

OSAWATOMIE CITY COUNCIL
AGENDA
May 12, 2011
7:00 p.m., Memorial Hall

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

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

 - A. Approve Minutes of April 14 and April 28 City Council Meetings
 - B. Approve May 12 Agenda
 - C. Appropriation Ordinances 11-7 & 11-8
5. Comments from the Public; Presentations

Citizen participation will be limited to 5 minutes. Please stand & be recognized by the Mayor
6. Public Hearing – None
7. Unfinished Business
 - A. Approve Invoice(s) for Pacific, 14th, Brown Streets Project – Request No. 7
 - B. Accept Storm Water Easements for 2011 Street Project
 - C. Approve Contract with SFS Architecture, Inc for the Library Addition Phase II
8. New Business
 - A. Appointments
 - B. Resolution Waiving GAAP Requirements for 2011
9. Council Reports
10. Mayor’s Report
11. City Manager’s Report
12. Executive Session - none
13. Adjournment

MEETING/WORK SESSION – May 26, 2011

REGULAR MEETING – June 9, 2011

Kansas. **April 14, 2011.** The Council meeting was held in Memorial Hall. Mayor Dudley called the meeting to order at 7:00 p.m. Council members present were Dickinson, Farley, Hunter, LaDuex, Maichel, and Moon. Absent were Ratley and Walmann. Also present were City Manager Glendening, City Attorney Wetzler, and City Clerk Elmquist. Visitors were Webster Hawkins, Robert Kerr, Bill & Pat Butler, Kirk & Shelagh Wright, Kenneth Snyder, Kathie Pinneo, Sarah Dorsett, Anita Bomgardner, Amanda Perry, John Klein, Mark & Cindy Govea, Danny Govea, Tony Savage, Bret Henderson, Mike Packard, Ryan Crowley, Terry Upshaw, Terry Anderson, Travis Perry, and Jeff Gulley.

CONSENT AGENDA. Approval of the Minutes of March 10 and March 24 Meetings, approval of April 14 Agenda, and approval of Appropriation Ordinances 11-5 & 11-6. Motion made by Hunter, seconded by Maichel to approve the consent agenda. Yeas: All.

Public Participation; Presentations:

Kenneth Snyder, complained about the hours of the swimming pool.

Public Hearing: none

Unfinished Business:

APPROVE INVOICES FOR PACIFIC, 14TH, BROWN STREETS PROJECT – REQUEST NO. 5. Motion made by Ratley, seconded by Maichel to approve Pay Request No. 5. Yeas: All.

ORDINANCE AUTHORIZING FINANCING FOR 2011 STREET PROJECT. The Ordinance authorizes improvements to Pacific Street from 12th Street to 14th Street, 14th Street from Pacific Street to Main Street, and Brown Street from 14th Street to 16th Street. After discussion, Council Member Moon moved that the issuance of bonds be in the estimated amount of not to exceed \$750,000. Council Member Maichel seconded the motion. The motion was voted upon and approved unanimously. Council Member Hunter moved to authorize the street improvements within the city and authorize the issuance of bonds, as amended. Council Member Moon seconded the motion. The motion was voted upon. The motion carried by a vote of 6 in favor to 0 opposed. The Ordinance was assigned No. 3682.

AUTHORIZE NEGOTIATION WITH SELECTED ARCHITECT FOR PHASE II OF LIBRARY EXPANSION. RFQs were sent out for Phase II. The Library Board interviewed BG Consultants and SFS Architecture, Inc Motion made by Moon, seconded by Hunter to authorize the City Manager and Library Board to enter into negotiations with the selected architect. Yeas: All.

FINAL DESIGNS OF BANNERS FOR STREET LIGHT POSTS. Motion made by Hunter, seconded by LaDuex to approve the signs with the addition to the John Brown Freedom Festival banner and authorize the City Manager to get them. Hunter modified the motion to move the logo on the Welcome to Osawatome banner, the tree and the circle, over to the other Welcome to Osawatome banner and replace the Chamber of Commerce logo with Osawatome's logo. LaDuex agreed to second the amended motion. Yeas: Dickinson, Hunter, LaDuex, Maichel, and Moon. Nay: Farley.

New Business:

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ELECTION RESULTS – ADMINISTER OATH OF OFFICE. City Clerk Elmquist reported the certified election results and administered the oath of office to Dudley, Hunter, Moon, Ratley, and Walmann.

MAYOR		WARD I		WARD II	
Philip Dudley	206	Ted L. Hunter	46	Michael W. Moon	98
Gordon Schrader (wi)	183	John Klein (wi)	1	Thomas O'Barto (wi)	2
Marc Cochrane (wi)	2	John Shaw (wi)	1	Lisa Farley (wi)	1
Gary Cooper (wi)	1	Virginia Adams (wi)	1	Jim Mitzner (wi)	1
Brian Mersman (wi)	1	Fictional/Blank etc. (wi)	2	Katie Mitzner (wi)	1
John Wayne (wi)	1			Randy Newport (wi)	1
				Ben Wendt (wi)	1
				Jed White (wi)	1
				Gordon Schrader (wi)	1
WARD III		WARD IV			
Mark Govea	136	John M. Klein	29		
Richard Alonzo	22	Larry D. Ratley	25		
Robert Cook (wi)	1	Marc Cochrane (wi)	2		
Gary Elmquist (we)	1	Coleen Medina (wi)	2		
Patty Johnson (wi)	1	Michael Talley (wi)	1		
Gordon Schrader (wi)	1				

ELECT COUNCIL PRESIDENT AND VICE-PRESIDENT. Dudley opened nominations for Council President. Nominated were Hunter and Moon. Motion made by LaDuex, seconded by Dickinson that nominations cease. Yeas: All. Those voting in favor of Hunter were Dickinson, Hunter, LaDuex, and Maichel. Voting in favor of Moon were Farley, Govea, Klein, and Moon. Mayor Dudley broke the tie by voting for Hunter. Mayor Dudley opened nominations for Council Vice-President. Nominated were Moon and Klein. Motion made by LaDuex, seconded by Hunter that nominations cease. Yeas: All. Those voting in favor of Moon were Dickinson, Farley, Govea, Hunter, LaDuex, LaDuex, Maichel, and Moon. Voting in favor of Klein was Klein.

APPOINTMENTS.

Planning Commission	Mike Packard Bret Henderson
Board of Zoning Appeals	Mike Packard

Motion made by Hunter, seconded by LaDuex to approve the appointments. Yeas: Dickinson, Farley, Govea, Hunter, LaDuex, Maichel, and Moon. Nay: Klein.

Tourism Committee	Phyllis Sharp
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Motion made by Hunter, seconded by LaDuex to approve the appointment. Yeas: All.

Library	Sarah Dorsett
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Motion made by Maichel, seconded by LaDuex to approve the appointment. Yeas: All.

KMEA Board of Directors	Director #1 Alternate	City Manager Glendening Mayor Dudley
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Motion made by Hunter, seconded by LaDuex to approve the appointments. Yeas: All.

COUNCIL LIAISONS

Economic Development	Ted Hunter & Karen LaDuex
Library Board	Karen LaDuex
Planning Commission	John Klein & Tamara Maichel
Public Safety Advisory Board	Lawrence Dickinson

Recreation Commission
 Tourism Committee
 Chamber of Commerce

Mark Govea
 Ted Hunter
 Tamara Maichel & Mike Moon

Motion made by Hunter, seconded by Maichel to approve the appointments. Yeas: All.

PROCLAMATION – FAIR HOUSING MONTH. Proclamation was to promote fair housing practices throughout the City. Motion made by Maichel, seconded by Dickinson to approve the proclamation. Yeas: All.

PROCLAMATION – ARBOR DAY. Proclamation was to declare April 30 as Arbor Day to urge all citizens to celebrate and to support efforts to protect the City's trees and woodlands. Motion made by Moon, seconded by Govea to approve the proclamation. Yeas: All.

PROCLAMATION – OCCUPATIONAL THERAPY MONTH. Proclamation was to recognize the achievements and significant contributions of these valued health professionals. Motion made by Hunter, seconded by LaDuex to approve the proclamation. Yeas: All.

Council Reports:

Klein: Has a list of items that the Council needs to look at, especially the codes.

Maichel: Wants to review the Planning Commission and what they are doing.

Mayor's Report:

Suggested ideas for educating the citizens about the implementation of the recycling program.

City Manager's Report:

Police Department K-9 Program. Discussed the need for the Council to make a decision on whether to retain the K-9 drug dog program or suspend it for the time being due to financial constraints and the desire to reduce expenses.

Motion made by Moon, seconded by LaDuex to adjourn. Yeas: All.

Ann Elmquist, City Clerk

Osawatomie, Kansas. **April 28, 2011.** The Council meeting was held in Memorial Hall. Mayor Dudley called the meeting to order at 7:30 p.m. Council members present were Dickinson, Farley, Govea, Hunter, LaDuex, Klein, LaDuex, Maichel, and Moon. Also present were City Manager Glendening, City Attorney Wetzler, and City Clerk Elmquist. Visitors were Robert Kerr, Dan Macek, Webster Hawkins, Travis Perry, and Jeff Gulley.

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

Motion made by Hunter, seconded by Moon to adjourn. Yeas: All.

Ann Elmquist, City Clerk

Record of Ordinances

ORDINANCE NO. 11-7

DATE WARRANTS ISSUED:
April 30, 2011

Page No. 1

AN ORDINANCE MAKING APPROPRIATION FOR THE PAYMENT OF CERTAIN CLAIMS.

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

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

CLAIMANT	NATURE OF CLAIM OR SERVICE	CLAIM NUMBER	AMOUNT
Payroll 04/08/11			90,573.29
Payroll 04/22/11			99,732.72
FICA 04/08/11			6,588.13
FICA 02/25/01			7,288.82
KPERS			11,803.41
Void		37390	-
Crawford Sales	Budweiser	37391	249.55
Allenbrand-Drews & Associates, Inc.	stake lot corners in sec 4	37505	2,000.00
Bradley A/C & Heating	thermostat cover	37506	21.21
City of Osawatomie	utilities	37507	13,692.46
Lloyd Harold	certificate of calibration, switch	37508	412.50
Kansas City Wilbert Vault	grave opening	37509	870.00
Suddenlink	internet	37510	130.85
Coventry	health insurance	37511	28,439.12
Delta Dental	dental insurance	37512	3,248.51
Void		37513	-
Vision Service Plan	vision insurance	37514	910.50
City of Osawatomie	petty cash reimbursement	1254	4,386.36
Crawford Sales	Budweiser	37515	164.60
AT&T	RTU's	37516	221.24
Beachner Grain	fuel tank filters, pesticide	37517	95.00
KMEA - EMP	electricity, transmission	37518	27,120.96
L & K Services	refuse, polycart	37519	31,437.70
Landmark National Bank	golf cart loan	37520	2,178.24
Suddenlink	internet	37521	79.15
Visa	lodging, books, supplies	37522	1,116.64
Crawford Sales	Budweiser	37523	109.85
Midwest Distributors	Miller, Coors	37524	86.40
Elliott Insurance Inc. Paola	quarterly premium	37525	40,582.00
Kansas Dept. of Revenue	compensating use tax	37526	1,043.68
Kansas Dept. of Revenue	sales tax	37527	11,079.69
Kansas Dept. of Revenue	clean water, water protection	37528	1,702.71
Kansas Gas Service	power plant	37529	34.87
Miami County Internet OnRamp	internet	37530	19.95
Ricoh Americas Corporation	copier lease	37531	289.00
CenturyLink	RTU's	37532	236.56
Happy Faces Entertainment	summer reading program	37533	350.00
Kansas Gas Service	services	37534	3,886.61
KCP&L	services	37535	955.22
KMEA - Nearman	electricity	37536	40,257.60

Record of Ordinances

ORDINANCE NO. 11-8

DATE WARRANTS ISSUED:
May 12, 2011

Page No. 1

AN ORDINANCE MAKING APPROPRIATION FOR THE PAYMENT OF CERTAIN CLAIMS.

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

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

CLAIMANT	NATURE OF CLAIM OR SERVICE	CLAIM NUMBER	AMOUNT
Alpha & Omega LLC	interpreter	37558	207.53
American Safety Utility Corporation	gloves	37559	234.30
Analytical Services, Inc.	analytical service	37560	526.26
Atco International	electric line supplies	37561	114.50
Baker & Taylor	books	37562	422.42
BG Consultants, Inc.	park survey, St improvement	37563	4,110.34
Blue Valley Tractor	hydro belt idler	37564	58.98
Board of Police Commissioners	alert system user charges	37565	19.96
Bollings Bargain Bonanza	zip ties, supplies	37566	97.65
Bowes Automotive Products	filters, supplies	37567	166.55
Bradley A/C & Heating	labor, repairs	37568	301.76
Brewer's Automotive Repair	tires, battery	37569	456.34
Void		37570	-
Brown's Hardware	supplies	37571	349.70
C & G Merchants Supply, Inc.	supplies - Bogeys	37572	364.17
Chemsearch	wasp spray	37573	160.71
Coleman Equipment, Inc.	tube, cutting edge, bolts	37574	379.16
Country Dirt Delivery	top soil	37575	200.00
Crash Technology Group	new printer	37576	1,743.95
Cross Midwest Tire Co.	tire	37577	249.62
Detroit Industrial Tool	blade	37578	354.80
Diamond Vogel	traffic paint	37579	564.50
Digital Graphics	microfilm machine	37580	315.00
Electronically Speaking	batteries, port hub	37581	44.87
Entersect Police Online	police online	37582	79.00
Environmental Laboratories, Inc.	analytical service	37583	494.00
Evco Wholesale Food Corp.	supplies - Bogeys	37584	515.43
Exline Inc.	gaskets	37585	419.90
Void		37586	-
Family Center	weed killer, supplies	37587	692.62
First Place Trophies	name plate	37588	15.00
Richard M. Fisher, Jr. LLC	court appointed attorney	37589	375.00
Gerken Rental	portable restrooms	37590	178.00
Grainger	hammer drill, indicator light	37591	194.40
Hach Company	colorimeter assy, chemicals	37592	1,201.14
Hall's Bobcat Service	top soil	37593	300.00
Hanes Florist & Greenhouse	balloons	37594	11.25
Lloyd Harold	contractor, overload	37595	148.50
Hauldren Productions	building inspection forms	37596	250.00
Helena Chemical Co.	pesticides	37597	892.00

Record of Ordinances

DATE WARRANTS ISSUED:
May 12, 2011

Page No. 2

CLAIMANT	NATURE OF CLAIM OR SERVICE	CLAIM NUMBER	AMOUNT
Heritage Tractor, Inc.	mower blade	37598	17.50
Holderman Printing	business cards	37599	34.00
Holliday Sand and Gravel Company	sand	37600	505.99
JCI Industries, Inc	install floats, relays	37601	708.00
John Deere Landscapes	pesticides, grass seed	37602	1,493.43
K & T Auto	tires	37603	1,041.97
Kahn Culvert, Inc.	storm pipe	37604	890.50
KDHE	analytical service	37605	370.00
Kansas Municipal Utilities	dues 2nd Qtr	37606	2,192.00
Kansas One Call Concepts	locates	37607	130.80
Kansas State Treasurer	training funds	37608	491.00
Killough Construction, Inc.	asphalt	37609	261.90
Kincaid Ready Mix	concrete	37610	2,753.00
Void		37611	-
Kriz Davis	electric line supplies	37612	12,424.20
Kansas Municipal Insurance Trust	workman's compensation	37613	3,491.00
League of Kansas Municipalities	standard traffic ordinance	37614	74.50
Lowenthal, Webb & Odermann, PA	progress billing on audit	37615	10,500.00
Martin Pringle Attorneys at Law	City Attorney	37616	4,185.06
Meyer Laboratory, Inc.	squeeky kleen	37617	95.67
Miami Country Solid Waste	trash	37618	44.16
Miami Lumber, Inc.	garage door	37619	980.00
Void		37620	-
Moon's IGA	supplies	37621	742.50
National Sign Company, Inc.	batteries, striping paint	37622	671.00
Navrat's Office Products	office supplies	37623	114.78
Navrat's	general receipts	37624	368.90
Nicholson Law Office, LC	court appointed attorney	37625	550.00
NPG Newspapers	ads	37626	402.00
O'Reilly Auto Parts	oil, fuses	37627	40.27
Olathe Winwater Works	couplings	37628	471.78
Osawatomie Journal Newspapers	ads	37629	347.30
Osawatomie Pet Clinic	muzzles	37630	40.00
Paola Hardware	nuts, bolts	37631	2.14
Paola Police Department	training	37632	100.00
Pat's Signs	metal sign	37633	65.25
Pepsi	pepsi	37634	362.05
Prestige Flag	flags	37635	218.80
Price Bros. Equipment	electric line supplies	37636	496.28
Quill	office supplies	37637	336.38
Reeves-Wiedeman Company	gasket	37638	11.91
Rensenhouse Electric Supply	pressure switch	37639	238.69
Ricoh Americas Corporation	copies	37640	223.72
GS Robins	sodium hypochlorite	37641	3,961.12
Rural Water District #1	service	37642	129.01



CITY OF OSAWATOMIE
 439 Main Street
 PO Box 37
 Osawatomie, KS 66064
 913-755-2146

PACIFIC, 14TH, BROWN STREETS PROJECT
CDBG GRANT # 10-PF-045
PAYMENT REQUEST
May 12, 2011
Payment Request No. 7

Claimant	Description	Document Number	Amount
Governmental Assistance Services 905 Joseph Drive Lawrence, KS 66049			\$ -
BG Consultants 4806 Vue Du Lac Place Manhattan, KS 66503	design services	4/14/11	\$ 2,863.50
BG Consultants 4806 Vue Du Lac Place Manhattan, KS 66503	inspector	4/14/11	\$ 728.84
	TOTAL		\$ 3,592.34

Approved for payment by the Osawatomie City Council this 12th day of May, 2011

Philip A. Dudley, Mayor

PERMANENT DRAINAGE EASEMENT

THIS AGREEMENT, made and entered into this 23rd day of November, 2010, by and between RUTTAN PROPERTY MANAGEMENT, INC., hereinafter called Grantors, and the CITY OF OSAWATOMIE, KANSAS, a Municipal Corporation, located in the County of Miami, State of Kansas, hereinafter called Grantee.

NOW, THEREFORE, for the consideration hereinafter described, the parties hereto agree as follows:

SECTION ONE: GRANT OF PERMANENT EASEMENT. In consideration of One and No/100 Dollar (\$1.00) in hand paid and other valuable consideration, receipt of which is hereby acknowledged, the Grantors do hereby grant and convey unto the Grantee, its successors and assigns, a permanent easement for the construction of storm water structures and other related appurtenances in, over, on, under and through the following described land in the County of Miami, State of Kansas (such land is referred to herein as the premises):

DESCRIPTION: DRAINAGE EASEMENT

A TRACT OF LAND IN THE WEST 52 FEET OF LOT 11, BLOCK 2, WEST HIGHLANDS ADDITION TO THE CITY OF OSAWATOMIE MIAMI COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 11, BEING ON THE NORTH RIGHT-OF-WAY LINE OF PACIFIC AVENUE AND THE EAST RIGHT-OF-WAY LINE OF FOURTEENTH STREET; THENCE ALONG THE EAST RIGHT-OF-WAY LINE OF SAID FOURTEENTH STREET N.0°07'18"W. (BEING AN ASSUMED BEARING) 25.00 FEET; THENCE S.42°12'09"E. 33.57 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 11 AND THE NORTH RIGHT-OF-WAY LINE OF SAID PACIFIC AVENUE; THENCE ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID PACIFIC AVENUE S.89°40'07"W. 22.50 FEET TO THE POINT OF BEGINNING, CONTAINING 283 SQUARE FEET.

COMMONLY KNOWN AS: 1328 PACIFIC AVENUE

SECTION TWO: RIGHT OF ENTRY. It is understood by the Grantors that the storm water drainage structure(s) shall, in every respect be a public utility as if laid in one of the dedicated streets of the Grantee, and Grantee shall have the right at all times to enter upon the described premises for the purpose of making any necessary maintenance to, repairs to or replacement of the storm water drainage structure(s).

SECTION THREE: RESTRICTED USE BY GRANTORS. The rights granted herein shall not be construed to interfere with or restrict the Grantors, their heirs, executors, administrators, successors and assigns from the use of the premises. Grantors shall not construct or permit to be constructed any structure or obstruction on the above described easement area with respect to the maintenance of the storm water drainage improvements along and over the premises herein described so long as the same are so constructed as not to impair the strength or interfere with the use and maintenance of the storm water drainage structure(s).

SECTION TWO: RELEASE OF LIABILITY. The Grantors, their heirs, executors, administrators, successors and assigns, hereby release the Grantee, its agents and employees, assigns and successor from any and all liability for damage to the remaining premises resulting from this conveyance, and maintenance of said storm water drainage structure(s), PROVIDED by Grantee, its agents and employees, assigns and successors shall, as soon as practicable, after maintenance, repairs and all subsequent alterations thereto, restore the premises of the Grantors to a neat and presentable condition.

SECTION THREE: WARRANTY OF TITLE. Grantors covenant that they are the owner of the premises and have the right, title and capacity to grant the easement granted herein. This easement shall run with the land and apply to all interests now owned or hereafter acquired to the above-described property. It shall be filed of record with the Register of Deeds, Miami County, Kansas.

SECTION FOUR. EFFECT OF AGREEMENT. This agreement shall be binding upon the heirs, legal representatives, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.



Ruttan Property Management, Inc.

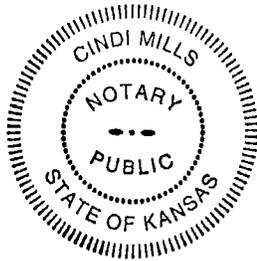
ACKNOWLEDGMENT

STATE OF KANSAS)
) SS.
COUNTY OF MIAMI)

BE IT REMEMBERED, that on this 23 day of November, 2010, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came RUTTAN PROPERTY MANAGEMENT, INC., who are personally known to me to be the same persons who executed the within document and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

My Appointment Expires:
1-10-12



Cindi Mills
Notary Public

My Appointment Expires 1-10-12

PERMANENT DRAINAGE EASEMENT

THIS AGREEMENT, made and entered into this 16th day of December, 2010, by and between PAULINE F. POOL, TRUSTEE OF PAULINE F. POOL, REVOKABLE TRUST DATED MAY 13, 2003 hereinafter called Grantor, and the CITY OF OSAWATOMIE, KANSAS, a Municipal Corporation, located in the County of Miami, State of Kansas, hereinafter called Grantee.

NOW, THEREFORE, for the consideration hereinafter described, the parties hereto agree as follows:

SECTION ONE: GRANT OF PERMANENT EASEMENT. In consideration of One and No/100 Dollar (\$1.00) in hand paid and other valuable consideration, receipt of which is hereby acknowledged, the Grantors do hereby grant and convey unto the Grantee, its successors and assigns, a permanent easement for the construction of storm water structures and other related appurtenances in, over, on, under and through the following described land in the County of Miami, State of Kansas (such land is referred to herein as the premises):

DESCRIPTION: DRAINAGE EASEMENT

A TRACT OF LAND IN BLOCK 10, WEST HIGHLANDS ADDITION TO THE CITY OF OSAWATOMIE MIAMI COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF SAID LOT 10, SAID POINT OF BEGINNING BEING 117.77 FEET N.86°57'58"E. (BEING AN ASSUMED BEARING) OF THE EAST RIGHT-OF-WAY LINE OF SLAYMAN LANE AND ON THE SOUTH RIGHT-OF-WAY LINE OF BROWN AVENUE; THENCE ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID BROWN AVENUE N.86°57'58"E. 25.00 FEET; THENCE S.3°02'02"E. 17.50 FEET; THENCE S.86°57'58"W. 25.00 FEET; THENCE N.3°02'02"W. 17.50 FEET TO THE POINT OF BEGINNING, CONTAINING 438 SQUARE FEET.

COMMONLY KNOWN AS: 1535 BROWN AVENUE

SECTION TWO: RIGHT OF ENTRY. It is understood by the Grantors that the storm water drainage structure(s) shall, in every respect be a public utility as if laid in one of the dedicated streets of the Grantee, and Grantee shall have the right at all times to enter upon the described premises for the purpose of making any necessary maintenance to, repairs to or replacement of the storm water drainage structure(s).

SECTION THREE: RESTRICTED USE BY GRANTORS. The rights granted herein shall not be construed to interfere with or restrict the Grantors, their heirs, executors, administrators, successors and assigns from the use of the premises. Grantors shall not construct or permit to be constructed any structure or obstruction on the above described easement area with respect to the maintenance of the storm water drainage improvements along and over the premises herein described so long as the same are so constructed as not to impair the strength or interfere with the use and maintenance of the storm water drainage structure(s).

SECTION TWO: RELEASE OF LIABILITY. The Grantors, their heirs, executors, administrators, successors and assigns, hereby release the Grantee, its agents and employees, assigns and successor from any and all liability for damage to the remaining premises resulting from this conveyance, and maintenance of said storm water drainage structure(s), PROVIDED by Grantee, its agents and employees, assigns and successors shall, as soon as practicable, after maintenance, repairs and all subsequent alterations thereto, restore the premises of the Grantors to a neat and presentable condition.

SECTION THREE: WARRANTY OF TITLE. Grantors covenant that they are the owner of the premises and have the right, title and capacity to grant the easement granted herein. This easement shall run with the land and apply to all interests now owned or hereafter acquired to the above-described property. It shall be filed of record with the Register of Deeds, Miami County, Kansas.

SECTION FOUR. EFFECT OF AGREEMENT. This agreement shall be binding upon the heirs, legal representatives, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.



PAULINE F. POOL

ACKNOWLEDGMENT

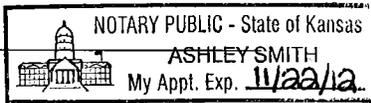
STATE OF KANSAS)
) SS.
COUNTY OF MIAMI)

BE IT REMEMBERED, that on this 6th day of December, 2010, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came PAULINE F. POOL, TRUSTEE OF PAULINE F. POOL, REVOKABLE TRUST DATED MAY 13, 2003 who is personally known to me to be the same persons who executed the within document and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

My Appointment Expires:


Notary Public



PERMANENT DRAINAGE EASEMENT

THIS AGREEMENT, made and entered into this 10th day of December, 2010, by and between LARRY L., and MARILYN K. LAW, hereinafter called Grantors, and the CITY OF OSAWATOMIE, KANSAS, a Municipal Corporation, located in the County of Miami, State of Kansas, hereinafter called Grantee.

NOW, THEREFORE, for the consideration hereinafter described, the parties hereto agree as follows:

SECTION ONE: GRANT OF PERMANENT EASEMENT. In consideration of One and No/100 Dollar (\$1.00) in hand paid and other valuable consideration, receipt of which is hereby acknowledged, the Grantors do hereby grant and convey unto the Grantee, its successors and assigns, a permanent easement for the construction of storm water structures and other related appurtenances in, over, on, under and through the following described land in the County of Miami, State of Kansas (such land is referred to herein as the premises):

THE WEST 7.50 FEET OF THE NORTH 150.00 FEET OF BLOCK 12 IN WEST HIGHLANDS
SUBDIVISION IN THE CITY OF OSAWATOMIE MIAMI COUNTY, KANSAS.

COMMONLY KNOWN AS: 1615 BROWN AVENUE

SECTION TWO: RIGHT OF ENTRY. It is understood by the Grantors that the storm water drainage structure(s) shall, in every respect be a public utility as if laid in one of the dedicated streets of the Grantee, and Grantee shall have the right at all times to enter upon the described premises for the purpose of making any necessary maintenance to, repairs to or replacement of the storm water drainage structure(s).

SECTION THREE: RESTRICTED USE BY GRANTORS. The rights granted herein shall not be construed to interfere with or restrict the Grantors, their heirs, executors, administrators, successors and assigns from the use of the premises. Grantors shall not construct or permit to be constructed any structure or obstruction on the above described easement area with respect to the maintenance of the storm water drainage improvements along and over the premises herein described so long as the same are so constructed as not to impair the strength or interfere with the use and maintenance of the storm water drainage structure(s).

SECTION TWO: RELEASE OF LIABILITY. The Grantors, their heirs, executors, administrators, successors and assigns, hereby release the Grantee, its agents and employees, assigns and successor from any and all liability for damage to the remaining premises resulting from this conveyance, and maintenance of said storm water drainage structure(s), PROVIDED by Grantee, its agents and employees, assigns and successors shall, as soon as practicable, after maintenance, repairs and all subsequent alterations thereto, restore the premises of the Grantors to a neat and presentable condition.

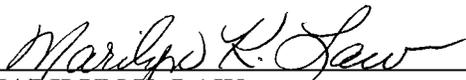
SECTION THREE: WARRANTY OF TITLE. Grantors covenant that they are the owner of the premises and have the right, title and capacity to grant the easement granted herein. This easement shall run with the land and apply to all interests now owned or hereafter acquired to the above-described property. It shall be filed of record with the Register of Deeds, Miami County, Kansas.

SECTION FOUR. EFFECT OF AGREEMENT. This agreement shall be binding upon the heirs, legal representatives, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.



LARRY L. LAW



MARILYN K. LAW

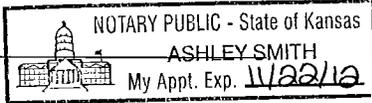
ACKNOWLEDGMENT

STATE OF KANSAS)
) SS.
COUNTY OF MIAMI)

BE IT REMEMBERED, that on this 10th day of December, 2010, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came LARRY L., and MARILYN K. LAW, who are personally known to me to be the same persons who executed the within document and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

My Appointment Expires:




Notary Public

PERMANENT DRAINAGE EASEMENT

THIS AGREEMENT, made and entered into this 8th day of November, 2010, by and between HOWARD DEAN BROWN and BARBARA KAY BROWN, hereinafter called Grantors, and the CITY OF OSAWATOMIE, KANSAS, a Municipal Corporation, located in the County of Miami, State of Kansas, hereinafter called Grantee.

NOW, THEREFORE, for the consideration hereinafter described, the parties hereto agree as follows:

SECTION ONE: GRANT OF PERMANENT EASEMENT. In consideration of One and No/100 Dollar (\$1.00) in hand paid and other valuable consideration, receipt of which is hereby acknowledged, the Grantors do hereby grant and convey unto the Grantee, its successors and assigns, a permanent easement for the construction of storm water structures and other related appurtenances in, over, on, under and through the following described land in the County of Miami, State of Kansas (such land is referred to herein as the premises):

DESCRIPTION: DRAINAGE EASEMENT

A TRACT OF LAND IN BLOCK 3 IN WEST HIGHLANDS, A SUBDIVISION IN THE CITY OF OSAWATOMIE MIAMI COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID BLOCK 3, BEING ON THE SOUTH RIGHT-OF-WAY LINE OF PACIFIC AVENUE AND THE NORTHWEST CORNER PARKVIEW ADDITION IN THE SAID CITY OF OSAWATOMIE; THENCE ALONG THE EAST LINE OF SAID BLOCK 3 AND THE WEST LINE OF SAID PARKVIEW ADDITION SOUTHERLY 20.00 FEET; THENCE WESTERLY 40.00 FEET; THENCE NORTHERLY 20.00 FEET TO THE NORTH LINE OF SAID BLOCK 3 AND THE SOUTH RIGHT-OF-WAY LINE OF SAID PACIFIC AVENUE; THENCE ALONG THE NORTH LINE OF SAID BLOCK 3 AND THE SOUTH RIGHT-OF-WAY LINE OF SAID PACIFIC AVENUE EASTERLY 40.00 FEET TO THE POINT OF BEGINNING, CONTAINING 800 SQUARE FEET.

COMMONLY KNOWN AS: 1325 Pacific Avenue

SECTION TWO: RIGHT OF ENTRY. It is understood by the Grantors that the storm water drainage structure(s) shall, in every respect be a public utility as if laid in one of the dedicated streets of the Grantee, and Grantee shall have the right at all times to enter upon the described premises for the purpose of making any necessary maintenance to, repairs to or replacement of the storm water drainage structure(s).

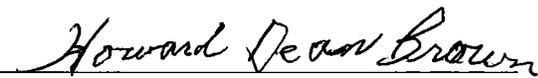
SECTION THREE: RESTRICTED USE BY GRANTORS. The rights granted herein shall not be construed to interfere with or restrict the Grantors, their heirs, executors, administrators, successors and assigns from the use of the premises. Grantors shall not construct or permit to be constructed any structure or obstruction on the above described easement area with respect to the maintenance of the storm water drainage improvements along and over the premises herein described so long as the same are so constructed as not to impair the strength or interfere with the use and maintenance of the storm water drainage structure(s).

SECTION TWO: RELEASE OF LIABILITY. The Grantors, their heirs, executors, administrators, successors and assigns, hereby release the Grantee, its agents and employees, assigns and successor from any and all liability for damage to the remaining premises resulting from this conveyance, and maintenance of said storm water drainage structure(s), PROVIDED by Grantee, its agents and employees, assigns and successors shall, as soon as practicable, after maintenance, repairs and all subsequent alterations thereto, restore the premises of the Grantors to a neat and presentable condition.

SECTION THREE: WARRANTY OF TITLE. Grantors covenant that they are the owner of the premises and have the right, title and capacity to grant the easement granted herein. This easement shall run with the land and apply to all interests now owned or hereafter acquired to the above-described property. It shall be filed of record with the Register of Deeds, Miami County, Kansas.

SECTION FOUR. EFFECT OF AGREEMENT. This agreement shall be binding upon the heirs, legal representatives, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.


Howard Dean Brown


Barbara Kay Brown

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS.
COUNTY OF MIAMI)

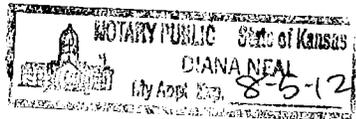
BE IT REMEMBERED, that on this 8th day of November, 2010, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came HOWARD DEAN BROWN and BARBARA KAY BROWN, who are personally known to me to be the same persons who executed the within document and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

My Appointment Expires:

8-5-12

Diana Neal
Notary Public



PERMANENT DRAINAGE EASEMENT

THIS AGREEMENT, made and entered into this 9 day of November, 2010, by and between ROBERTA E. CAVINEE and JAMIE FANNING, hereinafter called Grantors, and the CITY OF OSAWATOMIE, KANSAS, a Municipal Corporation, located in the County of Miami, State of Kansas, hereinafter called Grantee.

NOW, THEREFORE, for the consideration hereinafter described, the parties hereto agree as follows:

SECTION ONE: GRANT OF PERMANENT EASEMENT. In consideration of One and No/100 Dollar (\$1.00) in hand paid and other valuable consideration, receipt of which is hereby acknowledged, the Grantors do hereby grant and convey unto the Grantee, its successors and assigns, a permanent easement for the construction of storm water structures and other related appurtenances in, over, on, under and through the following described land in the County of Miami, State of Kansas (such land is referred to herein as the premises):

A TRACT OF LAND IN THE SOUTHWEST CORNER OF LOT 7 IN BROWN'S ACRES, A SUBDIVISION OF LOTS 13 AND 23 OF MARY G. CRANE'S ADDITION TO THE CITY OF OSAWATOMIE MIAMI COUNTY, KANSAS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE EAST LINE OF AN EXISTING 6 FOOT WIDE DRAINAGE (ON THE WEST SIDE OF SAID LOT 7) WITH THE NORTH LINE OF AN EXISTING EASEMENT (ON THE SOUTH SIDE OF SAID LOT 7) SAID POINT OF BEGINNING BEING 6.00 FEET EAST OF THE WEST LINE OF SAID LOT 7 AND 5.00 FEET NORTH OF THE SOUTH LINE OF SAID LOT 7; THENCE ALONG THE EAST LINE OF THE SAID 6 FOOT WIDE DRAINAGE EASEMENT
NORTHERLY 5.00 FEET; THENCE
EASTERLY 11.50 FEET; THENCE
SOUTHERLY 5.00 FEET TO THE NORTH LINE OF THE SAID EXISTING 5 FOOT WIDE EASEMENT;
THENCE ALONG THE NORTH LINE OF THE SAID EXISTING 5 FOOT WIDE EASEMENT
WESTERLY 11.50 FEET TO THE POINT OF BEGINNING, CONTAINING 58 SQUARE FEET.

COMMONLY KNOWN AS: 526 Brown Circle Drive

SECTION TWO: RIGHT OF ENTRY. It is understood by the Grantors that the storm water drainage structure(s) shall, in every respect be a public utility as if laid in one of the dedicated streets of the Grantee, and Grantee shall have the right at all times to enter upon the described premises for the purpose of making any necessary maintenance to, repairs to or replacement of the storm water drainage structure(s).

SECTION THREE: RESTRICTED USE BY GRANTORS. The rights granted herein shall not be construed to interfere with or restrict the Grantors, their heirs, executors, administrators, successors and assigns from the use of the premises. Grantors shall not construct or permit to be constructed any structure or obstruction on the above described easement area with respect to the maintenance of the storm water drainage improvements along and over the premises herein described so long as the same are so constructed as not to impair the strength or interfere with the use and maintenance of the storm water drainage structure(s).

SECTION TWO: RELEASE OF LIABILITY. The Grantors, their heirs, executors, administrators, successors and assigns, hereby release the Grantee, its agents and employees, assigns and successor from any and all liability for damage to the remaining premises resulting from this conveyance, and maintenance of said storm water drainage structure(s), PROVIDED by Grantee, its agents and employees, assigns and successors shall, as soon as practicable, after maintenance, repairs and all subsequent alterations thereto, restore the premises of the Grantors to a neat and presentable condition.

SECTION THREE: WARRANTY OF TITLE. Grantors covenant that they are the owner of the premises and have the right, title and capacity to grant the easement granted herein. This easement shall run with the land and apply to all interests now owned or hereafter acquired to the above-described property. It shall be filed of record with the Register of Deeds, Miami County, Kansas.

SECTION FOUR. EFFECT OF AGREEMENT. This agreement shall be binding upon the heirs, legal representatives, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

Deceased
Roberta E. Cavinee

Jamie A. Fanning
Jamie A. Fanning

ACKNOWLEDGMENT

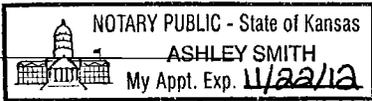
STATE OF KANSAS)
) SS.
COUNTY OF MIAMI)

BE IT REMEMBERED, that on this 9th day of November, 2010, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came ROBERTA E. CAVINEE and JAMIE A. FANNING, who are personally known to me to be the same persons who executed the within document and duly acknowledged the execution of same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

My Appointment Expires:

Ashley Smith
Notary Public



PERMANENT DRAINAGE EASEMENT

THIS AGREEMENT, made and entered into this 29th day of MARCH, 2010, by and between JASON GUILFOYLE AND WENDY GUILFOYLE AND CARL C. GUILFOYLE, ET. AL., hereinafter called Grantors, and the CITY OF OSAWATOMIE, KANSAS, a Municipal Corporation, located in the County of Miami, State of Kansas, hereinafter called Grantee.

NOW, THEREFORE, for the consideration hereinafter described, the parties hereto agree as follows:

SECTION ONE: GRANT OF PERMANENT EASEMENT. In consideration of One and No/100 Dollar (\$1.00) in hand paid and other valuable consideration, receipt of which is hereby acknowledged, the Grantors do hereby grant and convey unto the Grantee, its successors and assigns, a permanent easement for the construction of storm water structures and other related appurtenances in, over, on, under and through the following described land in the County of Miami, State of Kansas (such land is referred to herein as the premises):

DESCRIPTION: DRAINAGE EASEMENT

THE NORTH 10.00 FEET OF THE SOUTH HALF OF LOT 7 IN WEST HIGHLANDS SUBDIVISION IN THE CITY OF OSAWATOMIE MIAMI COUNTY, KANSAS.

COMMONLY KNOWN AS: 517 14th Street

SECTION TWO: RIGHT OF ENTRY. It is understood by the Grantors that the storm water drainage structure(s) shall, in every respect be a public utility as if laid in one of the dedicated streets of the Grantee, and Grantee shall have the right at all times to enter upon the described premises for the purpose of making any necessary maintenance to, repairs to or replacement of the storm water drainage structure(s).

SECTION THREE: RESTRICTED USE BY GRANTORS. The rights granted herein shall not be construed to interfere with or restrict the Grantors, their heirs, executors, administrators, successors and assigns from the use of the premises. Grantors shall not construct or permit to be constructed any structure or obstruction on the above described easement area with respect to the maintenance of the storm water drainage improvements along and over the premises herein described so long as the same are so constructed as not to impair the strength or interfere with the use and maintenance of the storm water drainage structure(s).

SECTION TWO: RELEASE OF LIABILITY. The Grantors, their heirs, executors, administrators, successors and assigns, hereby release the Grantee, its agents and employees, assigns and successor from any and all liability for damage to the remaining premises resulting from this conveyance, and maintenance of said storm water drainage structure(s), PROVIDED by Grantee, its agents and employees, assigns and successors shall, as soon as practicable, after maintenance, repairs and all subsequent alterations thereto, restore the premises of the Grantors to a neat and presentable condition.

SECTION THREE: WARRANTY OF TITLE. Grantors covenant that they are the owner of the premises and have the right, title and capacity to grant the easement granted herein. This easement shall run with the land and apply to all interests now owned or hereafter acquired to the above-described property. It shall be filed of record with the Register of Deeds, Miami County, Kansas.

SECTION FOUR. EFFECT OF AGREEMENT. This agreement shall be binding upon the heirs, legal representatives, successors and assigns of the parties hereto.

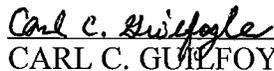
IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.



JASON GUILFOYLE



WENDY GUILFOYLE



CARL C. GUILFOYLE

RESOLUTION NO. _____

A RESOLUTION WAIVING THE GAAP REQUIREMENTS OF
K.S.A. 75-1120A(a) FOR THE YEAR ENDED 2011.

WHEREAS, the City of Osawatomie, Kansas, has determined that the financial statements and financial reports for the year ended 2011 to be prepared in conformity with the requirements of K.S.A. 75-1120a(a) are not relevant to the requirements of the cash basis and budget laws of this state and are of no significant value to the Governing Body or the members of the general public of the City of Osawatomie; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the City of Osawatomie, Kansas, in regular meeting duly assembled this 12th day of May, 2011 that the Governing Body waives the requirements of K.S.A. 75-1120a(a) as they apply to the City of Osawatomie for the year ended 2011.

BE IT FURTHER RESOLVED that the Governing Body shall cause the financial statements and financial reports of the City of Osawatomie to be prepared on the basis of cash receipts and disbursements as adjusted to show compliance with the cash basis and budget laws of this State.

PASSED AND ADOPTED by the Governing Body of the City of Osawatomie, Kansas this 12th day of May, 2011, a majority being in favor thereof.

APPROVED AND SIGNED by the Mayor.

Philip A. Dudley
Mayor

(SEAL)

ATTEST:

Ann Elmquist
City Clerk



CITY OF OSAWATOMIE
439 Main Street
P.O. Box 37
Osawatomie, Kansas 66064
913-755-2146
FAX: 913-755-4164

CITY OF OSAWATOMIE

CITY MANAGER'S REPORT

May 12, 2011

PACIFIC/14TH/BROWN STREET PROJECT:

The tentative start "timeframe" of late April to early May has been pushed back to mid to late-May for the street project. Additionally, included on this agenda is a need for the council to formally accept storm water easements by a simple motion so they can be filed with the Miami County Register of Deeds and then submitted to USDA-Rural Development.

SCHEDULE FOR LEVEE CERTIFICATION STUDY PHASE II:

In the weeks since our past meeting with Wilson & Co. and FEMA, Wilson & Co. along with the City of Osawatomie and the cities of Augusta, Dodge City, Gypsum, Hutchinson, Manhattan, Marion, Ottawa, Salina and Wichita have been in fairly constant contact working towards a proposal to allow for an extension of the Provisionally Accredited Levee agreement that each city signed approximately 2 or 3 years ago. We have since heard back from our Congressional delegation as well as FEMA. It appears that an extension is in the works that could be anywhere from 6 months to 3 years to complete levee certification. Our Phase II report was due in March. However, as a result of these continued conference calls and working with our Senators and Representatives to Washington, D.C., this report is behind schedule. As you can see below, the certification process is now very much in a state of "flux". The certification requirement has not gone away, but is merely slowed down which benefits the City of Osawatomie at this point in time only because it allows us more time to fund through the "pay as you go" method to meet the requirement. As of the March 2011 billing from Wilson & Co., the City of Osawatomie has paid approximately \$160,000 towards certification and will incur an additional \$129,000 in billings – likely this year.

As of May 5, 2011, this is where FEMA is at with regard to levee certification (NOTE: This is taken directly from an email I received from Joe File with AMEC who is partnered with Wilson & Co. for support in the certification of the Osawatomie Levee System: ***"Note that FEMA specifically states that they will not be repealing the certification requirement, but just temporarily suspending the need for insurance behind non-accredited levees until they develop their criteria for dry side levee mapping. I'll pass along more information as I become aware of it, but my first impression is that their just officially delaying the process (which was already unofficially delayed) until their new criteria is developed on how to move forward with deaccredited levee mapping. Stephen Noe and I will be in Washington DC next week on another matter, but if we're able to learn anything on this issue we'll pass it along."***

FOR PHASE II OF LIBRARY EXPANSION CONTRACT NEGOTIATIONS:

Elizabeth Trigg, the Library Director and I met with Marsha Hoffman of SFS Architecture to discuss the design contract for Phase II of the library expansion project. Our new contract (included with this council packet) reflects a flat dollar fee of \$35,000 for design and construction administration services which corresponds to 7% of the total project cost. The original proposal was for a 12% of cost contract. Donated funds are available to fund the contract.

TECHNICAL/FEASIBILITY REVIEW OF OSAWATOMIE SWIMMING POOL:

The conceptual designs are nearing completion for the pool project. Burbach Aquatics, Inc. is scheduled to present those designs to the city council at the May 26, 2011 work session.

TECHNICAL/FEASIBILITY REVIEW OF OSAWATOMIE ELECTRIC UTILITY:

An initial draft of the electric utility generation/distribution report has been delivered, Terry Upshaw, Line Foreman, Marty Springer Chief Power Plant Operator and myself met with two individuals from Sawvel and Associates to discuss the report. The report is now being finalized and upon its completion, I will provide copies of the report to the city council and schedule a time for the report to be presented.

UPDATE ON REALIGNMENT OF WARD BOUNDARIES:

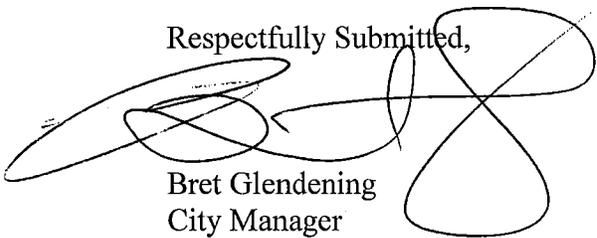
At the request of the City Council, I checked with the County Clerk's Office regarding the redrawing of ward boundaries. Currently, each ward in the city corresponds to a voting precinct in the city. They subsequently checked with the Secretary of State's office and the recommendation from both offices is to hold off on redrawing the boundaries until after the 2010 Census data is released.

UPDATE TO OSAWATOMIE COMPREHENSIVE PLAN:

I have spoken with Diane Binkley of Ochsner, Hare & Hare (OHH), regarding the update to the comprehensive plan. You will remember, that we received assistance from the Mid-America Regional Council (MARC) with a planning intern to gather all of the required information and do a lot of the "leg work" so we could save significant dollars on the professional review fees with OHH. No interns are available from MARC for the current year, which leaves us in a position of holding out completion of the comprehensive plan until additional resources are available to assist in the cost or contracting with OHH to complete the plan. I have received a proposal from OHH and the cost to complete the plan at this time is: \$18,607. Absent any opportunity to significantly reduce the fee, it is my recommendation to hold off on this process until we dispose of some other, more pressing issues (i.e. levee certification).

Respectfully Submitted,

Bret Glendening
City Manager





Osawatome Police Department

Monthly Report April 2011

Page 1

	<u>Current Month</u>	<u>Year to Date</u>
Escorts	6	30
Warrant attempts/arrests	17	88
Traffic Stops/investigation	99	428
Investigate Person	2	7
DUI	0	3
Non-Injury Accident	7	46
Injury Accident	0	5
Assist EMS	26	100
Fire	8	32
Fights	0	4
Prowler	2	2
Domestic Violence	2	18
911 Misdial	4	23
Animal at large	57	150
Animal Bite	2	8
Animal Missing	7	44
Animal Welfare	8	50
Assist Outside Agency	16	67
Bank Alarm	0	0
Burn Permit	32	168
Business Alarm	8	37
Burglary	6	8
Criminal Damage to Property	11	29
Child In need of Care	4	13
Carbon Monoxide Check	0	1
Civil Stand By	8	19
Citizen Complaint	112	324
Citizen Inquiry	81	299
City Services	16	87
Drug Cases	4	26
Disturbance	20	57
Deliver Message	5	20
Extra Patrol Request	11	31
Forgery	3	6



Osawatomi Police Department

Monthly Report April 11

Page 2

	<u>Current Month</u>	<u>Year to Date</u>
Fine Payment to Dispatch	18	75
Found Property	5	12
Finger Print (employment)	0	2
Gas Drive Off	3	15
HAZMAT	0	0
K9 Training Event	0	0
K9 Deployment	0	0
Loud Music Complaint	1	12
Murder	0	0
Motorist Assist	8	92
Medical Alarms	0	0
Missing Child	1	5
Missing Person	0	5
Open Door (Building Check)	8	26
Pedestrian Checks	2	9
Residential Alarms	0	3
Reckless Driver	0	1
Repossessions (notifications)	0	5
Runaway	6	9
Sexual Assault/Sex Crimes	5	9
Suspicious Activity	48	119
State Hospital Walk Away	0	3
Theft	39	95
Telephone Harassment	6	30
Unattended Death	0	0
Vehicle Lock Out	18	67
Violation of Protective Order	0	1
Verbal Dispute	2	3
Check Welfare	14	64
Incidents cleared by Arrest	25	100
Total Citations Issued for the Month	25	168
Last incident # assigned in Mar: 11-2605. 698#s assigned		



Osawatomie Police Department

Monthly Report for April 2011

Page 3

Miles driven (Patrol Units)

	<u>Miles</u>	<u>Mileage Total</u>
Unit 3 (2004 Blazer)	555	127655
Unit 4 (2007 Chevy Impala)	2,804	65998
Unit 8 (2008 Crown Victoria)	2,377	90913

Nuisance Information

	<u>Current</u>	<u>Year to Date</u>
Violation	10	38
Debris	3	30
Vehicle	2	11
Grass	5	5
Tickets	0	1
Cleared	8	32

Misc. Notes

* Statistics based on dispatch entries, not final investigation decisions.

** Some duplication has been detected, error at this time believed to be less than 5% of total.

*** Includes nuisance issues addressed by phone w/o letters

Building Permit Activity for the Month of April 2011

Category	Total Permits	Total Value	Revenue received by City G.F.
New Single Family Dwellings	0	0	0
Re-roofs	12	\$40,920.30	\$360.00
Remodels	4	\$14,825.00	\$471.92
Accessory Buildings	6	\$32,850.00	\$641.28
Concrete	4	\$26,750.00	\$30.00
Mechanical	1	\$6,000.00	\$50.00
Repairs	1	\$26,000.00	\$30.00
Decks & Porches	1	\$2,600.00	\$30.00
Additions	1	\$27,000.00	\$74.20
Com. Buildings	0	0	0
Demolishing	1	\$30.00	\$30.00
Fences	3	\$1,685.00	0
Plumbing	5	\$1,750.00	\$150.00
Electrical	4	\$6,000.00	\$160.00
Ag. Buildings	0	0	0
Penalties	2	\$120.00	\$120.00
Plan Review	2	\$100.00	\$100.00
Zoning	2	\$300.00	\$300.00
Totals	49	\$187,330.30	\$2,547.40
Sewer Taps	0	0	0
Water Meters	0	0	0
Electric Meters	0	0	0

Accessory list includes detached accessory structures, storage sheds, signs and carports.

Concrete list includes driveways, sidewalks, concrete pads, porches, basements foundations & patios.

Terry E. Anderson
Building Official

OSAWATOMIE CITY COUNCIL
WORK SESSION / MEETING AGENDA
May 26, 2011
7:00 p.m., Memorial Hall

WORK SESSION

1. Swimming Pool Presentation by Burbach Aquatics
2. City Fireworks Display at City Lake
3. Property Maintenance Discussion

REGULAR MEETING – 7:30 p.m.

- A. Call to Order
- B. Roll Call
- C. Approval of Agenda
 1. Consider Ordinance to Re-zone 710 6th Street From M-1 (Light Industrial Park) to C-3 (Highway Commercial)
 2. Approve Library Phase II Architectural Agreement with SFS Architecture
 3. Finalize Sale of Chestnut Manor
 4. Appoint/Designate Housing Authority
 5. Consider Approval of Fireworks Stands & Fireworks Display
- D. Adjournment of Regular Meeting



Osawatomie Family Aquatic Center
 Opinion of Probable Construction Costs
 Version #1
 Date: 5/4/2011

Line Items	Cost
1 New Zero-Depth Pool Vessel	\$225,000
2 Pool Finish - Epoxy Paint	\$13,000
3 Pool Enclosure (Fence)	\$30,000
4 Pool Covers	\$0
5 Vacuum System	\$8,000
6 Decking	\$91,000
7 Deck Drain System	\$20,000
8 Deck Equipment Includes Lifeguard Chairs, Pool Ladders, and Misc	\$81,000
9 Surge Tanks & MH #1	\$100,000
10 Main Pool Piping Remove and Reinstall & New ZDE Piping	\$105,000
11 Pool Filtration and Backwash System	\$150,000
12 Recirculation Pump Assembly	\$60,000
13 Pool Disinfectant System	\$17,000
14 Chemical Control	\$24,000
15 Pool Heater	\$0
16 Mechanical Building Renovation	\$30,000
17 Bathhouse Structure (1800 Square Feet, CMU Construction)	\$180,000
18 Bathhouse Roof Assembly	\$24,000
19 Bathhouse Doors & Windows	\$12,000
20 Bathhouse Plumbing	\$90,000
21 Potable Water Heater	\$2,000
22 HVAC Systems	\$20,000
23 Electrical System	\$160,000
24 Utilities	\$85,000
25 Pool Area Lighting System	\$0
26 Safety Equipment	\$3,000
27 PA System	\$0
28 Additional Work/Amenities	
a Replace Gutters	\$200,000
b Aggregate Backfill and Underdrain system	\$175,000
c Zero-Depth Water Features	\$75,000
d Shade Structures	\$25,000
29 Additional Line Items	
a Demolition	\$35,000
b Contractor Mobilization, Supervision, and Bonding	\$102,000
c Contractor Profit & Overhead	\$164,000
d Design Fees, Permits, Soil Borings, Site Survey, Reimbursables, etc.	\$219,000
e Construction Related Services & Reimbursables	\$127,000
f Contingency Fund	\$50,000
Opinion of Probable Construction Cost	\$2,702,000
Multiplier for Construction Commencing in 2012	1.00
Total Adjusted Opinion of Probable Construction Cost	\$2,702,000

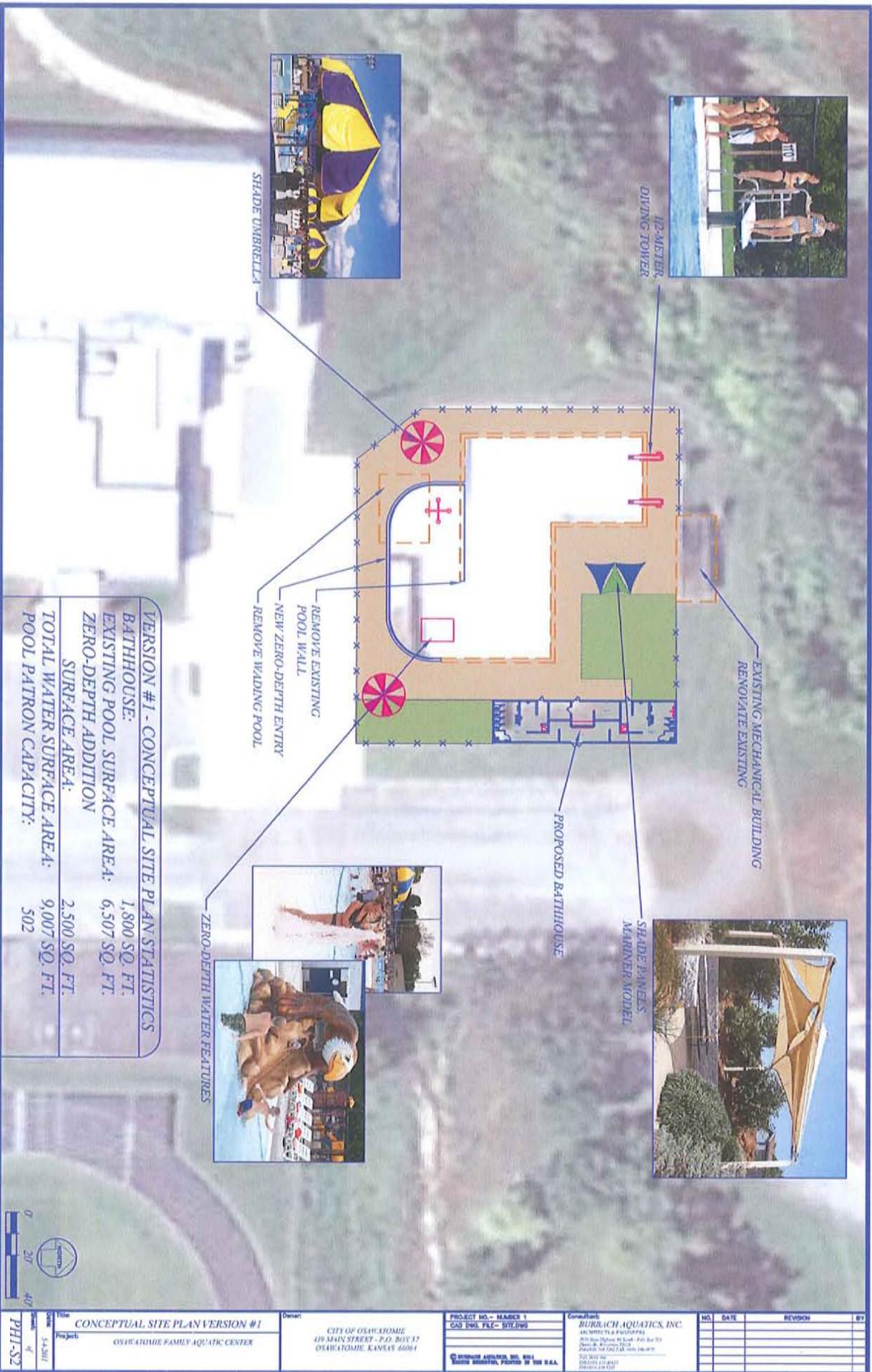
Opinion of Probable Construction Cost for new Zero-Depth pool without modification to existing pool \$1,550,000



12-METER DIVING TOWER



SHADE UMBRELLA



VERSION #1 - CONCEPTUAL SITE PLAN STATISTICS

BATHHOUSE:	1,800 SQ. FT.
EXISTING POOL SURFACE AREA:	6,507 SQ. FT.
ZERO-DEPTH ADDITION SURFACE AREA:	2,500 SQ. FT.
TOTAL WATER SURFACE AREA:	9,007 SQ. FT.
POOL PATRON CAPACITY:	502



SHADE PANELS MARINER MODEL



ZERO-DEPTH WATERFEATURES



Title CONCEPTUAL SITE PLAN VERSION #1 Project OSAWATIMIE FAMILY AQUATIC CENTER	Owner CITY OF OSAWATIMIE 419 MAIN STREET - P.O. BOX 37 OSAWATIMIE, KANSAS 66061	PROJECT NO. - NUMBER 1 CAD DWG FILE - SITE.PDW	Consultant ZILBERGACH AQUATICS, INC. ARCHITECTS & ENGINEERS 2015 West Highway 90 South, P.O. Box 373 Shawnee, Missouri 64151 PH: 816.274.1111 FAX: 816.274.1111 WWW.ZILBERGACH.COM	<table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>REVISION</th> <th>BY</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>	NO.	DATE	REVISION	BY																																				
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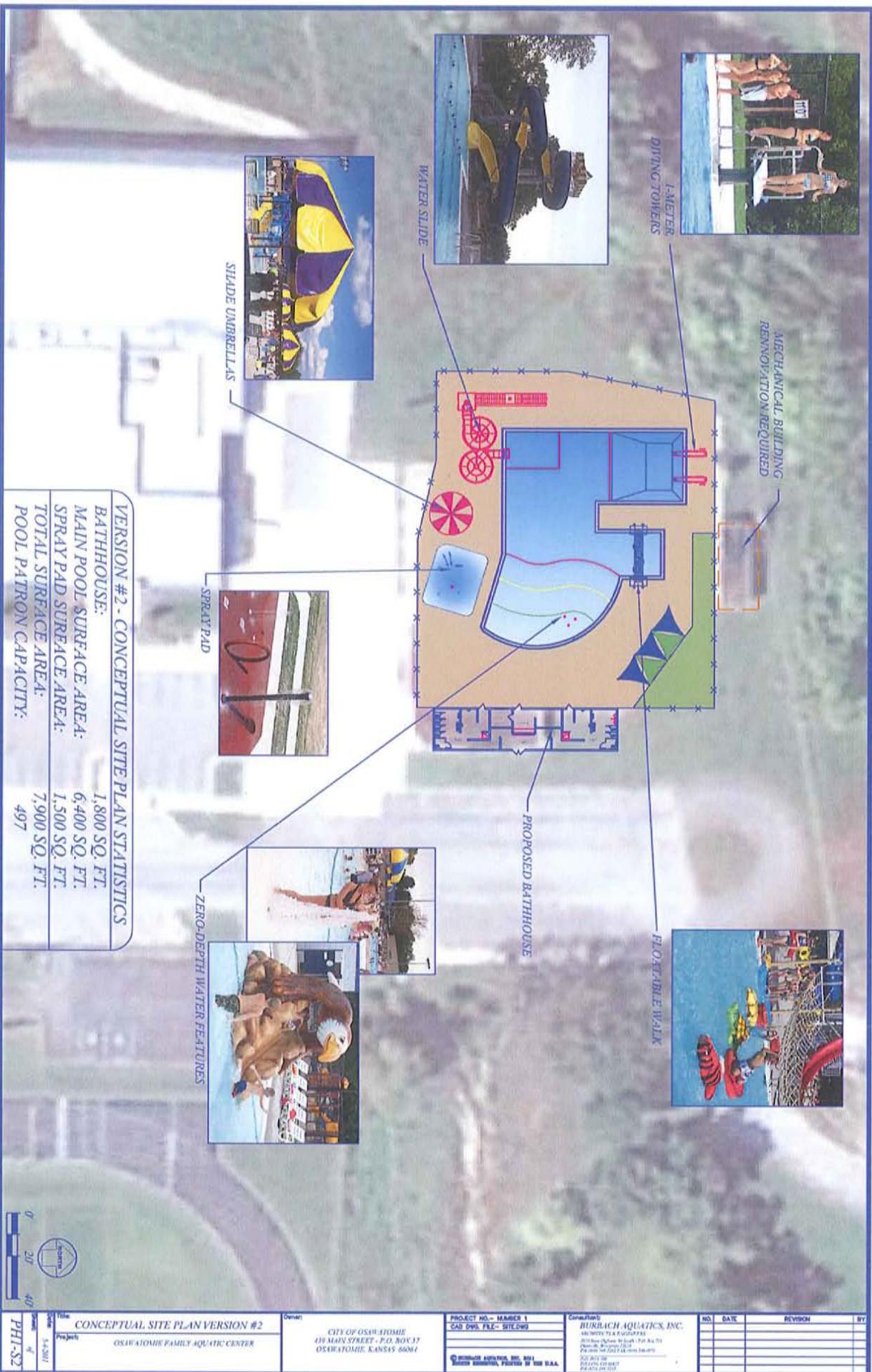


Osawatomie Family Aquatic Center
 Opinion of Probable Construction Costs
 Version #2
 Date: 5/4/2011

Line Items	Cost
1 New Zero-Depth Pool Vessel	\$576,000
2 Pool Finish - Liner	\$118,000
3 Pool Enclosure (Fence)	\$30,000
4 Pool Covers	\$0
5 Vacuum System	\$8,000
6 Decking	\$98,000
7 Deck Drain System	\$24,000
8 Deck Equipment Includes Lifeguard Chairs, Pool Ladders, and Misc.	\$90,000
9 Surge Tanks & MH #1	\$75,000
10 Main Pool Piping	\$154,000
11 Pool Filtration and Backwash System	\$110,000
12 Recirculation Pump Assembly	\$40,000
13 Pool Disinfectant System	\$17,000
14 Chemical Control	\$16,000
15 Pool Heater	\$0
16 Mechanical Building Renovation	\$30,000
17 Bathhouse Structure (1800 Square Feet, CMU Construction)	\$180,000
18 Bathhouse Roof Assembly	\$24,000
19 Bathhouse Doors & Windows	\$12,000
20 Bathhouse Plumbing	\$90,000
21 Potable Water Heater	\$2,000
22 HVAC Systems	\$20,000
23 Electrical System	\$160,000
24 Utilities	\$85,000
25 Pool Area Lighting System	\$0
26 Safety Equipment	\$3,000
27 PA System	\$0
28 Additional Work/Amenities	
a Zero-Depth Water Features	\$75,000
b Shade Structures	\$25,000
29 Additional Line Items	
a Demolition	\$65,000
b Contractor Mobilization, Supervision, and Bonding	\$107,000
c Contractor Profit & Overhead	\$171,000
d Design Fees, Permits, Soil Borings, Site Survey, Reimbursables, etc.	\$228,000
e Construction Related Services & Reimbursables	\$132,000
f Contingency Fund	\$50,000
Opinion of Probable Construction Cost	\$2,815,000
Multiplier for Construction Commencing in 2012	1.00
Total Adjusted Opinion of Probable Construction Cost	\$2,815,000

Aquatic Center Bid Alternates	
Bid Alt #1 - Spray Pad	\$150,000
Bid Alt #2 - Water Slide	\$175,000
Bid Alt #3 - Floatable Water Walk	\$50,000
Contractor Profit, Mobilization, Bonding, Overhead	\$49,000
Design Fees, Permits, Soil Borings, Site Survey, Reimbursables, etc.	\$41,000
Construction Related Services & Reimbursables	\$24,000
Contingency Fund	\$0
Total Aquatic Center Bid Alternates	\$489,000

Total Project Opinion of Probable Construction Cost **\$3,304,000**



VERSION #2 - CONCEPTUAL SITE PLAN STATISTICS

BATHHOUSE:	1,800 SQ. FT.
MAIN POOL SURFACE AREA:	6,400 SQ. FT.
SPRAY PAD SURFACE AREA:	1,500 SQ. FT.
TOTAL SURFACE AREA:	7,900 SQ. FT.
POOL PATRON CAPACITY:	497



Title CONCEPTUAL SITE PLAN VERSION #2	Owner CITY OF OSAWATIMBE 410 MAIN STREET, P.O. BOX 37 OSAWATIMBE, KANSAS 66064	PROJECT NO. - NUMBER 1 GAS DWG. FILE - SITE.DWG	Consultant BURBACH AQUATICS, INC. 480 NORTH 71st AVE SUITE 203 2015 West 95th St South PO Box 75 Overland Park, Kansas 66212 Phone: 913.221.1444 Fax: 913.221.1444	<table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>REVISION</th> <th>BY</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>	NO.	DATE	REVISION	BY																
NO.	DATE	REVISION	BY																					
Project OSAWATIMBE FAMILY AQUATIC CENTER	Scale 1/4" = 1'-0"	Date 11-14-2011	Drawing PHI-S2																					

From August 12, 2010 City Manager's Report

WHY FIREWORKS SHOULD NOT BE RELOCATED TO THE LAKE:

At the council meeting where the fireworks permit was approved by the city council, it was requested that reasons be provided as to why the fireworks would not be relocated to the City Lake. Those reasons are: 1.) there are access issues at the lake – only two ways in and out – with the fireworks being in the city, many citizens can view them from their own homes; 2.) the Public Safety Department has issues with crowd control – police and fire officials would need to be on duty at the lake as well as in town to provide adequate safety during the event. This adds to the cost of the fireworks display; 3.) Trash/debris being left scattered around the lake was always an issue; 4.) There is limited parking at the lake, therefore fewer people would be able to enjoy the display than can enjoy it in town and some parents with younger children as well as some elderly citizens would be less inclined to make the trip to the lake; and finally 5.) With the fireworks being in town, anyone traveling to Osawatomie to watch the fireworks at the lake are less likely to stop in town to purchase fuel, eat out, etc. With the fireworks being in town, we believe they would be more inclined to stop on their way to or from the display to spend money. All of these reasons will continue to influence me to make the management decision to have the fireworks be displayed in the city proper as opposed to the city lake.



CITY OF OSAWATOMIE
439 Main Street
P.O. Box 37
Osawatomie, Kansas 66064
913-755-2146
FAX: 913-755-4164

To: Mayor and City Council of Osawatomie

From: Bret Glendening, City Manager

Re: Concurrence with Osawatomie Planning Commission (OPC) on Rezoning of JC's Liquor

Date: May 26, 2011

In accordance with the process outlined in the zoning regulations, upon the completion of the protest period (14 days from the date of a Planning Commission recommendation), the City Council shall take up the issue that was before the Planning Commission and concur, override, or return the issue to the OPC for further review.

The OPC held a public hearing on April 27, 2011 to consider the rezoning request. Upon conclusion of the hearing, the OPC recommended the application be denied. The ordinance for your consideration tonight would REZONE the property as the applicant requested. However, in order for the Governing Body to do so, a 2/3rds vote would be required. Staff recommends the rezoning ordinance not be approved.

(Published in the Osawatomie Journal, June 1, 2011) 1t

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR THE REZONING OF CERTAIN PROPERTY IN THE CITY OF OSAWATOMIE, KANSAS FROM M-1 (LIGHT INDUSTRIAL PARK DISTRICT) TO C-3 (HIGHWAY COMMERCIAL); 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 April 27, 2011, held a public hearing and recommended denial of the request to rezone from M-1 (Light Industrial Park) to C-3 (Highway Commercial); 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:

Lots 9 and 10 in Block 89, excepting the North 125 feet thereof, in Ellensville, Wm. Chestnut's Addition to the City of Osawatomie, Miami County, Kansas.

Commonly known as 710 6th Street, is hereby changed from M-1 (Light Industrial Park) to C-3 (Highway Commercial).

SECTION TWO: That the Zoning Map adopted by Ordinance No. 3542 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 a 2/3rds vote of the Governing Body of the City of Osawatomie, Kansas, a majority being in favor thereof, this 26th day of May, 2011.

APPROVED and signed by the Mayor.

Philip A. Dudley
Mayor

(SEAL)

ATTEST:

Ann Elmquist
City Clerk

 **AIA**® Document B101™ – 2007

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the day of in the year
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

| City of Osawatomie, Kansas
| 439 Main Street
| Osawatomie, Kansas 66064

and the Architect:
(Name, legal status, address and other information)

| SFS Architecture, Inc.
| 1150 Grand Boulevard Suite 400
| Kansas City, Missouri 64106

for the following Project:
(Name, location and detailed description)

| Osawatomie Public Library Addition – Single story Addition approximately 2,200 sf.

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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User Notes:

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3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

EXHIBIT A INITIAL INFORMATION

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1 and in optional Exhibit A, Initial Information:

(Complete Exhibit A, Initial Information, and incorporate it into the Agreement at Section 13.2, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)

Provide Architectural Services for an addition to the Osawatomie Public Library located at 527 Brown Avenue; Osawatomie, Kansas 66064.

§ 1.2 The Owner's anticipated dates for commencement of construction and Substantial Completion of the Work are set forth below:

.1 Commencement of construction date:

To be determined.

.2 Substantial Completion date:

To be determined.

§ 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

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ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost:

(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)

- .1 General Liability
\$1,000,000 each occurrence
- .2 Automobile Liability
\$1,000,000 combined single limit
- .3 Workers' Compensation
Statutory
- .4 Professional Liability
\$1,000,000 per claim & aggregate

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by

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the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

§ 3.1.5 The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 SCHEMATIC DESIGN PHASE SERVICES

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project's requirements agreed upon with the Owner, the Architect shall prepare and present for the Owner's approval a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics in developing a design for the Project that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 3.3 DESIGN DEVELOPMENT PHASE SERVICES

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents

including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work.

§ 3.3.3 The Architect shall submit the Design Development documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 BIDDING OR NEGOTIATION PHASE SERVICES

§ 3.5.1 GENERAL

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 COMPETITIVE BIDDING

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by

- .1 procuring the reproduction of Bidding Documents for distribution to prospective bidders;
- .2 distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and
- .5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 NEGOTIATED PROPOSALS

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by

- .1 procuring the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors; and
- .3 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 CONSTRUCTION PHASE SERVICES

§ 3.6.1 GENERAL

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2007, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

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User Notes:

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§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2007, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 SUBMITTALS

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. The Architect and the Architect's Consultants shall not be responsible for any deviations from the Contract Documents not brought in writing to the attention of the Architect and the Architect's Consultants.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

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§ 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 CHANGES IN THE WORK

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 PROJECT COMPLETION

§ 3.6.6.1 The Architect shall conduct site visits to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's punch lists shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2.

(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Additional Services	Responsibility <i>(Architect, Owner or Not Provided)</i>	Location of Service Description <i>(Section 4.2 below or in an exhibit attached to this document and identified below)</i>
§ 4.1.1 Programming (Basic Service)	Architect	12.1
§ 4.1.2 Multiple preliminary designs (Basic Service)	Architect	12.1

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§ 4.1.3	Measured drawings	Not Provided	
§ 4.1.4	Existing Facilities Evaluations (Basic Service)	Architect	12.1
<i>(Row deleted)</i>			
§ 4.1.5	Site Planning (Basic Service)	Architect	12.1
§ 4.1.6	Building information modeling	Not provided	
§ 4.1.7	Civil engineering (Basic Service)	Architect	12.2
§ 4.1.8	Landscape design (Basic Service)	Not provided	
§ 4.1.9	Architectural Interior Design (B252™-2007)	Not provided	
§ 4.1.10	Value Analysis (B204™-2007)	Not provided	
§ 4.1.11	Detailed cost estimating	Not provided	
§ 4.1.12	On-site project representation	Not provided	
§ 4.1.13	Conformed construction documents	Not provided	
§ 4.1.14	As-Designed Record drawings	Not provided	
§ 4.1.15	As-Constructed Record drawings	Not provided	
§ 4.1.16	Post occupancy evaluation	Not provided	
§ 4.1.17	Facility Support Services (B210™-2007)	Not provided	
§ 4.1.18	Tenant-related services	Not provided	
§ 4.1.19	Coordination of Owner's consultants	Not provided	
§ 4.1.20	Telecommunications/data design	Not provided	
§ 4.1.21	Security Evaluation and Planning (B206™-2007)	Not provided	
§ 4.1.22	Commissioning (B211™-2007)	Not provided	
§ 4.1.23	Extensive environmentally responsible design	Not provided	
§ 4.1.24	LEED® Certification (B214™-2007)	Not provided	
§ 4.1.25	Fast-track design services	Not provided	
§ 4.1.26	Historic Preservation (B205™-2007)	Not provided	
§ 4.1.27	Furniture, Furnishings, and Equipment Design (B253™-2007)	Architect	12.3

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

See 12.1, 12.2 and 12.3

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;

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- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of bidders or persons providing proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker;
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion identified in Initial Information, whichever is earlier.

§ 4.3.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 Ten (10) visits to the site by the Architect over the duration of the Project during construction
- .3 Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two (2) inspections for any portion of the Work to determine final completion

§ 4.3.4 If the services covered by this Agreement have not been completed within eighteen (18) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 5.2 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

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§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

(Paragraph deleted)

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 5.7 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.8 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.9 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.10 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

§ 5.11 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.12 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.13 The services, information, surveys and reports required in Section 5.4, 5.5, 5.7 & 5.8 shall be furnished at the Owner's expense and the Architect shall be entitled to rely upon the accuracy and completeness thereof.

§ 5.14 The Owner shall furnish the required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Architect's services and Work of the Contractors.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the

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preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 4.

§ 6.4 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the

Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 GENERAL

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement by negotiation or if negotiation is not successful, in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 MEDIATION

§ 8.2.1 The Owner and Architect agree that disputes relative to the Project should first be addressed by negotiations between the parties. If direct negotiations fail to resolve the dispute, the Owner and Architect further agree to non-binding mediation as the next alternative for dispute resolution. If non-binding mediation fails to resolve the dispute, the party initiating the claim that is the basis of the dispute shall be free to take such steps as it deems necessary to protect its interest; provided, however, that notwithstanding any such dispute, the Architect shall proceed with its services under this Agreement as though no dispute exists.

§ 8.2.2 If the Owner and Architect choose to resolve claims, disputes and other matters in question between them by mediation the process, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement, unless the parties mutually agree otherwise. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 8.2.3 The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:
(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

Litigation in a court of competent jurisdiction

Other (Specify)

(Paragraphs deleted)

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses .

§ 9.7 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

(Paragraph deleted)

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

§ 10.9 The invalidity, illegality or unenforceability of any provision of this agreement or the occurrence of any event rendering any portion of this agreement void shall in no way affect the validity or enforceability of any portion or provision of this Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

Lump Sum Fee of Thirty Five Thousand Dollars (\$35,000.00).

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

At a amount mutually agreed to prior to commencing services.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus ten percent (10 %), or as otherwise stated below:

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

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Schematic Design Phase	twenty	percent (20	%)
Design Development Phase	twenty	percent (20	%)
Construction Documents Phase	thirty five	percent (35	%)
Bidding or Negotiation Phase	five	percent (5	%)
Construction Phase	twenty	percent (20	%)
<hr/>				
Total Basic Compensation	one hundred	percent (100	%)

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. *(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Employee or Category	Rate
-----------------------------	-------------

§ 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses; and
- .11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ten percent (10 %) of the expenses incurred.

§ 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

Init.

§ 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1 An initial payment of (\$) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.
(Insert rate of monthly or annual interest agreed upon.)

eight percent (8%) per annum

§ 11.10.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

§ 11.11 If the basic services covered by this Agreement have not been completed within eighteen (18) months of the date hereof, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as provided in Sections 11.3.

§ 11.12 The rates and multiples set forth for Additional Services shall be annually adjusted in accordance with normal salary review practices of the Architect.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

§ 12.1 Programming / Conceptual Design Phase Services as described in the following subparagraphs are included in the Architects Basic Services.

§ 12.1.1 Collect and review information related to the project.

§ 12.1.2 Meet with the Owner's Representative to program requirements for the project.

§ 12.1.3 Prepare conceptual options based on general program requirements established by Owner's Representatives.

§ 12.1.4 Meet with Owner's Representative to reach consensus on preferred concept option and funding source.

§ 12.1.5 Prepare estimate for construction cost.

§ 12.2 Services of Consultants of Civil, Structural, and Mechanical and Electrical Engineering Architecture are included in the Architect's Basic Services. Compensation for Engineering services is in addition to Basic Compensation listed in paragraph 11.2 and shall be reimbursed at one. One (1.1) times the amount billed the Architect.

§ 12.3 FF&E Design Service will be provided for ten percent (10%) of the total cost of FF&E.

§ 12.4 Nothing contained in the Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document B101™-2007, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:

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User Notes:

(1919375202)

- 3 Other documents:
(List other documents, if any, including Exhibit A, Initial Information, and additional scopes of service, if any, forming part of the Agreement.)

(Table deleted)

(Paragraph deleted)

§ 13.3 This Agreement represents the entire and integrated agreement between the Owner and Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

This Agreement entered into as of the day and year first written above.

OWNER

ARCHITECT

(Signature)

(Signature)

(Printed name and title)

Marsha K. Hoffman, AIA, LEED^{A.P.}, Treasurer

Init.

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User Notes:

(808859734)

MAR 27 2009

Form RD 440-34
(Rev. 02-05)

Position 5

FORM APPROVED
OMB NO. 0575-0189

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL DEVELOPMENT
FARM SERVICE AGENCY

OPTION TO PURCHASE REAL PROPERTY

1. In consideration of the sum of \$ 1.00 in hand paid and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned (hereinafter called the "Seller"), who covenants to be the owner thereof, hereby, for the Seller and the Seller's heirs, executors, administrators, successors and assigns, offers and agrees to sell and convey to Osawatomie RRHD, L.P.
Mid America Management, PO Box H, Great Bend, KS

(Name and Address)

(hereinafter called the "Buyer"), and hereby grants to the said Buyer the exclusive and irrevocable option and right to purchase, under the conditions hereinafter provided, the following-described property, located in Miami

County, State of Kansas :

(Insert here full and complete legal description, including volume and page where recorded, of the property including any water rights and water stock being purchased.)

LOTS 1,2,3,4,5,6,23,24,25,26,27, and 28, all in Block seven (7), Caffery and Sheldon's Addition to the City of Osawatomie

According to the Paperwork Reduction Act of 1995, no persons are required to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information is 0575-0189. The time required to complete this information collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The title to said property is to be conveyed free and clear of all encumbrances except for the following reservations, exceptions and leases, and no others:
(insert here a full statement of all reservations, exceptions and leases, including in the case of leases, the date of the termination of the lease, the correct name(s) and address(es) of the lessee(s) and, if recorded, the place of recordation)

2. The option is given to enable the Buyer to obtain a loan made by the United States of America, acting through the Rural Housing Service; Rural Utilities Service; Rural Business-Cooperative Service; Farm Service Agency, hereinafter called the "Government" for the purchase of said property. It is agreed that the Buyer's efforts to obtain a loan constitute a part of the consideration for this option and any downpayment will be refunded if the loan cannot be processed by the Government.

3. The total purchase price for said property is \$ outstanding Rural Development Loan balance, said amount

includes excludes the \$ 1.00 mentioned in paragraph 1.

4. The Seller agrees to pay all expenses of title clearance including, if required, abstract or certificate of title or policy of title insurance, continued down to the date of acceptance of this option and thereafter continued down to and including date of recordation of the deed from the Seller to the Buyer, costs of survey, if required, and attorney's fees; and the Seller agrees that, except as herein provided, all taxes, liens, encumbrances or other interests in third persons will be satisfied discharged, or paid by the Seller including stamp taxes and other expenses incident to the preparation and execution of the deed and other evidences of title. Title evidences will be obtained from persons and be in such form as the Government shall approve.

(Strike inapplicable language above or insert herein any different agreement regarding the paying of title clearance charges)

5. The Seller also agrees to secure for the Buyer, from the records of the Farm Service Agency, aerial surveys of the property when available, all obtainable information relating to allotments and production history and any other information needed in connection with the consideration of the proposed purchase of the property.

6. The Seller further agrees to convey said property to the Buyer by general warranty deed (except where the law provides otherwise for conveyances by trustees, officers of courts, etc.) in the form, manner and at the time required by the "Government, conveying to the Buyer a valid, unencumbered, indefeasible fee-simple title to said property meeting all requirements of the Government; that the purchase price shall be paid at the time of recording such deed; and that said lands, including improvements, shall be delivered in the same condition as they now are, customary use and wear excepted.

7. Taxes, water assessments and other general and special assessments of whatsoever nature for the year in which the closing of the transaction takes place shall be prorated as of the date of the closing of the transaction, it being expressly agreed that for the purpose of such proration the tax year shall be deemed to be the calendar year. If the closing of the transaction shall occur before the tax rate is fixed, the apportionment of taxes shall be on the basis of the tax rate for the next preceding year applied to the latest assessed valuation.

(Insert here any different tax agreement)

8. This option may be exercised by the Buyer, at any time while the offer herein shall remain in force, by mailing, telegraphing or delivering in person a written notice of acceptance of the offer herein to Roger A. Schwager, at PO Drawer H, in the city of Great Bend, County of Barton, State of Kansas

The offer herein shall remain irrevocable for a period of 24 months from the date hereof and shall remain in force thereafter until one (1) year from the date hereof unless earlier terminated by the Seller. The Seller may terminate this offer at any time after the 24 months irrevocable period provided herein by giving to the Buyer ten (10) days written notice of intention to terminate at the address of the Buyer. Acceptance of this option by the Buyer within ten (10) days after such notice is received by the Buyer shall constitute a valid acceptance of the option.

9. Loss or damage to the property by fire or from an act of God shall be at the risk of the Seller until the deed to the Buyer has been recorded, and in the event that such loss or damage occurs, the Buyer may, without liability, refuse to accept conveyance of title, or may elect to accept conveyance of title, in which case there shall be an equitable adjustment of the purchase price.

10. The Seller agrees that, irrespective of any other provision in this option, the Buyer, or the Buyer's assignees, may, if the option is accepted, without any liability therefore refuse to accept conveyance of the property described herein if the foresaid loan cannot be made or insured because of defects in the title to other land now owned by, or being purchased by, the buyer.

11. The Seller agrees to furnish, at Seller's expense, to the Buyer a certificate from a reliable firm certifying that the following described building(s) covered by this option (a) is now free of termite infestation and (b) either is now free of unrepaired termite damage or has suffered unrepaired termite damage which is specifically described in the certificate.

12. The Seller agrees to furnish, at the Seller's expense, to the Buyer evidence from the Health Department or a reliable and competent source that the waste disposal system for the dwelling is functioning properly, and the water supply for domestic use meets State Health Department requirements. This evidence must be in the Agency Office before a loan will be approved.

13. The Seller hereby gives the Government or its agents consent to enter on said property at reasonable times for the purpose of inspecting or appraising it, in connection with the making of a loan to purchase the property.

14. Insert here conditions peculiar to this particular transaction.

(Sellers Telephone Number)

913-755-2146

IN WITNESS WHEREOF, the Seller and the Buyer have set their hands and seals this 4th day of March, 2009.

WITNESSES:

[Signature]

Linda J. Carpenter

[Signature] married

(Seller) *

(Seller) *

Roger A. Schwager, unmarried

(Buyer) *

(Buyer) *

*(Indicate marital status of Seller as "married", "legally separated", "unmarried", after signature)
(over)

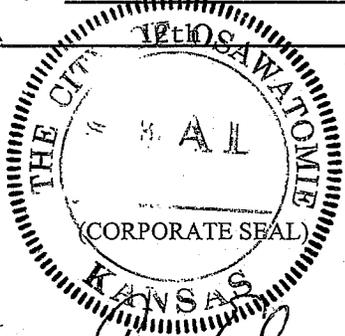
(For use if Seller is a corporation)

IN WITNESS WHEREOF, the Seller has caused its corporate name to be hereunto subscribed by its Mayor

President, and its duly attested corporate seal to be hereunto affixed by its City Clerk

Secretary, at Osawatomie, State of Kansas

on the _____ day of March, 2009



CITY OF OSAWATOMIE

Name of Corporation

ATTEST: Ann Elmquist

By: Philip A. Dudley, Mayor

Ann Elmquist, City Clerk ~~Secretary~~ Philip A. Dudley, Mayor ~~President~~

ACKNOWLEDGMENT

NEW BUSINESS

8.B. Consider Approval of Fireworks Stands & Display

CONSIDER APPROVAL OF FIREWORKS STANDS & FIREWORKS DISPLAY. The following fireworks vendors requested approval of the Council:

Dale & Jo's Discount Fireworks
1306 6th Street

Dale Shay

Eddie's Discount Fireworks
504 Oscar

Eddie Shay

City 4th of July Display
Lynn Dickey Field

Mark Marquez
Fireworks – Public Display Operator