

**OSAWATOMIE CITY COUNCIL**  
**WORK SESSION / MEETING AGENDA**  
Thursday, May 28, 2009  
7:00 p.m., Memorial Hall

**WORK SESSION**

1. Discuss Employee Residency Requirement for Newly Hired Employees
2. 2010 Budget

**REGULAR MEETING – 7:30 p.m.**

- A. Call to Order
- B. Roll Call

C. Approval of Agenda

1. Consider Rezoning Ordinance for 34110 W. 359<sup>th</sup>; Osawatomie, Kansas
2. Consider Special Use Permit for 700 Parker – Day Care Facility
3. Consider Special Use Permit for 600 Block of Brown – Farmers Market
4. Consider Final Change Order for 2007 Street Improvements and Final Pay Requests for 2007 and 2008 Street Improvements
5. Executive Session
  - a. Personnel matter of nonelected personnel
  - b. Employer-Employee Relations and Negotiations

D. Adjournment of Regular Meeting

WORK SESSION – continued.

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

AN ORDINANCE PROVIDING FOR THE REZONING OF CERTAIN PROPERTY IN THE GROWTH AREA OF THE CITY OF OSAWATOMIE, KANSAS FROM A (AGRICULTURAL) TO RP-4 (RURAL RESIDENTIAL); AMENDING THE ZONING MAP INCORPORATED BY REFERENCE IN ORDINANCE NO. 3647, AND AMENDMENTS THERETO.

WHEREAS: after due and lawful notice, the Osawatomie Planning Commission on May 6, 2009 held a public hearing, and recommended approval of the request to rezone from A (Agricultural) to RP-4 (Rural Residential); and

WHEREAS: the Governing Body may (1) approve such Planning Commission recommendation, (2) override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the Governing Body; or (3) may return the same to the Planning Commission for further consideration, together with a statement specifying the basis for the Governing Body's failure to approve or disapprove.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OSAWATOMIE, KANSAS, as follows:

SECTION ONE: That the zoning district classification for the following described property, situated in Miami County, Kansas, to-wit:

All that part of the South Half of the Southeast Quarter of Section 16, Township 18, Range 22, Miami County, Kansas, described as follows: commencing at the southeast corner of the southeast quarter of said section 16; thence south 89 degrees 35 minutes 13 seconds west, along the south line of the southeast quarter of said section 16, a distance of 1,348.00 feet, to the point of beginning; thence north 0 degrees, 11 minutes, 24 seconds west, parallel to the east line of the west half of the southwest quarter of the southeast quarter of said section 16, a distance of 730.05; thence south 89 degrees 35 minutes 13 seconds west, parallel to the south line of the southeast quarter of said section 16, a distance of 663.33 feet, to a point on the east line of the west half of the southwest quarter of the southeast quarter of said section 16; thence south 0 degrees 11 minutes 24 seconds east, along the east line of the west half of the southwest quarter of the southeast quarter of said section 16, a distance of 730.05 feet, to the southeast corner of the west half of the southwest quarter of the southeast quarter of said section 16; thence north 89 degrees 35 minutes 13 seconds east along the south line of the southeast quarter of said section 16, a distance of 663.33 feet, to the point of beginning, containing 11.12 acres more or less.

Commonly known as 34110 W. 359<sup>th</sup>, is hereby changed from A (Agricultural) to RP-4 (Rural Residential).

SECTION TWO: That the Zoning Map adopted by Ordinance No. 3647 is hereby amended to reflect the rezoning, as set forth in Section One.

SECTION THREE: EFFECTIVE DATE. This Ordinance shall take effect and be in force from and after its passage and one publication in the official City newspaper.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas, a majority being in favor thereof, this 28th day of May, 2009.

APPROVED and signed by the Mayor.

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Philip A. Dudley  
Mayor

(SEAL)

ATTEST:

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Ann Elmquist  
City Clerk

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

AN ORDINANCE PERTAINING TO THE SPECIAL USE PERMIT TO OPERATE A FARMERS MARKET IN A C-2 PERIMETER COMMERCIAL DISTRICT

WHEREAS, The City of Osawatomie, is requesting a Special Use Permit to operate a Farmer's Market in a C-2 Perimeter Commercial District, and

WHEREAS, the property is located in the 600 Block of Brown Avenue, immediately west of the SRS Facility in Osawatomie, Kansas, and

WHEREAS, the current zoning of the property is the City's C-2 Perimeter Commercial District, and

WHEREAS, the Osawatomie Planning Commission held a public hearing on this proposed Special Use Permit on May 6, 2009 in accordance with City and State zoning laws and the Planning Commission recommended approval with conditions for the Special Use Permit.

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

SECTION ONE: A special use permit is granted to the City of Osawatomie, Kansas to operate a Farmer's Market at the above described location, Osawatomie, Kansas, subject to the following conditions:

1. The Special Use Permit will be issued to the City of Osawatomie, not the property;
2. The City of Osawatomie City Manager is hereby permitted to allow non-profit organizations to manage the farmers' market;
3. Items available for sale at the farmers' market shall be limited to those items customarily found in farmers' markets and shall include but not necessarily be limited to, fresh fruits and vegetables, apiary products, meats, cheeses, landscaping plants, etc;
4. Any non-profit organization operating a farmers' market at this location is hereby permitted to establish rules of operation and conduct, set fees, and establish hours of operation, all subject to approval by the City Manager;
5. The City Manager or non-profit organization shall have the authority to terminate at any time, the operation of the farmers' market;
6. All activity shall take place on the south half of the property described below, which is generally known and considered to be that portion of the property which is paved and utilized as a parking lot;

SECTION TWO: The special use permit will be operated on the following described real estate, situated in Osawatomie, Miami County, Kansas, to-wit:

All of fractional lot 15, block 33, City of Osawatomie, Kansas as per the duly recorded plat thereof on file in the office of the Recorder of Deeds, Miami County, Kansas; and those portions of fractional lot 16 in said block 33, and fractional lot 3, block 66, William Chestnut's (Ellensville) addition to the town of Osawatomie; as per the plat thereof duly recorded and on file in the office of the recorder of deeds, Miami County, Kansas lying easterly of a line which is parallel with, and distant 50.0 feet easterly of, measured at right angles to, the centerline of the main track of the Union Pacific Railroad Company, successor to Missouri Pacific Railroad Company, as same is constructed and operated, together with the alley in said block 66 accruing thereto by means of the legal vacation thereof. All of lot 18, the west half of lot 17 and the west half of fractional lot 4, all in block 66 of William Chestnut's (Ellensville) addition to the town of Osawatomie, as per the plat thereof duly recorded and on file in the office of the Recorder of Deeds, Miami County, Kansas, together with the alley in said block 66 accruing thereto by means of the legal vacation thereof; and all of lot 14, block 33, City of Osawatomie, Kansas as per duly recorded plat thereof on file in the office of the Recorder of Deeds, Miami County, Kansas.

SECTION THREE: This ordinance shall take effect and be in force from and after its passage and one publication in the official City newspaper.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Miami County, Kansas, a majority being in favor thereof, this 28<sup>th</sup> day of May, 2009.

APPROVED and signed by the Mayor.

(SEAL)

\_\_\_\_\_  
Philip A. Dudley  
Mayor

ATTEST:

\_\_\_\_\_  
Ann Elmquist  
City Clerk

ORDINANCE NO. \_\_\_\_

AN ORDINANCE PERTAINING TO THE SPECIAL USE PERMIT TO OPERATE A CHILD CARE CENTER IN AN R-2 TWO-FAMILY RESIDENTIAL DISTRICT

WHEREAS, Launa Criddle, is requesting a Special Use Permit to operate a Child Care Center in an R-2 Two-Family Residential District, and

WHEREAS, the property is located at 700 Parker Avenue, Osawatomi, Kansas, and

WHEREAS, the current zoning of the property is the City's R-2 Two-Family Residential District, and

WHEREAS, the Osawatomi Planning Commission held a public hearing on this proposed Special Use Permit on May 6, 2009 in accordance with City and State zoning laws and the Planning Commission recommended approval with conditions for the Special Use Permit.

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

SECTION ONE: A special use permit is granted to Launa Criddle to operate a child care center at 700 Parker Avenue, Osawatomi, Kansas, subject to the following conditions:

1. The Special Use Permit will be issued to Launa Criddle, not the property. At any time the Child Care Center would close or move, the special use permit would be void and not be transferable.
2. Approval of the State Licenses for the Child Care Center.
3. Approval of the fencing by the state and city codes.
4. Approval of the City parking requirements.
5. Approval of the Site Plan by the City.

SECTION TWO: The special use permit will be operated on the following described real estate, situated in Osawatomi, Miami County, Kansas, to-wit:

Lot 21, Block 20, original town of Osawatomi

SECTION THREE: This ordinance shall take effect and be in force from and after its passage and one publication in the official City newspaper.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Miami County, Kansas, a majority being in favor thereof, this 28<sup>th</sup> day of May, 2009.

APPROVED and signed by the Mayor.

(SEAL)

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Philip A. Dudley  
Mayor

ATTEST:

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Ann Elmquist  
City Clerk

CONTRACTOR'S AFFIDAVIT

Owner's Project No. \_\_\_\_\_

Engineer's Project No. 05-357M

Project: 2007 Street Improvements

To: City of Osawatomie  
Owner

The Contractor, represented by the undersigned, hereby declares that all indebtedness, whether incurred by me as Principal Contractor, or by a Subcontractor or otherwise, for supplies, materials, or labor furnished, used, or consumed in connection with or in or about the construction of the above mentioned Project, including gasoline, lubricating oils, fuel oils, greases, coal and other items used or consumed in furtherance of the said improvement have been paid in full, and I further declare that the Owner has been paid in full for all loss, cost damage or expense which it has been held responsible for by reason of any negligence, defective condition, default, failure or miscarriage in the performance of said Contract, either by me as Principal Subcontractor, or otherwise.

Dated this 20<sup>th</sup> day of May, 2009.

Miller Paving & Construction, LLC  
Contractor  
  
By Charlie James  
Managing Member  
Title

State of Kansas )ss.

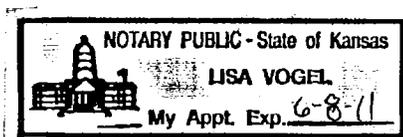
County of Wyandotte

On this 20<sup>th</sup> day of May, 2009, before me personally appeared \_\_\_\_\_, known by me to represent the Contractor on the above Project, and being duly sworn stated that the above statement is true and correct.



Notary Public

My Commission Expires June 8, 2011



RELEASE OF FINAL ESTIMATE BY SURETY

Bond # S364068

Owner's Project No. \_\_\_\_\_

Engineer's Project No. 05-357M

Project: 2007 Street Improvements

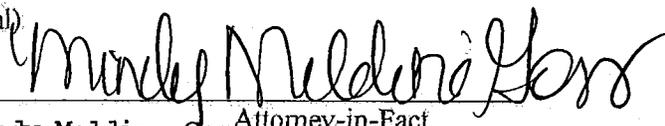
In compliance with the General Conditions of this Project, Article 14, Paragraph 7, the  
Employers Mutual Casualty Company, PO Box 712, Des Moines, IA 50303  
(Name of Bonding Company)

as surety, hereby releases for payment, the Final Estimate on the above Project. The bonding  
company shall maintain bonding of the project until 03/31/2009

Employers Mutual Casualty Company

(Seal)

By

  
Mindy Meldine Goss Attorney-in-Fact

# EMC Insurance Companies

P.O. Box 712 • Des Moines, IA 50306-0712

No. 849507

## CERTIFICATE OF AUTHORITY INDIVIDUAL ATTORNEY-IN-FACT

KNOW ALL MEN BY THESE PRESENTS, that:

1. Employers Mutual Casualty Company, an Iowa Corporation
2. EMCASCO Insurance Company, an Iowa Corporation
3. Union Insurance Company of Providence, an Iowa Corporation
4. Illinois EMCASCO Insurance Company, an Iowa Corporation
5. Dakota Fire Insurance Company, a North Dakota Corporation
6. EMC Property & Casualty Company, an Iowa Corporation
7. Hamilton Mutual Insurance Company, an Iowa Corporation

hereinafter referred to severally as "Company" and collectively as "Companies", each does, by these presents, make, constitute and appoint:

PAUL S. RAMM, LARRY HUDDLESTON, KATHY BEAMIS, TRAVIS E. BARKER, MINDY MELDINE GOSS, ROB KAELIN, INDIVIDUALLY, LEAWOOD, KANSAS

its true and lawful attorney-in-fact, with full power and authority conferred to sign, seal, and execute its lawful bonds, undertakings, and other obligatory instruments of a similar nature as follows:

IN AN AMOUNT NOT EXCEEDING TEN MILLION DOLLARS ..... (\$10,000,000.00)

and to bind each Company thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of each such Company, and all of the acts of said attorney pursuant to the authority hereby given are hereby ratified and confirmed.

The authority hereby granted shall expire APRIL 1, 2010 unless sooner revoked.

### AUTHORITY FOR POWER OF ATTORNEY

This Power-of-Arrowney is made and executed pursuant to and by the authority of the following resolution of the Boards of Directors of each of the Companies at a regularly scheduled meeting of each company duly called and held in 1999:

**RESOLVED:** The President and Chief Executive Officer, any Vice President, the Treasurer and the Secretary of Employers Mutual Casualty Company shall have power and authority to (1) appoint attorneys-in-fact and authorize them to execute on behalf of each Company and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and (2) to remove any such attorney-in-fact at any time and revoke the power and authority given to him or her. Attorneys-in-fact shall have power and authority, subject to the terms and limitations of the power-of-attorney issued to them, to execute and deliver on behalf of the Company, and to attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and any such instrument executed by any such attorney-in-fact shall be fully and in all respects binding upon the Company. Certification as to the validity of any power-of-attorney authorized herein made by an officer of Employers Mutual Casualty Company shall be fully and in all respects binding upon this Company. The facsimile or mechanically reproduced signature of such officer, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power-of-attorney of the Company, shall be valid and binding upon the Company with the same force and affect as though manually affixed.

IN WITNESS WHEREOF, the Companies have caused these presents to be signed for each by their officers as shown, and the Corporate seals to be hereto affixed this 8TH day of JANUARY, 2008

*Bruce G. Kelley*

Bruce G. Kelley, Chairman of Companies 2, 3, 4, 5 & 6; President of Company 1; Vice Chairman and CEO of Company 7

*Jeffrey S. Birdsley*

Jeffrey S. Birdsley Assistant Secretary

Seals



On this 8TH day of JANUARY AD 2008 before me a Notary Public in and for the State of Iowa, personally appeared Bruce G. Kelley and Jeffrey S. Birdsley, who, being by me duly sworn, did say that they are, and are known to me to be the Chairman, President, Vice Chairman and CEO, and/or Assistant Secretary, respectively, of each of The Companies above; that the seals affixed to this instrument are the seals of said corporations; that said instrument was signed and sealed on behalf of each of the Companies by authority of their respective Boards of Directors; and that the said Bruce G. Kelley and Jeffrey S. Birdsley, as such officers, acknowledge the execution of said instrument to be the voluntary act and deed of each of the Companies. My Commission Expires September 30, 2009.

*Ruta Krumins*

Notary Public in and for the State of Iowa

### CERTIFICATE

I, David L. Hixenbaugh, Vice President of the Companies, do hereby certify that the foregoing resolution of the Boards of Directors by each of the Companies, and this Power of Attorney issued pursuant thereto on JANUARY 8, 2008 on behalf of PAUL S. RAMM, LARRY HUDDLESTON, KATHY BEAMIS, TRAVIS E. BARKER, MINDY MELDINE GOSS, ROB KAELIN, are true and correct and are still in full force and effect.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 31 day of March, 2009

*David L. Hixenbaugh*

Vice-President

City of Osawatomie, Kansas  
Quantities for Pay Estimate # 7-Final  
2007 Street Improvements  
30-Apr-09

<u>Item #</u>	<u>Item Description</u>	<u>Approx. Quantity</u>	<u>Unit Measure</u>	<u>Actual Quantities</u>	<u>Unit Price</u>	<u>Cost to Date</u>
1	Contractor Construction Staking	1	L.S.	100%	11,525.00	11,525.00
2	Mobilization	1	L.S.	100%	10,000.00	10,000.00
3	Removal of Existing Structures	1	L.S.	100%	5,500.00	5,500.00
4	Clearing and Grubbing	1	L.S.	100%	150,000.00	150,000.00
5	Excavation (Unclassified)	6,586	C.Y.	6,586	3.25	21,404.50
6	Common Excavation (Contractor Furnished)	377	C.Y.	377	18.10	6,823.70
7	Compaction of Earthwork (Type B) (MR-90)	1,274	C.Y.	1,274	2.75	3,503.50
8	Fly Ash Treated Subgrade	16,181	S.Y.	17,817	6.20	110,465.40
9	Adjust Valve Box (Water)	10	Each	10	425.00	4,250.00
10	Adjust Manhole	11	Each	11	550.00	6,050.00
11	Inlet (Setback) (Precast)	6	Each	6	3,900.00	23,400.00
12	Curb and Gutter (Combined) (AE)	10,947	L.F.	11,223	10.45	117,280.35
13	Storm Sewer Pipe (24") (RCP)	78	L.F.	78	76.75	5,986.50
14	Storm Sewer Pipe (36") (RCP)	59	L.F.	59	85.00	5,015.00
15	Storm Sewer Pipe (1.5 Sq.Ft.) (RCPHE)	83	L.F.	83	125.00	10,375.00
16	Sidewalk Construction (4") (AE)	4,648	S.Y.	3,738.80	26.00	97,208.80
17	Sidewalk Ramp	162	S.Y.	323.40	128.25	41,476.05
18	Concrete Pavement (6") (Uniform) (AE)	1,809	S.Y.	2,373.00	40.05	95,038.65
19	Concrete Pavement (8") (Uniform) (AE)	917	S.Y.	1,017.10	49.95	50,804.15
20	Concrete Pavement (10") (Uniform) (AE)	246	S.Y.	264.20	57.60	15,217.92
21	Concrete Steps	12	C.Y.	3.4	235.00	799.00
22	Reinforcing Steel	600	Lbs	-	0.65	-
23	Temporary Surfacing Material (Set)	1	C.Y.	-	27.00	-
24	Temporary Seeding and Pollution Control	1	L.S.	1.0	5,500.00	5,500.00
25	Permanent Seeding	1	L.S.	1	15,500.00	15,500.00
26	Bituminous Surface Course (BM-2)	1,819	Tons	1,724	56.50	97,406.00
27	Bituminous Base Course (BM-2)	5,327	Tons	5,719.5	51.45	294,268.28
28	Aggregate Base (AB-3) (6")	732	S.Y.	732	6.75	4,941.00
29	Traffic Control	1	L.S.	100%	8,500.00	8,500.00
30	Milling	2,986	S.Y.	-	3.05	-
31	Retaining Wall (Keystone)	170	S.F.	278.40	37.50	10,440.00
	Bituminous Surface Course (BM-2)-Price Index Increase from February 1 through October 31, 2008	0	Tons	1,770	15.00	26,550.00
	Bituminous Base Course (BM-2)-Price Index Increase from February 1 through August 1, 2008	0	Tons	4,175	14.00	58,450.00
	Bituminous Base Course (BM-2)-Price Index Increase from August 1 through August 29, 2008	-	Tons	300	18.00	5,400.00
	Bituminous Base Course (BM-2)-Price Index Increase from September 1 through October 31, 2008	-	Tons	1,198.5	15.00	17,977.50
	Utility conflicts, extra excavation, remove gutter valleys	-	LS	10,553.15	1.00	10,553.15
CO 2	Street removal & 40' of curb	-	LS	3,975.00	1.00	3,975.00
CO 3	1505 LF of Damaged Sidewalk	-	LS	(1.00)	6,738.61	(6,738.61)
	<b>Total Completed Base Bid</b>					<b>1,344,845.83</b>

The Price Index increase for items 33 was based upon the monthly asphalt price as of July 1, 2008 of \$586 per ton.  
 Per Addendum No. 3 the change in Price of Asphalt Index = \$28.00 \* .50 cents per ton. (\$14.00 per ton).  
 The Price Index increase for items 34 was based upon the monthly asphalt price as of August 1, 2008 of \$666 per ton.  
 Per Addendum No. 3 the change in Price of Asphalt Index = \$36.00 \* .50 cents per ton. (\$18.00 per ton).  
 The Price Index increase for items 32 & 35 was based upon the monthly asphalt price as of October 1, 2008 of \$606 per ton.  
 Per Addendum No. 3 the change in Price of Asphalt Index = \$30.00 \* .50 cents per ton. (\$15.00 per ton).

Alternate No. 1:

1	Contractor Construction Staking	1	L.S.	-	1,500.00	-
2	Mobilization	1	L.S.	-	2,500.00	-
3	Removal of Existing Structures	1	L.S.	-	4,500.00	-
4	Clearing and Grubbing	1	L.S.	-	35,000.00	-
5	Excavation (Unclassified)	218	C.Y.	-	3.25	-
6	Common Excavation (Contractor Furnished)	636	C.Y.	-	18.10	-
7	Compaction of Earthwork (Type B) (MR-90)	488	C.Y.	-	2.75	-
8	Fly Ash Treated Subgrade	1018	S.Y.	-	6.20	-
9	Inlet (Curb) (Precast)	6	Each	-	3,400.00	-
10	Junction Box	3	Each	-	3,200.00	-
11	Curb and Gutter (Combined) (AE)	635	L.F.	-	10.45	-
12	Storm Sewer Pipe (24") (RCP)	12	L.F.	-	100.00	-
13	Storm Sewer Pipe (1.5 Sq.Ft.) (RCPHE)	114	L.F.	-	90.75	-
14	Storm Sewer Pipe (4.0 Sq.Ft.) (RCPHE)	28	L.F.	-	165.00	-
15	Storm Sewer Pipe (7.0 Sq.Ft.) (RCPHE)	423	L.F.	-	155.25	-
16	End Sections (24") (RC)	1	Each	-	775.00	-
17	End Sections (1.5 Sq.Ft.) (RCHE)	1	Each	-	725.00	-
18	Sidewalk Construction (4") (AE)	349	S.Y.	-	26.00	-
19	Sidewalk Ramp	11	S.Y.	-	128.25	-
20	Concrete Pavement (6") (Uniform) (AE)	20	S.Y.	-	40.00	-
21	Temporary Seeding and Pollution Control	1	L.S.	-	4,200.00	-
22	Permanent Seeding	1	L.S.	-	2,000.00	-
23	Bituminous Surface Course (BM-2)	78	Tons	-	56.50	-
24	Bituminous Base Course (BM-2)	287	Tons	-	51.45	-
25	Aggregate Base (AB-3) (6")	21	Tons	-	20.25	-
26	Traffic Control	1	L.S.	-	2,500.00	-

Alternative Bid Total

Total Completed to Date

Less: Retainage

Less: Previous Payment

Amount due this pay estimate

1,344,845.83

1,326,815.84

18,029.99

  
Contractor

\_\_\_\_\_  
Project Engineer

\_\_\_\_\_  
City Inspector

\_\_\_\_\_  
Owner

CONTRACTOR'S AFFIDAVIT

Owner's Project No. \_\_\_\_\_

Engineer's Project No. 05-357M

Project: 2008 Street Improvements

To: City of Osawatomie  
Owner

The Contractor, represented by the undersigned, hereby declares that all indebtedness, whether incurred by me as Principal Contractor, or by a Subcontractor or otherwise, for supplies, materials, or labor furnished, used, or consumed in connection with or in or about the construction of the above mentioned Project, including gasoline, lubricating oils, fuel oils, greases, coal and other items used or consumed in furtherance of the said improvement have been paid in full, and I further declare that the Owner has been paid in full for all loss, cost damage or expense which it has been held responsible for by reason of any negligence, defective condition, default, failure or miscarriage in the performance of said Contract, either by me as Principal Subcontractor, or otherwise.

Dated this 20<sup>th</sup> day of May, 2008.

Miller Paving & Construction, LLC  
Contractor

By [Signature]  
**Charlie James**

Managing Member  
Title

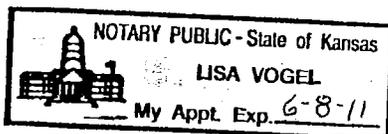
State of Kansas )ss.

County of WYANDOTT

On this 20<sup>th</sup> day of May, 2008, before me personally appeared \_\_\_\_\_, known by me to represent the Contractor on the above Project, and being duly sworn stated that the above statement is true and correct.

[Signature]  
Notary Public

My Commission Expires June 8, 2011.



RELEASE OF FINAL ESTIMATE BY SURETY

Bond # S376960

Owner's Project No. \_\_\_\_\_

Engineer's Project No. 05-357M

Project: 2008 Street Improvements

In compliance with the General Conditions of this Project, Article 14, Paragraph 7, the

Employers Mutual Casualty Company, PO Box 712, Des Moines, IA 50303  
(Name of Bonding Company)

as surety, hereby releases for payment, the Final Estimate on the above Project. The bonding company shall maintain bonding of the project until 03/31/2009.

Employers Mutual Casualty Company

(Seal)

By

Mindy Meldine Goss  
Mindy Meldine Goss Attorney-in-Fact

# EMC Insurance Companies

P.O. Box 712 • Des Moines, IA 50306-0712

No. 849506

## CERTIFICATE OF AUTHORITY INDIVIDUAL ATTORNEY-IN-FACT

KNOW ALL MEN BY THESE PRESENTS, that:

1. Employers Mutual Casualty Company, an Iowa Corporation
2. EMCASCO Insurance Company, an Iowa Corporation
3. Union Insurance Company of Providence, an Iowa Corporation
4. Illinois EMCASCO Insurance Company, an Iowa Corporation
5. Dakota Fire Insurance Company, a North Dakota Corporation
6. EMC Property & Casualty Company, an Iowa Corporation
7. Hamilton Mutual Insurance Company, an Iowa Corporation

hereinafter referred to severally as "Company" and collectively as "Companies", each does, by these presents, make, constitute and appoint:

PAUL S. RAMM, LARRY HUDDLESTON, KATHY BEAMIS, TRAVIS E. BARKER, MINDY MELDINE GOSS, ROB KAELIN, INDIVIDUALLY, LEAWOOD, KANSAS

its true and lawful attorney-in-fact, with full power and authority conferred to sign, seal, and execute its lawful bonds, undertakings, and other obligatory instruments of a similar nature as follows:

IN AN AMOUNT NOT EXCEEDING TEN MILLION DOLLARS ..... (\$10,000,000.00)

and to bind each Company thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of each such Company, and all of the acts of said attorney pursuant to the authority hereby given are hereby ratified and confirmed.

The authority hereby granted shall expire APRIL 1, 2010 unless sooner revoked.

### AUTHORITY FOR POWER OF ATTORNEY

This Power-of-Arrowney is made and executed pursuant to and by the authority of the following resolution of the Boards of Directors of each of the Companies at a regularly scheduled meeting of each company duly called and held in 1999:

**RESOLVED:** The President and Chief Executive Officer, any Vice President, the Treasurer and the Secretary of Employers Mutual Casualty Company shall have power and authority to (1) appoint attorneys-in-fact and authorize them to execute on behalf of each Company and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and (2) to remove any such attorney-in-fact at any time and revoke the power and authority given to him or her. Attorneys-in-fact shall have power and authority, subject to the terms and limitations of the power-of-attorney issued to them, to execute and deliver on behalf of the Company, and to attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and any such instrument executed by any such attorney-in-fact shall be fully and in all respects binding upon the Company. Certification as to the validity of any power-of-attorney authorized herein made by an officer of Employers Mutual Casualty Company shall be fully and in all respects binding upon this Company. The facsimile or mechanically reproduced signature of such officer, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power-of-attorney of the Company, shall be valid and binding upon the Company with the same force and affect as though manually affixed.

IN WITNESS WHEREOF, the Companies have caused these presents to be signed for each by their officers as shown, and the Corporate seals to be hereto affixed this 8TH day of JANUARY, 2008

Seals



*Bruce G. Kelley*

Bruce G. Kelley, Chairman of Companies 2, 3, 4, 5 & 6; President of Company 1; Vice Chairman and CEO of Company 7

*Jeffrey S. Birdsley*

Jeffrey S. Birdsley Assistant Secretary

On this 8TH day of JANUARY AD 2008 before me a Notary Public in and for the State of Iowa, personally appeared Bruce G. Kelley and Jeffrey S. Birdsley, who, being by me duly sworn, did say that they are, and are known to me to be the Chairman, President, Vice Chairman and CEO, and/or Assistant Secretary, respectively, of each of The Companies above, that the seals affixed to this instrument are the seals of said corporations; that said instrument was signed and sealed on behalf of each of the Companies by authority of their respective Boards of Directors; and that the said Bruce G. Kelley and Jeffrey S. Birdsley, as such officers, acknowledge the execution of said instrument to be the voluntary act and deed of each of the Companies. My Commission Expires September 30, 2009.

*Ruta Krumins*

Notary Public in and for the State of Iowa

### CERTIFICATE

I, David L. Hixenbaugh, Vice President of the Companies, do hereby certify that the foregoing resolution of the Boards of Directors by each of the Companies, and this Power of Attorney issued pursuant thereto on JANUARY 8, 2008 on behalf of PAUL S. RAMM, LARRY HUDDLESTON, KATHY BEAMIS, TRAVIS E. BARKER, MINDY MELDINE GOSS, ROB KAELIN, are true and correct and are still in full force and effect.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 31 day of March, 2009

*David L. Hixenbaugh*  
Vice-President

City of Osawatomie, Kansas  
 Quantities for Pay Estimate #4 Final  
 2008 Street Improvements  
 31-Mar-09

<u>Item #</u>	<u>Item Description</u>	<u>Approx. Quantity</u>	<u>Unit Measure</u>	<u>Actual Quantities</u>	<u>Unit Price</u>	<u>Cost to Date</u>
1	Mobilization	1	L.S.	100%	5,000.00	5,000.00
2	Clearing & Grubbing	1	L.S.	100%	5,000.00	5,000.00
3	Removal of Existing Structures	1	L.S.	100%	48,500.00	48,500.00
4	Contractor Staking	1	L.S.	100%	4,500.00	4,500.00
5	Excavation (Unclassified)	1	L.S.	100%	18,000.00	18,000.00
6	Compaction of Earthwork	1	L.S.	100%	3,500.00	3,500.00
7	Fly Ash Treated Subgrade	5,807	S.Y.	5,886.48	6.20	36,496.18
8	Curb and Gutter (Combined) (AE)	3,848	L.F.	3,957.20	10.95	43,331.34
9	Sidewalk Construction (4") (AE)	257	S.Y.	275.37	37.80	10,408.99
10	Sidewalk Ramp	25	S.Y.	35.83	129.75	4,648.94
11	Concrete Pavement (6") (Uniform) (AE)	322	S.Y.	322.50	42.30	13,641.75
12	Concrete Pavement (8") (Uniform) (AE)	43	S.Y.	50.00	65.25	3,262.50
13	Concrete Pavement (10") (Uniform) (AE)	157	S.Y.	156.57	70.65	11,061.67
14	Concrete Steps	1.7	C.Y.	1.8	475.00	855.00
15	Reinforcing Steel for Concrete Steps	70	LBS	-	3.67	-
16	Trench Grate	6	L.F.	6.0	187.15	1,122.90
17	Temporary Surfacing Material (Set)	1	L.S.	1.00	1,850.00	1,850.00
18	Temporary Seeding and Pollution Control	1	L.S.	1.00	2,000.00	2,000.00
19	Permanent Seeding	1	L.S.	1.00	3,500.00	3,500.00
20	Bituminous Surface Material (BM-2)	487	Tons		93.25	-
21	Bituminous Base Material (BM-2 or BM-2b)	1,787	Tons		91.80	-
22	Traffic Control	1	L.S.	100%	5,500.00	5,500.00
23	Retaining Wall (Keystone)	193	S.F.	194	33.25	6,450.50
24	Surface Mount Detectable Warning	11	S.F.	11.0	78.85	867.35
CO-1	10th & Brown Removal		LS	1.0	1,000.00	1,000.00
CO-2	11th & Brown Removal		LS	1.0	1,500.00	1,500.00
CO-3	11th St Sanitary Relocation		LS	1.0	825.00	825.00

Total Completed Base Bid 232,822.12

**Alternate No. 1:**

1	Concrete Pavement (7") (Uniform) (AE)	4470	S.Y.	4,552.76	41.85	190,533.01
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Alternative Bid Total 190,533.01

Total Completed to Date 423,355.12

Less: Retainage -

Less: Previous Payment 400,610.12

Amount due this pay estimate 22,745.00

  
 Contractor

Project Engineer

City Inspector

Owner