANT shall not be responsible for the safety or direction of the means and methods at the contractor’s project site or their employees or agents, and the presence of CONSULTANT at the project site will not relieve the contractor of its responsibilities for performing the work in accordance with applicable regulations, or in accordance with project plans and specifications. If necessary, CLIENT will advise any contractors that Consultant’s Services are so limited. CONSULTANT will not assume the role of “prime contractor”, “constructor”, “controlling employer”, “supervisor” or their equivalents, unless the scope of such Services are expressly agreed to in writing.

5.14 HAZARDOUS MATERIALS

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

5.15 AFFIRMATIVE ACTION

5.15.1. The CONSULTANT agrees to comply with the provisions of K.S.A. 44-1030 in the Kansas Acts Against Discrimination.

5.16 SPECIAL PROVISIONS

5.16.1. Special Provisions may be attached and become a part of this agreement as **Exhibit 3**.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate this _____ day of _____, 20__.

CONSULTANT:

CLIENT:

BG Consultants, Inc.

City of Osawatomie, KS

By: _____

By: _____

Printed Name: Brian P. Kingsley

Printed Name: Mark Govea

Title: Vice President

Title: Mayor

Attest: _____

Ann Elmquist, City Clerk

END OF CONSULTANT-CLIENT AGREEMENT

Exhibit 1 – SCOPE OF WORK

1. Plans and specifications will be prepared in conformance with the Department of Commerce CDBG preparation criteria and format. Bid items and project special provisions will conform to the Kansas Department of Transportation Standard Specifications for State Road and Bridge Construction, 2008 Edition, or applicable Special Provisions. The improvements include items detailed in the Opinion of Probable Project Cost Estimate for Main Street Improvements – 7th Street to 12th Street.
2. Provide a topographic survey of project located within the public right-of-way where improvements are to be constructed.
3. Provide engineering design of street system improvements, including horizontal and vertical alignment.
4. Provide traffic engineering design for permanent signing improvements and a temporary traffic control plan for construction of the improvements.
5. Provide a preliminary estimate of probable construction cost.
6. Prepare preliminary plans on 24"x36" sheets. Plans will be Field Checked with City Staff.
7. Provide one set of plans for each of the private and public utility owners having facilities located in the area of the project. Assist the City with compiling a list of known private and public utilities including a summary of utility adjustment coordination for City records.
8. Prepare final plans and specifications with a final estimate of probable construction cost.
9. Prepare known permit application documents needed for construction. The engineer anticipates the need for a permit from:
 - KDHE - The National Pollution Discharge Elimination System Notice of Intent
10. No Environmental Assessment or an Environmental Impact Statement concerning the National Environmental Policy Act will be prepared. The Engineer does not anticipate the need for this work. Should there become a need for either of these documents, the preparation of the documents will be provided through an addendum to this Agreement at the time the need is established. Applying for and obtaining a Section 404 Permit from the U.S. Army Corps of Engineers is not anticipated or included in the services.

11. Consultant will provide bid phase services including assisting the City with plan distribution, answering contractor questions and preparing a recommendation for award of the construction contract.
12. Consultant will provide qualified part-time personnel to assist with construction observation services.
13. Consultant will assist the City with administration of the construction contract.
14. Shop drawings for materials will be submitted to the Engineer for review. After review the Engineer will either return a copy of the submitted shop drawing to the Contractor with changes marked on the shop drawing, or the Engineering will return a copy of the submitted shop drawing stamped "Approved". The Engineer will keep a copy of each reviewed shop drawing complete with mark up comments.

Exhibit 2 – COST AND SCHEDULE

Design services set forth in Exhibit 1 items 1 through 11 the LUMP SUM FEE of **\$117,500.00**. Billings will be made on a monthly basis for the prior month's work. Payment for each billing shall be due and payable within 30 days of billing by the Consultant.

Services will be performed a schedule including the following milestones:

1. Preliminary Construction Plans within 3 months of notice to proceed by the City.
2. Final Construction Plans within 30 days of Review by City.

Construction Engineering services set forth in Section I items 13 through 14 will be billed hourly, at discounted City Engineering hourly rates, NOT TO EXCEED **\$35,000.00**. All billings will be made on a monthly basis for the prior month's work. Payment for each billing shall be due and payable within 30 days of billing by the Consultant.

Services will be performed in an effort to meet CDBG funding requirements including the following milestones:

1. The fee included within this contract is based upon construction being accomplished within **108** working days. Construction duration beyond this duration may result in additional fees. Additional fees associated with construction duration would require City Council and KDHE approval, as appropriate, and would be identified in a supplement to this agreement.

Construction services set forth in Section I items 10 through 12 will be billed hourly, at discounted City Engineering hourly rates, NOT TO EXCEED **\$88,000.00**. All billings will be made on a monthly basis for the prior month's work. Payment for each billing shall be due and payable within 30 days of billing by the Consultant.

Services will be performed in an effort to meet CDBG funding requirements including the following milestones:

The fee included within this contract is based upon construction being accomplished within **108** working days. Construction duration beyond this duration may result in additional fees. Additional fees associated with construction duration would require City Council and KDHE approval, as appropriate, and would be identified in a supplement to this agreement.

Exhibit 3 – SPECIAL PROVISIONS

1. The Consultant shall operate within all known KDHE SRF requirements including the following (See Attachments to Exhibit 3):
 - a. Appendix E-1 - Participation By Disadvantaged Business Enterprises
 - b. Appendix E-3 - DBE Utilization
 - c. Subpart C - Certification Regarding Debarment, Suspension, and Other Responsibility Matters
 - d. Appendix D – Certification Regarding Lobbying
 - e. Kansas Act Against Discrimination

2015 BG CONSULTANTS DISCOUNTED HOURLY RATES

<u>POSITION</u>	<u>DISCOUNTED PER HOUR 2015</u>
PRINCIPAL	\$133.00
PROJECT ENGINEER IV	\$127.00
PROJECT ENGINEER III	\$120.00
PROJECT ENGINEER II	\$106.00
PROJECT ENGINEER I	\$98.00
SENIOR DESIGN ENGINEER	\$100.00
DESIGN ENGINEER	\$88.00
ASSISTANT DESIGN ENGINEER	\$74.00
ARCHITECT	\$127.00
PROJECT ARCHITECT	\$100.00
DESIGN ARCHITECT	\$88.00
ASSISTANT ARCHITECT	\$74.00
TECHNICIAN II	\$83.00
TECHNICIAN I	\$72.00
SENIOR CONSTRUCTION OBSERVER	\$84.00
CERTIFIED CONSTRUCTION OBSERVER	\$68.00
CONSTRUCTION OBSERVER	\$60.00
SENIOR PROJECT SURVEYOR	\$115.00
PROJECT SURVEYOR	\$107.00
FIELD SUPERVISOR	\$94.00
SURVEYOR	\$69.00
GPS SURVEYOR	\$85.00
CAD SYSTEM AND OPERATOR	\$86.00
CLERICAL	\$52.00

- Note:
- 1) The hourly rates shown above are effective for services through December 31st of the contract year and are subject to revision annually.
 - 2) For any Federal Wage and Hour Law non exempt personnel, overtime will be billed at 1.5 times the hourly labor billing rates shown.
 - 3) Expert Witness and Depositions will be charged at 1.5 times the hourly labor billing rates shown.

Special Note: "Discounted" rates are only applicable for City or County Engineering Contracts

EXHIBIT NO. 6.1
ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COSTS
OPTION #3 ♦ 9" ASPHALT PAVEMENT UPGRADE

Main Street from 7th to 12th Street Improvements

SCOPE:

1. 9" ASPHALT PAVEMENT STREET RECONSTRUCTION - **APPLICABLE ALTERNATIVE FOR CDBG FUNDING**
2. SIDEWALK AND STORM SEWER IMPROVEMENTS - **100% CITY FUNDED**

1. 9" ASPHALT PAVEMENT STREET RECONSTRUCTION (APPLICABLE ALTERNATIVE FOR CDBG FUNDING)

Includes Street Reconstruction, Curb & Gutter, Intersection Aprons, Pavement Markings, Permanent Signing, and Utility Adjustments necessary for Street Construction. All Construction shall conform to ADA Accessibility Guidelines.

<u>Item #</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Total Price</u>
1A. Common Items					
1-1.	Contractor Construction Staking	1	L.S.	\$ 10,000.00	\$ 10,000.00
1-2.	Mobilization	1	L.S.	\$ 60,000.00	\$ 60,000.00
1-3.	Removal of Existing Structures	1	L.S.	\$ 2,500.00	\$ 2,500.00
1-4.	Clearing and Grubbing	1	L.S.	\$ 2,500.00	\$ 2,500.00
1-5.	Temporary Erosion Control	1	L.S.	\$ 2,500.00	\$ 2,500.00
1-6.	Seeding	1	L.S.	\$ 2,500.00	\$ 2,500.00
1-7.	Traffic Control	1	L.S.	\$ 7,500.00	\$ 7,500.00
Construction Subtotal No. 1A =					\$ 87,500.00
1B. Street Improvements					
1-8.	Unclassified Excavation	4,100	Cu. Yd.	\$ 15.00	\$ 61,500.00
1-9.	Pavement Removal	5,400	Sq. Yd.	\$ 12.00	\$ 64,800.00
1-10.	Compaction of Earthwork	2,800	Cu. Yd.	\$ 5.00	\$ 14,000.00
1-11.	Select Soil (Contractor Furnished)	1,000	Cu. Yd.	\$ 32.00	\$ 32,000.00
1-12.	Adjustment of Manholes, Water Meters & Valve Boxes	1	L.S.	\$ 5,000.00	\$ 5,000.00
1-13.	Concrete Pavement (6" Uniform)(AE)	1,800	Sq. Yd.	\$ 65.00	\$ 117,000.00
1-14.	Concrete Pavement (8" Uniform)(AE)	1,500	Sq. Yd.	\$ 75.00	\$ 112,500.00
1-15.	Aggregate Base (AB-3)(8")	15,000	Sq. Yd.	\$ 15.00	\$ 225,000.00
1-16.	Curb and Gutter (Combined)(AE)	6,150	Lin. Ft.	\$ 25.00	\$ 153,750.00
1-17.	Hot Mix Asphalt - Commercial Grade (Class A)	4,850	Tons	\$ 85.00	\$ 412,250.00
1-18.	Pavement Markings	1	L.S.	\$ 10,000.00	\$ 10,000.00
1-19.	Permanent Signing	1	L.S.	\$ 5,000.00	\$ 5,000.00
Construction Subtotal No. 1B =					\$ 1,212,800.00
Construction Subtotal No. 1A =					\$ 87,500.00
Construction Subtotal No. 1B =					\$ 1,212,800.00
Construction Cost =					\$ 1,300,300.00
Engineering Design =					\$ 119,100.00
Inspection (75% of Eng. Design) =					\$ 89,300.00
Grant Administration =					\$ 20,000.00
Geology =					\$ 5,000.00
Project Cost =					\$ 1,533,700.00

FUNDING SUMMARY		
	COST	PERCENT MATCH
1. 9" ASPHALT PAVEMENT STREET RECONSTRUCTION PROJECT COST* =	\$ 1,533,700.00	
CDBG Grant =	\$ 400,000.00	
City's Cost Share =	\$ 1,133,700.00	283.4%

**Legal, Bonding, Administration, and Interim Interest have not been included in the Total Project Cost.*

Operation and Maintenance Costs = \$28,500.00 Per Year**

***Includes Costs to Crack Seal and Chip Seal every 2 to 3 years and Mill & Overlay at 20 years and Pavement Patching at 10 Years*

EXHIBIT NO. 6.2
ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COSTS
OPTION #3 ♦ 9" ASPHALT PAVEMENT UPGRADE

2. SIDEWALK AND STORM SEWER IMPROVEMENTS (100% CITY FUNDED)

Includes Sidewalk Reconstruction and Upgrading Storm Sewer Infrastructure. All Construction shall conform to ADA Accessibility Guidelines.

<u>Item #</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Total Price</u>
2A. Common Items					
2-1.	Contractor Construction Staking	1	L.S.	\$ 7,500.00	\$ 7,500.00
2-2.	Mobilization	1	L.S.	\$ 10,000.00	\$ 10,000.00
2-3.	Removal of Existing Structures	1	L.S.	\$ 5,000.00	\$ 5,000.00
2-4.	Clearing and Grubbing	1	L.S.	\$ 2,500.00	\$ 2,500.00
2-5.	Temporary Erosion Control	1	L.S.	\$ 2,500.00	\$ 2,500.00
2-6.	Seeding	1	L.S.	\$ 2,500.00	\$ 2,500.00
2-7.	Traffic Control	1	L.S.	\$ 5,000.00	\$ 5,000.00
Construction Subtotal No. 2A =					\$ 35,000.00
2B. Sidewalk Improvements					
2-8.	Unclassified Excavation	100	Cu. Yd.	\$ 15.00	\$ 1,500.00
2-9.	Concrete Pavement (4" Uniform)(AE)	1,750	Sq. Yd.	\$ 40.00	\$ 70,000.00
2-10.	Sidewalk Ramp (AE)	42	Each	\$ 1,000.00	\$ 42,000.00
2-11.	Concrete Steps	50	Lin. Ft.	\$ 75.00	\$ 3,750.00
Construction Subtotal No. 2B =					\$ 117,250.00
2C. Storm Sewer Improvements					
2-12.	Replace Curb Inlet (Setback)(Precast)	4	Each	\$ 4,500.00	\$ 18,000.00
2-13.	New Curb Inlet (Setback)(Precast)	6	Each	\$ 4,500.00	\$ 27,000.00
2-14.	Replace Storm Sewer Pipe	200	Lin. Ft.	\$ 75.00	\$ 15,000.00
2-15.	New Storm Sewer Pipe	300	Lin. Ft.	\$ 75.00	\$ 22,500.00
2-16.	Flowable Fill (Low Strength)	100	Cu. Yd.	\$ 80.00	\$ 8,000.00
Construction Subtotal No. 2C =					\$ 90,500.00
Construction Subtotal No. 2A =					\$ 35,000.00
Construction Subtotal No. 2B =					\$ 117,250.00
Construction Subtotal No. 2C =					\$ 90,500.00
Construction Cost =					\$ 242,750.00
Engineering Design =					\$ 28,200.00
Inspection (75% of Eng. Design) =					\$ 21,100.00
Project Cost =					\$ 292,050.00

CITY'S TOTAL PROJECT COST	
1. 9" ASPHALT PAVEMENT STREET	
RECONSTRUCTION PROJECT COST* =	\$ 1,533,700.00
CDBG Grant =	\$ 400,000.00
City's Cost Share =	\$ 1,133,700.00
2. SIDEWALK & STORM SEWER	
PROJECT COST* =	\$ 292,050.00 **
TOTAL CITY PROJECT COST =	\$ 1,425,750.00

**Legal, Bonding, Administration, and Interim Interest have not been included in the Total Project Cost.*

****Not applicable to CDBG Funding Application**

Automatic Calculation	User Input
Construction Total =	1,543,050.00
Design Engineering	141,100.00
Construction Observation	88,020.00
Construction Engineering	35,112.00
Grant Administration =	20,000.00
Legal Administration	5,000.00
Misc. (Geology, Etc.)	0.00
Bonding and Interim Interest	36,700.00
Total Project Cost* =	1,832,282.00

Check with Grant Administrator for current fee
 Check with City Attorney for current fee

2% Percent of Total project

Design Fees:

Enter Number of Bid Lettings =	1
% from Fee Schedule =	6.73%
Add additional % for Rehab./Complexity =	2.0% use 2% for renovation of existing facilities
Design Subtotal =	\$134,643.92
Add Lump Sum Amount for Bidding Services =	\$6,500.00
DESIGN TOTAL =	\$ 141,143.92

Note: Round to \$141,000
 Note Subtract 56% of Survey (\$23,475)
Proposed Design Fee: \$117,500

Inspection Fees Waterline Project

Working Days (estimate Only)	Units	Units/Day	# of Working Days
Mobilization	8	1	8
5 Blocks Street Construction	100	1	100
	0	0	0
	0	0	0
	0	0	0
Total =	Total	108	Working Days
	Inspector Rate	Hours per day	
	\$81.50	10	

Construction Observation Total **\$88,020.00** \$105,857.94 75% of Design (Check)

	Rate/HR	Hrs/Week	Number of Weeks
Construction Engineering Admin.	\$133.00	12	22

Construction Engineering Admin. Total **\$ 35,112.00**

Add USDA PER if needed: N/A

These Columns allow for the automation of the fee curve

Fee Curve Chart:		Table	Lower	Upper	Upper	Lower
for interpolation:		\$ 30,000 14.00%	\$ 30,000	\$ 40,000	14.00%	13.00%
Upper Percentage	7.00%	\$ 40,000 13.00%	\$ 40,000	\$ 50,000	13.00%	12.50%
Upper Fee	\$ 2,000,000	\$ 50,000 12.50%	\$ 50,000	\$ 60,000	12.50%	12.25%
Lower Percentage	6.70%	\$ 60,000 12.25%	\$ 60,000	\$ 70,000	12.25%	11.85%
Lower Fee	\$ 1,500,000	\$ 70,000 11.85%	\$ 70,000	\$ 80,000	11.85%	11.55%
		\$ 80,000 11.55%	\$ 80,000	\$ 90,000	11.55%	11.35%
		\$ 90,000 11.35%	\$ 90,000	\$ 100,000	11.35%	11.20%
		\$ 100,000 11.20%	\$ 100,000	\$ 110,000	11.20%	11.00%
		\$ 110,000 11.00%	\$ 110,000	\$ 120,000	11.00%	10.85%
		\$ 120,000 10.85%	\$ 120,000	\$ 140,000	10.85%	10.55%
		\$ 140,000 10.55%	\$ 140,000	\$ 160,000	10.55%	10.30%
		\$ 160,000 10.30%	\$ 160,000	\$ 180,000	10.30%	10.15%
		\$ 180,000 10.15%	\$ 180,000	\$ 200,000	10.15%	9.95%
		\$ 200,000 9.95%	\$ 200,000	\$ 250,000	9.95%	9.55%
		\$ 250,000 9.55%	\$ 250,000	\$ 300,000	9.55%	9.25%
		\$ 300,000 9.25%	\$ 300,000	\$ 350,000	9.25%	9.00%
		\$ 350,000 9.00%	\$ 350,000	\$ 400,000	9.00%	8.80%
		\$ 400,000 8.80%	\$ 400,000	\$ 450,000	8.80%	8.65%
		\$ 450,000 8.65%	\$ 450,000	\$ 500,000	8.65%	8.55%
		\$ 500,000 8.55%	\$ 500,000	\$ 550,000	8.55%	8.35%
		\$ 550,000 8.35%	\$ 550,000	\$ 600,000	8.35%	8.15%
		\$ 600,000 8.15%	\$ 600,000	\$ 650,000	8.15%	8.05%
		\$ 650,000 8.05%	\$ 650,000	\$ 700,000	8.05%	7.90%
		\$ 700,000 7.90%	\$ 700,000	\$ 750,000	7.90%	7.80%
		\$ 750,000 7.80%	\$ 750,000	\$ 800,000	7.80%	7.70%
		\$ 800,000 7.70%	\$ 800,000	\$ 850,000	7.70%	7.60%
		\$ 850,000 7.60%	\$ 850,000	\$ 900,000	7.60%	7.55%
		\$ 900,000 7.55%	\$ 900,000	\$ 1,000,000	7.55%	7.40%
		\$ 1,000,000 7.40%	\$ 1,000,000	\$ 1,500,000	7.40%	7.00%
		\$ 1,500,000 7.00%	\$ 1,500,000	\$ 2,000,000	7.00%	6.70%
		\$ 2,000,000 6.70%	\$ 2,000,000	\$ 2,500,000	6.70%	6.55%
		\$ 2,500,000 6.55%	\$ 2,500,000	\$ 3,000,000	6.55%	6.45%
		\$ 3,000,000 6.45%	\$ 3,000,000	\$ 4,000,000	6.45%	6.30%
		\$ 4,000,000 6.30%	\$ 4,000,000	\$ -	6.30%	0.00%



STAFF AGENDA MEMORANDUM

DATE OF MEETING: October 29, 2015

AGENDA ITEM: **Appointment to Public Safety Committee**

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: Below is the current status of the Public Safety Committee as appointed on February 27, 2014.

Ben Maimer (Ward 1); Term Ends Dec 31, 2015

Jim Mitzner (Ward 2); Term Ends Dec 31, 2015

Richard Canon (Ward 3); Term Ended Dec 31, 2014. Hasn't been reappointed.

John Wastlund (Ward 4); Term Ends Dec 31, 2015.

Danessa Mitzner (Ward 3); Term Ended Dec 31, 2014; Resigned at end of term.

We have received two applications for the Public Safety Committee. They are attached.

COUNCIL ACTION NEEDED: Consider a vote to waive any potential assessments on 403 Chestnut for costs to mow, condemn and demolish the property from 2014 through 2015.

STAFF RECOMMENDATION TO COUNCIL: Staff recommends the appointment of Brian King to a term ending in 2016. He currently lives in Ward 2. I would recommend we consider the appointment of Charlotte Ursery in January, along with considering other appointments. Staff recommends the appointment of Mr. King because he has repeatedly demonstrated a desire to serve and is very interested in serving on this specific committee.

RESOLUTION NO. 670

A RESOLUTION ESTABLISHING THE PUBLIC SAFETY COMMITTEE AND DELEGATING POWERS AND RESPONSIBILITIES.

WHEREAS, the City of Osawatomie currently utilizes a Public Safety Committee to provide support and advice to the Governing Body on issues of public safety within the community; and

WHEREAS, the City Council of Osawatomie wishes to officially establish and recognize a Public Safety Committee; and

WHEREAS, the cooperation and input of citizens is critical to effective police enforcement and public safety response;

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

SECTION ONE: There is hereby created a committee of the City to be known as the Public Safety Committee hereinafter called the “Committee”.

SECTION TWO: In accordance with the Governing Body’s policies on the appointments to advisory bodies, the Governing Body shall appoint five (5) members to the Committee. Each of the five appointed members shall be a resident of the city, with at least one member from each of the city’s four wards and one member appointed at-large. No member of the Committee shall have been convicted of a felony or have pending felony charges filed against them. As a requirement of membership, each member shall sign a waiver which will allow the Osawatomie Police Department to perform a background check to determine eligibility to serve.

The Superintendent of USD No. 367, or his or her designee, and the Superintendent of the Osawatomie State Hospital, or his or her designee, shall serve as standing members of the Committee. However, neither Superintendent, nor their designee, shall serve as an officer of the Committee.

The Committee’s membership shall also include three ex-officio members, which will include: the Chief of Police, the Chief of the Fire Department, and one Council member who shall be appointed as a liaison.

Following the initial appointment, members shall serve a term of two years beginning on January 1 of the appointed year. Each of the members appointed by the Governing Body shall serve a two-year term and may be re-appointed for one additional two-year term. A member or ex-officio member shall retain their membership on the committee until:

- A. Replacement by the Governing Body after the completion of their term
- B. The member resigns from the committee
- C. The member's qualifying status, whether employment, residency or other factor, has changed and no longer qualifies the member to serve on the Committee.
- D. The member is dismissed by a vote of the Governing Body, in accordance with the Governing Body's procedures for removal of advisory body members.
- E. The Committee is terminated by the Governing Body

The initial terms of appointed Committee members shall be determined by the Governing Body upon appointment, such that three members shall have terms expiring in an odd year and two members have terms expiring in an even year. No initial appointment shall create a term that is longer than two years.

SECTION THREE: The Committee shall meet at least six times per year, but shall not meet more than once a month unless authorized by the Governing Body or City Manager. The Committee shall also meet when called upon by the Governing Body or City Manager to consider a special issue.

Within the guidelines of the Governing Body's resolution for advisory bodies, the Committee shall choose its own officers, determine the time and place for its meetings, and make its own procedural rules. The Committee shall also provide the City Clerk with adequate notice of the date and time of its next meeting and agenda and with copies of the minutes of its proceedings. A majority of its duly appointed committee shall constitute a quorum for the transaction of its business.

Upon the first meeting of the Committee after the passage of this ordinance, and at the first meeting of the Committee after January 1 in each subsequent year, the Committee shall elect from among its members a Chairperson, a Vice-Chairperson and a Secretary. The Chairperson shall be responsible for conducting the meetings, and the Vice-Chairperson shall conduct meetings in the Chairperson's absence. The Secretary shall be responsible for recording attendance and the minutes of the Committee.

SECTION FIVE: It shall be the mission of the Committee to provide a forum for residents, schools, the Osawatomi State Hospital, and the City of Osawatomi to share information and concerns about the safety of life and property in Osawatomi and to promote and improve public safety operations in the City of Osawatomi

SECTION SIX: The Committee is hereby empowered to: (1) assist the Police and Fire Departments in developing long-range planning for the improvements of services and programs offered by the Osawatomi Police and Fire Departments; (2) make recommendations to the City Council or City Manager on planning or proposed changes to traffic signage, parking, pedestrian walkways or other modes of transportation through the community; (3) review emergency management preparedness plans and coordination of the City of Osawatomi with Miami County

Emergency Management; and (4) assist the Police and Fire Department staff in developing a comprehensive safety program for City functions and personnel. When assigned a specific issue by the City Council or City Manager, the Committee will develop a report and recommendation to the requesting entity on a time table to be coordinated by the City Manager.

SECTION SEVEN: This Resolution shall be in full force and effect from and after its adoption.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas this 27th day of June, 2013, a majority being in favor thereof.

APPROVED AND SIGNED by the Mayor.

/s/ L. Mark Govea

L. Mark Govea
Mayor

(SEAL)

ATTEST:

/s/ Ann Elmquist

Ann Elmquist
City Clerk

Public Service Application

City of Osawatomie, KS

(one application per committee)

Name: Brian M. King Maiden Name: _____
Address: 401 Martin Ave. * SSN: _____
Mailing Address (if different): _____ * DOB: _____
City, State, Zip: Osawatomie, KS, 66064 Home P: _____

Place of Employment: FUMC Position: Custodian
Product or services rendered by employer: Church
Brief description of job duties/responsibilities: Custodial

Spouse's place of employment: _____ Position: _____
Product or Service rendered by spouse's employer: _____

Committee, Board, Commission, Task Force or other position to which you wish to be appointed:
Public Safety Committee

Why do you wish to serve in this position? I have enjoyed past and present positions and I wish to continue serving the community.

Have you served on any other board, committee, commission or in an elected position with the City? If yes, please state your experience as a member: Friends of the library, Historic Preservation, Tourism, Pride Committee, Meuseum Volunteer

Do you or your spouse have any monetary interest, direct or indirect, in any pending or incomplete transaction or contract to which the City is, or is to be, a party? If yes, please explain: No

* It is the policy of the City of Osawatomie to conduct criminal background checks on all potential applicants for the PUBLIC SAFETY COMMITTEE. Appointment to the Committee is contingent on the results of such checks. In order to conduct the check, a birthdate and social security number are required. By signing below, I understand that the above information I have voluntarily provided is to be used solely for the purpose of the background check.

I do hereby affirm that I am currently a registered voter in the city of Osawatomie. I reside in Ward No. 4.

Brian M. King
Signature

1/13/2015
Date

PLEASE RETURN TO CITY CLERK

439 Main Street

PO Box 37, Osawatomie, KS 66064

cityclerk@osawatomi.ks.org

Received: <u>01-12-15 ak</u>	--- OFFICE USE ONLY ---	Letter of Approval: _____
Scanned: <u>1-28-15</u>	Council Approval Date: _____	Letter of Non-Approval: _____
	Term Expiration Date: _____	

Public Service Application

City of Osawatomie, KS

(one application per committee)

Name: Charlotte Ursery Maiden Name: Charlotte Moore

Address: 307 E. Main * SSN: [REDACTED]

Mailing Address (if different): _____ * DOB: _____

City, State, Zip: Osawatomie, KS 66064 Home Phone: [REDACTED]

Place of Employment: _____ Position: _____

Product or services rendered by employer: _____

Brief description of job duties/responsibilities: Retired from O.S.H. as a L.M.T. 1962
retired from Jan. 2004 1997

Spouse's place of employment: _____ Position: _____

Product or Service rendered by spouse's employer: _____

Committee, Board, Commission, Task Force or other position to which you wish to be appointed:

Public Safety Board

Why do you wish to serve in this position? Tamara asked

Have you served on any other board, committee, commission or in an elected position with the City? If yes, please state your experience as a member: _____

Do you or your spouse have any monetary interest, direct or indirect, in any pending or incomplete transaction or contract to which the City is, or is to be, a party? If yes, please explain: No

* It is the policy of the City of Osawatomie to conduct criminal background checks on all potential applicants for the PUBLIC SAFETY COMMITTEE. Appointment to the Committee is contingent on the results of such checks. In order to conduct the check, a birthdate and social security number are required. By signing below, I understand that the above information I have voluntarily provided is to be used solely for the purpose of the background check.

I do hereby affirm that I am currently a registered voter in the city of Osawatomie. I reside in Ward No. 4.

Signature

[Signature]

Date

08-15-2015

PLEASE RETURN TO CITY CLERK

439 Main Street

PO Box 37, Osawatomie, KS 66064

cityclerk@osawatomieks.org

--- OFFICE USE ONLY ---

Received:

3-16-2015

Council Approval Date:

Letter of Approval:

Scanned:

4-4-15

Term Expiration Date:

Letter of Non-Approval:



STAFF AGENDA MEMORANDUM

DATE OF MEETING: October 29, 2015

AGENDA ITEM: Waive Assessments for 403 Chestnut

PRESENTER: Don Cawby, City Manager

ISSUE SUMMARY: We have received a request from Mr. Willis (Bill) Graves, 409 Chestnut, that we waive the potential future assessments for the mowing and demolition of 403 Chestnut. Mr. Graves purchased the neighboring property at tax sale this August.

Typically, when someone purchases property at tax sale and then later gets an assessment on the property, I am not in favor of waiving the fee. However, in this case, Mr. Graves mowed 403 Chestnut since it was abandoned after the flood and it was only until he decided to stop mowing it last year that the City had to begin adding it to our list. Furthermore, Mr. Graves worked with the demolition crews in getting the house demolished this summer and has plans to join the properties and put up a new garage on it.

The City paid \$4,880 to demolish the home and clear the lot. The City has only mowed the lot a couple of times since taking over those responsibilities in 2014. No assessments have yet been filed with the County to recoup the costs for these outstanding costs.

COUNCIL ACTION NEEDED: Consider a vote to waive any potential assessments on 403 Chestnut for costs to mow, condemn and demolish the property from 2014 through 2015.

STAFF RECOMMENDATION TO COUNCIL: Staff recommends the waiver of future assessments as stated above.



September 11, 2015

City of Osawatomie, KS
Attn: Don Cawby, City Manager
439 Main Street
PO Box 37
Osawatomie, KS 66064

RE: Osawatomie, Kansas
Add 12 MW Generation Capacity to City Distribution
JEO Project No. 141554.02

Dear Don:

JEO Consulting Group, Inc. (JEO) is pleased to submit this proposal for engineering services to Add 12 MW Generation Capacity to City Distribution System of the City of Osawatomie (City). If acceptable, please return one signed copy of this letter to our Norfolk Office and retain the original for your records.

Project Understanding:

The City of Osawatomie is purchasing 14 MW of generation capacity, seven (7) 2.0 MW diesel engine generators, two (2) pad-mounted switchgear and seven (7) 2,500 KVA 13.8 kV – 277/480 V transformers. Six (6) of the generators, 12 MW are currently operational, they have been megger tested to ensure operations. The generators and ancillary parts are currently located in Austin, MN at the Hormel Facility.

The generators are 2.0 MW, 277/480 V with a 4,000 amp main breaker and synchronizing controls installed in a self-contained outdoor rated enclosure. The engines are 3516B TA Caterpillar equipped with a catalyst for Tier II emission status.

The Hormel Facility is responsible to disconnect the generators, transformers and pad mounted switchgear and dismantle the catalyst and exhaust piping. The Hormel Facility will also provide a crane for loading the generators and ancillary parts onto semi-trailers.

The City is responsible to provide transportation from Austin MN to the City. Upon arriving to the City, a crane will be needed to unload the generators and ancillary materials. Temporary power will need to be connected to the engines and generators to keep moisture from deteriorating parts. The generator and engines will also need to be serviced and tested prior to being commissioned.

A preliminary engineering report was provided to add 8.0 MW in six (6) different locations with sub-transmission and distribution connections with an opinion of cost for each location provided. Because some of the locations were on property not currently owned by the City, the optimum location(s) for this generation capacity is yet to be determined. It is anticipated that 6-9 MW will be installed in one of the locations as identified in the report and 3-6 MW will be installed near the existing power plant. Until final locations are determined, all engineering work necessary for the design of the project and construction is also unknown.

The City is also planning a voltage upgrade of the distribution system from 4.16/2.4 kV to 12.47/7.2 kV. Several of the distribution system transformers are already dual voltage rated. A new substation transformer will be necessary when the voltage upgrade is to be implemented. A substation for this generation capacity project should utilize the same substation transformer and be allowed to further implement the voltage upgrade. The planning of the distribution voltage upgrade needs to be an integral part of this project.

An upgrade of this type should allow for the system to be maintained and operated with minimal additional investment by the City and its customers over the life of the initial investment. For reliability and redundancy, a looped type distribution system with back feed between two substations and backup generation is most beneficial. The additional capacity of the generation should also be available for the sub-transmission system to the Kansas statewide grid. The most opportune and cost effective way to layout the generation, substation(s) and integrate loop(s) within the distribution system is yet to be determined. To ensure the City is getting the best design for the cost and allow an engineer to be most efficient with design time, a study and report phase is proposed to be completed first. This will also allow the City to determine which sites are most available. Drawing upon our experience in similar situations, we strongly feel this is in the City's best interest and will allow for the best options and solutions to be considered while reducing the risks to your customers.

Project Description:

Provide engineering services to assist the City of Osawatomie with site development and design add 12 MW of generation capacity with substations and implement a distribution system voltage upgrade. Six (6) 2.0 MW diesel engine generators in self-contained outdoor rated enclosures connected to a new substation(s) with additional distribution system feeder provisions. The City's distribution system is planned to be upgraded to 12.47/7.2 kV. A study and report phase will first be completed to allow the desired location(s) to be finalized and provide the most efficient design and construction.

Provide study and report phase with amendment provisions for preliminary design, final design, bidding & negotiation and construction administration and post construction services.

Scope of Services:

Study and Report Phase

- A. Provide on-site observation in Austin, MN during the loading of the generators, catalyst and ancillary parts by crane on to trailers to be delivered to the City, hourly estimated at 50 hours.
- B. Provide coordination of the packing and delivery of the seven (7) catalyst to the City.
- C. For three (3) options, provide one-line diagrams of desired substation(s) with connections to sub-transmission, generation and distribution feeders. Connections to existing power plant and substation will also be provided.
- D. For generation/voltage upgraded substation locations, layout desired connections of distribution feeders with connecting loops between substations.

- E. Provide list of advantages/disadvantages of each option.
- F. Review results of study for the generation, substation and distribution systems with the City.

With the scope of the work necessary to complete this project not clearly defined, when study and report phase is completed, the Preliminary and Final Design, Bidding and Negotiation and Construction Administration Phases will be modified and provided as an amendment to this agreement. Included are the typical services that would be provided:

Preliminary Design Phase:

- A. Provide topographic survey with utility mapping at proposed substation(s) location, establish flood plan elevation and review site for environmental issues.
- B. Provide preliminary site development for generation site(s) and substation(s).
- C. Layout preliminary generation site(s) and substation(s) and coordinate with sub-transmission provider and the City.
- D. Provide Engineer's opinion of construction cost.
- E. Present completed preliminary design and review in detail with Owner.

Final Design Phase:

- A. Prepare detailed final plans and specification of generation site(s) and substation(s) for construction.
- B. Plan-in-hand to review plans.
- C. Prepare forms for contract documents including proposals, advertisements for bids, construction contracts, and payment and performance bonds as required, all subject to the approval of the Owner's legal counsel.
- D. Provide Engineer's opinion of construction cost.
- E. Present completed final design documents (Plans, Specifications and Contract Documents) to Owner for approval, and review in detail.

Bidding and Negotiation Services:

- A. Furnish copies of plans, specifications, and contract documents to prospective bidders, material suppliers, and other interested parties upon their request and payment of the purchase cost established for the documents.
- B. Prepare Addenda as necessary to provide clarification during bid solicitation.
- C. Assist the Owner in securing construction bids for the project.
- C. Assist the Owner at the bid opening.
- D. Tabulate and analyze construction bids with report and recommendation to the Owner, together with advice and assistance to the Owner in award of construction contract(s).
- E. Prepare and submit necessary information to the Owner for project award approval.
- F. Prepare contract documents for execution by contractor(s) and the Owner, with approval by (Owner and) Owner's legal and insurance counsel(s).

Construction Administration Services:

- A. Provide interpretation of plans and specifications, where necessary.
- B. Review shop drawings and related data of the contractor(s) and manufacturer(s).
- C. Provide Contract Administration.

- D. Provide part-time project observation, hourly estimated – to be determined Hours.
- E. Process contractor’s periodic (monthly) payment estimates and present to Owner with review in detail.
- F. Consult with and advise the Owner or their representative during construction.
- G. Conduct a monthly observation of the project with the contractor(s) and Owner’s Representative(s) to ensure work is acceptable and provide itemized quantities for pay application.
- H. Recommend to the Owner the acceptance of the project. These recommendation(s) will be based on the Engineer’s observation of construction utilizing professional judgment and accepted tests to determine that the contractor(s) have completed their contracts in substantial compliance with the plans, specifications and contract document.

Post Construction Services:

- A. Assist the Owner with Project Performance Review during the Project Warranty Period (at 11 months).

Exclusions:

- A. New utility easements are typically not yet determined and are not included.
- B. Soil boring samples for the site will be required and are not included in this proposal.
- C. Resolving environmental issues are typically not anticipated for the proposed substation site(s) and are not included.

Fee:

The cost to provide the above mentioned services for Study and Report Phase would be hourly not to exceed fee \$ 23,400. By amendment to this agreement Preliminary Design Phase, Final Design Phase, Bidding & Negotiation Services, Construction Administration Services and Post Construction Services will be provided. We anticipate Resident Project Representation (RPR) will be provided during the construction phase, and will be coordinated at a later date.

This fee includes JEO’s billable time and overhead expenses including telephone calls, copying, postage, travel and meals that are included in our hourly rates and fees. Any additional services beyond the Scope of Service will be provided on a billable time basis in accordance with our standard Hourly Rate Schedule.

A. Study & Report Phase	\$23,400.00
B. Preliminary Design Phase	\$ to be determined
C. Final Design Phases	\$ to be determined
D. Bidding & Negotiation Services	\$ to be determined
E. Construction Administration Services	\$ to be determined
F. Post Construction Services	<u>\$ to be determined</u>
Total	\$23,400 + to be determined

Estimated Time Frame:

- A. Study and Report Phase – 30 - 45 Calendar days from authorization to proceed
- B. Preliminary Design Phase – to be determined
- C. Final Design Phase – to be determined
- D. Bidding and Negotiation Phase – to be determined
- E. Construction Phase – to be determined
- F. Post Construction Phase – to be determined

We anticipate the Study and Report Phase to be completed by November 1, 2015, subject to coordination with City Utilities, with anticipation of preliminary and final design to be completed in February, bidding this project in March and construction to be completed in the summer of 2016.

If the above Project Description, Scope of Services and attached (Exhibit B) General Conditions meet with your approval, please return one signed copy of this letter to our Norfolk Office and retain the original for your records. I look forward to working with you.

If you have any further questions or comments, please do not hesitate to call.

Respectfully submitted,



David R. Peterson, P.E.
Electrical Department Manager

DRP:skw
Attachments

PROPOSAL ACCEPTED:

Osawatomie City Council

By _____

Title _____

Date _____

JEO Consulting Group, Inc. GENERAL CONDITIONS

1. SCOPE OF SERVICES: JEO Consulting Group, Inc. (JEO) shall perform the services described in Exhibit A. JEO shall invoice the owner for these services at the fee stated in Exhibit A.

2. ADDITIONAL SERVICES: JEO can perform work beyond the scope of services, as additional services, for a negotiated fee or at fee schedule rates.

3. OWNER RESPONSIBILITIES: The owner shall provide all criteria and full information as to the owner's requirements for the project; designate and identify in writing a person to act with authority on the owner's behalf in respect to all aspects of the project; examine and respond promptly to JEO's submissions; and give prompt written notice to JEO whenever the owner observes or otherwise becomes aware of any defect in work.

Unless otherwise agreed, the owner shall furnish JEO with right-of-access to the site in order to conduct the scope of services. Unless otherwise agreed, the owner shall also secure all necessary permits, approvals, licenses, consents, and property descriptions necessary to the performance of the services hereunder. While JEO shall take reasonable precautions to minimize damage to the property, it is understood by the owner that in the normal course of work some damage may occur, the restoration of which is not a part of this agreement.

4. TIMES FOR RENDERING SERVICES: JEO's services and compensation under this agreement have been agreed to in anticipation of the orderly and continuous progress of the project through completion. Unless specific periods of time or specific dates for providing services are specified in the scope of services, JEO's obligation to render services hereunder shall be for a period which may reasonably be required for the completion of said services.

If specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided, and if such periods of time or date are changed through no fault of JEO, the rates and amounts of compensation provided for herein shall be subject to equitable adjustment. If the owner has requested changes in the scope, extent, or character of the project, the time of performance of JEO's services shall be adjusted equitably.

5. INVOICES: JEO shall submit invoices to the owner monthly for services provided to date and a final bill upon completion of services. Invoices are due and payable within 30 days of receipt. Invoices are considered past due after 30 days. Owner agrees to pay a finance charge on past due invoices at the rate of 1.0% per month, or the maximum rate of interest permitted by law.

If the owner fails to make any payment due to JEO for services and expenses within 30 days after receipt of JEO's statement, JEO may, after giving 7 days' written notice to the owner, suspend services to the owner under this agreement until JEO has been paid in full all amounts due for services, expenses, and charges.

6. STANDARD OF CARE: The standard of care for all services performed or furnished by JEO under the agreement shall be the care and skill ordinarily used by members of JEO's profession

practicing under similar circumstances at the same time and in the same locality. JEO makes no warranties, express or implied, under this agreement or otherwise, in connection with JEO's services.

JEO shall be responsible for the technical accuracy of its services and documents resulting therefrom, and the owner shall not be responsible for discovering deficiencies therein. JEO shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in owner furnished information.

7. REUSE OF DOCUMENTS: Reuse of any materials (including in part plans, specifications, drawings, reports, designs, computations, computer programs, data, estimates, surveys, other work items, etc.) by the owner on a future extension of this project, or any other project without JEO's written authorization shall be at the owner's risk and the owner agrees to indemnify and hold harmless JEO from all claims, damages, and expenses including attorney's fees arising out of such unauthorized use.

8. ELECTRONIC FILES: Copies of Documents that may be relied upon by the owner are limited to the printed copies (also known as hard copies) that are signed or sealed by JEO. Files in electronic media format of text, data, graphics, or of other types that are furnished by JEO to the owner are only for convenience of the owner. Any conclusion or information obtained or derived from such electronic files shall be at the user's sole risk.

a. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it shall perform acceptance tests or procedures within 30 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 30 day acceptance period shall be corrected by the party delivering the electronic files. JEO shall not be responsible to maintain documents stored in electronic media format after acceptance by the owner.

b. When transferring documents in electronic media format, JEO makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by JEO at the beginning of the project.

c. The owner may make and retain copies of documents for information and reference in connection with use on the project by the owner.

d. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

e. Any verification or adaptation of the documents by JEO for extensions of the project or for any other project shall entitle JEO to further compensation at rates to be agreed upon by the owner and JEO.

9. SUBCONSULTANTS: JEO may employ consultants as JEO deems necessary to assist in the performance of the services. JEO shall not be required to employ any consultant unacceptable to JEO.

10. INDEMNIFICATION: To the fullest extent permitted by law, JEO and the owner shall indemnify and hold each other harmless



**JEO Consulting Group, Inc.
GENERAL CONDITIONS**

and their respective officers, directors, partners, employees, and consultants from and against any and all claims, losses, damages, and expenses (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) to the extent such claims, losses, damages, or expenses are caused by the indemnifying parties' negligent acts, errors, or omissions. In the event claims, losses, damages, or expenses are caused by the joint or concurrent negligence of JEO and the owner, they shall be borne by each party in proportion to its negligence.

11. INSURANCE: JEO shall procure and maintain the following insurance during the performance of services under this agreement:

- a. Workers' Compensation: Statutory
- b. Employer's Liability
 - i. Each Accident: \$500,000
 - ii. Disease, Policy Limit: \$500,000
 - iii. Disease, Each Employee: \$500,000
- c. General Liability
 - i. Each Occurrence (Bodily Injury and Property Damage): \$1,000,000
 - ii. General Aggregate: \$2,000,000
- d. Auto Liability
 - i. Combined Single: \$1,000,000
- e. Excess or Umbrella Liability
 - i. Each Occurrence: \$1,000,000
 - ii. General Aggregate: \$1,000,000
- f. Professional Liability:
 - i. Each Occurrence: \$1,000,000
 - ii. General Aggregate: \$2,000,000
- g. All policies of property insurance shall contain provisions to the effect that JEO and JEO's consultants' interests are covered and that in the event of payment of any loss or damage the insurers shall have no rights of recovery against any of the insureds or additional insureds thereunder.
- h. The owner shall require the contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause JEO and JEO's consultants to be listed as additional insured with respect to such liability and other insurance purchased and maintained by the contractor for the project.
- i. The owner shall reimburse JEO for any additional limits or coverages that the owner requires for the project.

12. TERMINATION: This agreement may be terminated by either party upon 7 days prior written notice. In the event of termination, JEO shall be compensated by owner for all services performed up to and including the termination date. The effective date of termination may be set up to thirty (30) days later than otherwise provided to allow JEO to demobilize personnel and equipment from the site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble project materials in orderly files.

13. GOVERNING LAW: This agreement is to be governed by the law of the state in which the project is located.

14. SUCCESSORS, ASSIGNS, AND BENEFICIARIES: The owner and JEO each is hereby bound and the partners, successors, executors, administrators and legal representatives of the owner and JEO are hereby bound to the other party to this agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, with respect to all covenants, agreements and obligations of this agreement.

- a. Neither the owner nor JEO may assign, sublet, or transfer any rights under or interest (including, but without limitation, monies that are due or may become due) in this agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment shall release or discharge the assignor from any duty or responsibility under this agreement.
- b. Unless expressly provided otherwise in this agreement: Nothing in this agreement shall be construed to create, impose, or give rise to any duty owed by the owner or JEO to any contractor, contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.
- c. All duties and responsibilities undertaken pursuant to this agreement shall be for the sole and exclusive benefit of the owner and JEO and not for the benefit of any other party.

15. PRECEDENCE: These standards, terms, and conditions shall take precedence over any inconsistent or contradictory language contained in any proposal, contract, purchase order, requisition, notice to proceed, or like document regarding JEO's services.

16. SEVERABILITY: Any provision or part of the agreement held to be void or unenforceable shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the owner and JEO, who agree that the agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

17. NON-DISCRIMINATION CLAUSE: Pursuant to Neb. Rev. Stat. § 73-102, the parties declare, promise, and warrant that they have and will continue to comply fully with Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C.A § 1985, et seq.) and the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. § 48-1101, et seq., in that there shall be no discrimination against any employee who is employed in the performance of this agreement, or against any applicant for such employment, because of age, color, national origin, race, religion, creed, disability or sex.

18. E-VERIFY: JEO shall register with and use the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986, to determine the work eligibility status of new employees physically performing services within the state where the work shall be performed. Engineer shall require the same of each consultant.



Exhibit C

Standard Hourly Rates Schedule



JANUARY 1, 2015

**JEO CONSULTING GROUP INC.
CURRENT HOURLY RATE SCHEDULE RANGE**

ACTUAL HOUR BASIS

Project Managers:	\$120.00	-	\$190.00
Project Engineers/Architects:	\$100.00	-	\$165.00
Project Engineers (E.I.):	\$75.00	-	\$120.00
Engineering/Surveying/ Architectural/Planning/GIS Technicians:	\$75.00	-	\$120.00
Office/Administrative:	\$76.00	-	\$100.00
Principals:	\$175.00	-	\$208.00

NOTE: Cost of telephone calls, copying, postage, travel expenses, mileage, meals, lodging, etc. are included in our hourly rates and fees, and not charged separately.