

OSAWATOMIE CITY COUNCIL
WORK SESSION / MEETING AGENDA
Thursday, February 28, 2008
7:00 p.m., Memorial Hall

WORK SESSION

1. Presentation & Update on Sewer Project – Brian Kingsley

REGULAR MEETING – 7:30 p.m.

A. Call to Order

B. Roll Call

C. Approval of Agenda

1. Approve Change Order No. 2 for Sewer Improvements Project
2. Contract with Crossroad Cellular to Lease Space on East Water Tower
3. Ordinance Adopting Property Maintenance Code and Appendices in IBC
4. Award Bid on Dump Bed/Continuous Operating PTO for New Dump Truck

D. Adjournment of Regular Meeting

Change Order Instructions

A. GENERAL INFORMATION

This document was developed to provide a uniform format for handling contract changes that affect Contract Price or Contract Times. Changes that have been initiated by a Work Change Directive must be incorporated into a subsequent Change Order if they affect Price or Times.

Changes that affect Contract Price or Contract Times should be promptly covered by a Change Order. The practice of accumulating Change Orders to reduce the administrative burden may lead to unnecessary disputes.

If Milestones have been listed in the Agreement, any effect of a Change Order thereon should be addressed.

For supplemental instructions and minor changes not involving a change in the Contract Price or Contract Times, a Field Order should be used.

B. COMPLETING THE CHANGE ORDER FORM

Engineer normally initiates the form, including a description of the changes involved and attachments based upon documents and proposals submitted by Contractor, or requests from Owner, or both.

Once Engineer has completed and signed the form, all copies should be sent to Owner or Contractor for approval, depending on whether the Change Order is a true order to the Contractor or the formalization of a negotiated agreement for a previously performed change. After approval by one contracting party, all copies should be sent to the other party for approval. Engineer should make distribution of executed copies after approval by both parties.

If a change only applies to price or to times, cross out the part of the tabulation that does not apply.

City of Osawatomie
2007 Sanitary Sewer Improvements
Exhibit A
Summary of Plan Quantity Changes
05-309L

Change Order Item #1

Change this section of Line R (Sta. 188 + 28 to 191 + 29) to open-cut from CIPP. This section of line was originally bid as open-cut and due to the street project for 9th Street it was determined to replace this section of pipe with new PVC pipe.

Subtotal \$43,170.95

Change Order Item #2

Change the method of construction for Line A (Sta. 10 + 00 to 13 + 70) from open-cut to CIPP. Due to the condition of the existing pipe and only two service laterals it was determined this section of line could be rehabilitated using cured-in-place pipe (CIPP) resulting in the deduct shown.

Subtotal -\$14,636.64

Change Order Item #3

Change the method of construction for Line C (Sta. 35 + 00 to 38 + 61) from open-cut to CIPP. With the completion of a 10 foot point repair it was determined the remaining section of existing sewer could be rehabilitated using cured-in-place pipe (CIPP) resulting in the deduct shown.

Subtotal -\$28,292.23

Change Order Item #4

Add a Line Item (25A) for additional bedding envelope in lieu of flowable fill. The Contractor will add on additional 24” of CA-5 bedding material above the plan bedding envelope where the trench depth is greater than 6 foot. This will result in a decrease of 24” of flowable fill. This will result in a decrease to bid item #25 Flowable Fill (Low Strength – Excavatable) equal to the increase in the bedding envelope resulting in a decrease of \$26.67/C.Y. (\$60.67/C.Y. – \$34.00/C.Y.) to the contract price.

Item #25A Extra Bedding Envelope @ \$34.00/C.Y.

This item will be field measured but the anticipated decrease is 1,000 C.Y. @ \$26.67/C.Y. = \$26,670.00

Subtotal -\$26,670.00

City of Osawatomie
2007 Sanitary Sewer Improvements
Exhibit A
Summary of Plan Quantity Changes
05-309L

Change Order Item #5

Add a Line Item (Item 28A) for an 8"x8"x6" Wye. This item will be used to hook up 6" service laterals that cannot be reduced to 4". This will reduce item #28 by the equal amount of the number of 8"x8"x6" Wye's used.

Item 28A 8"x8"x6" Wye @ \$182.24 ea.

8"x8"x4" Wye = \$173.42 (\$8.82 each net change), 6 each @ \$8.82 = \$52.92.

Add a line item (27A) for 6" service lateral. This item will be used to connect 6" service laterals that cannot be reduced to 4".

Line 27 4" service lateral \$18.12/L.F.

Line 27A 6" service lateral \$64.32/L.F.

Difference \$46.20/L.F.

Plan change 50 L.F. @ \$46.20 = \$2,310.00

Subtotal \$2,362.92

Change Order Item #6

Construct a clean-out in place of Manhole S250-CL. An existing gas line prevented construction of a new manhole and it was agreed by City Staff and the Contractor to construct a clean-out. This resulted in a deduct of \$578.10.

Subtotal -\$578.10

Change Order Item #7

Change the method of construction for Line "Z" from PIPE BURST to open-cut. City Staff requested the contractor to repair this line as a priority and to accomplish this it was agreed to open cut this section at the contract price.

Subtotal = no change

City of Osawatomie
2007 Sanitary Sewer Improvements
Exhibit A
Summary of Plan Quantity Changes
05-309L

Change Order Item #8

Change the method of construction for Line “Y” from PIPE BURST to open-cut. Due to the condition of the existing line this line could not be pipe burst. It was agreed to open cut this section at the contract price for this section which would include all pavement restoration.

Subtotal = no change

Change Order Item #9

Change the method of construction for Line N (Sta. 125+00 to 134+61.34) to CIPP from open-cut. After reviewing TV video to determine the condition of the existing line for this section it was determined this section of line could be rehabilitated using cured-in-place pipe CIPP. The following computations for this deduct are shown below.

Subtotal -\$141,784.50

City of Osawatomie
2007 Sanitary Sewer Improvements
Summary of Plan Quantity Changes - **Change Order No. 2**

Exhibit B
05-309L

Change Order Item No. 1 - Line R to Open Cut

ITEM NO.	ESTIMATED QUANTITY	UNIT PRICE	TOTAL PRICE
5 8" PVC Sanitary Sewer (SDR-26)(In Place)	301 L.F.	\$47.57	\$14,318.57
9 8" Cured-In-Place Pipe (CIPP)(7.5 mm)	-301 L.F.	\$27.87	-\$8,388.87
14 Standard Manhole	1 EA	\$1,529.00	\$1,529.00
17 Extra Depth in Manhole	3.8 V.F.	\$50.66	\$192.51
21 Remove and Replace Surfacing (In Kind)	236 S.Y.	\$50.96	\$12,026.56
25 Flowable Fill (Low Strength-Excavatable)	308 C.Y.	\$60.67	\$18,686.36
27 4" Sewer Lateral (Sch. 40)	160 L.F.	\$18.12	\$2,899.20
28 8" x 8" x 4" Wye	11 EA	\$173.42	\$1,907.62
Subtotal Item 1			\$43,170.95

Change Order Item No. 2 - Line A to CIPP 10+00 to 13+70

ITEM NO.	ESTIMATED QUANTITY	UNIT PRICE	TOTAL PRICE
5 8" PVC Sanitary Sewer (SDR-26)(In Place)	-370 L.F.	\$47.57	-\$17,600.90
9 8" Cured-In-Place Pipe (CIPP)(7.5 mm)	370 L.F.	\$27.87	\$10,311.90
21 Remove and Replace Surfacing (In Kind)	-45 S.Y.	\$50.96	-\$2,293.20
24 Remove and Replace Sidewalk	-2 S.Y.	\$89.75	-\$179.50
25 Flowable Fill (Low Strength-Excavatable)	-76 C.Y.	\$60.67	-\$4,610.92
27 4" Sewer Lateral (Sch. 40)	-5 L.F.	\$18.12	-\$90.60
28 8" x 8" x 4" Wye	-1 EA	\$173.42	-\$173.42
Subtotal Item 2			-\$14,636.64

Change Order Item No. 3 - Line C to CIPP 35+00 to 38+61

ITEM NO.	ESTIMATED QUANTITY	UNIT PRICE	TOTAL PRICE
5 8" PVC Sanitary Sewer (SDR-26)(In Place)	-361 L.F.	\$47.57	-\$17,172.77
9 8" Cured-In-Place Pipe (CIPP)(7.5 mm)	361 L.F.	\$27.87	\$10,061.07
25 Flowable Fill (Low Strength-Excavatable)	-323 C.Y.	\$60.67	-\$19,596.41
27 4" Sewer Lateral (Sch. 40)	-30 L.F.	\$18.12	-\$543.60
28 8" x 8" x 4" Wye	-6 EA	\$173.42	-\$1,040.52
Note: Additional Point Repair by Force Account			
Subtotal Item 3			-\$28,292.23

Change Order Item No. 4 - Trench Backfill Modification

ITEM NO.	ESTIMATED QUANTITY	UNIT PRICE	TOTAL PRICE
25 Flowable Fill (Low Strength-Excavatable)	-1,000 C.Y.	\$60.67	-\$60,670.00
25a Extra Bedding Envelope (2' CA5)	1,000 C.Y.	\$34.00	\$34,000.00
Note: Final Quantities will be Field Measured			
Subtotal Item 4			-\$26,670.00

Change Order Item No. 5 - 6" Service Lateral Pay Items

ITEM NO.	ESTIMATED QUANTITY	UNIT PRICE	TOTAL PRICE
27 4" Sewer Lateral (Sch. 40)	-50 L.F.	\$18.12	-\$906.00
27a 6" Sewer Lateral (Sch. 40)	50 L.F.	\$64.32	\$3,216.00
28 8" x 8" x 4" Wye	-6 EA	\$173.42	-\$1,040.52
28a 8" x 8" x 6" Wye	6 EA	\$182.24	\$1,093.44
Note: Final Quantities will be Field Measured			
Subtotal Item 5			\$2,362.92

ITEM NO.	ESTIMATED QUANTITY	UNIT PRICE	TOTAL PRICE
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Change Order Item No. 6 - S250-CL to Cleanout

ITEM NO.	ESTIMATED QUANTITY	UNIT PRICE	TOTAL PRICE
14 Standard Manhole	-1 EA	\$1,529.00	-\$1,529.00
14a Standard Cleanout	1 EA	\$950.90	\$950.90
Subtotal Item 6			-\$578.10

Change Order Item No. 9 - Line N (Sta. 125+00 to 134+61.34) to CIPP

ITEM NO.	ESTIMATED QUANTITY	UNIT PRICE	TOTAL PRICE
6 10" PVC Sanitary Sewer (SDR-26)(In Place)	-679 L.F.	\$47.26	-\$32,089.54
10 10" Cured-In-Place Pipe (CIPP)(7.5 mm)	961 L.F.	\$25.20	\$24,217.20
13 10" HDPE Sanitary Sewer (SDR 17)(Pipe Bursting)	-283 L.F.	\$174.99	-\$49,522.17
21 Remove and Replace Surfacing (In Kind)	-212 S.Y.	\$50.96	-\$10,813.71
23 Remove and Replace Curb & Gutter	-153 L.F.	\$15.02	-\$2,298.06
25 Flowable Fill (Low Strength-Excavatable)	-1,100 C.Y.	\$60.67	-\$66,737.00
27 4" Sewer Lateral (Sch. 40)	-30 L.F.	\$18.12	-\$543.60
29 10" x 10" x 4" Wye	-6 EA	\$666.27	-\$3,997.62

Note: Additional Point Repair by Force Account

Subtotal Item 9 **-\$141,784.50**

Total Change Order **-\$166,427.60**

Contract prior to Change **\$4,427,002.42**

Revised Contract Amount **\$4,260,574.82**

SITE AGREEMENT
(Kansas)

This Site Agreement ("Agreement") is entered into this ____ day of _____, _____, by and between The City of Osawatomie, ("Owner") and Crossroads Wireless Holdings LLC, Inc., a Delaware limited liability company, its successors and assigns, ("Crossroads"), provides for the granting and leasing of certain property interests on the following terms:

For good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto agrees as follows:

1. PROPERTY. The property interests hereby leased and granted by Owner ("Property") shall include the following:
 - Real property comprised of approximately 336 square feet of land
 - Water tower exterior space for the attachment of antennas
 - Water tower exterior space required for cable runs to connect equipment and antennas
 - Non-exclusive easements required to run utility lines and cables
 - Non-exclusive easements across Owners Property (hereinafter defined) for access in or upon the Owner's real property ("Owner's Property") described on Exhibit "A" attached hereto and subject to the specifications shown and described on said Exhibit "B" and collectively referred to herein as the "Antenna Facilities."

2. TERM. The term of this Agreement shall begin on the earlier of (i) the 1st day of the month following the date Licensee commences the installation of the Facilities on the Tower, or (ii) 12 months from full execution of this license, whichever first occurs (the "Commencement Date"), and terminate on the fifth (5th) anniversary of the Commencement Date ("Initial Term"). Licensee shall have the right to extend the Term for four (4) successive five (5) year periods (each, a "Renewal Term") on the same terms and conditions as set forth herein. This Agreement shall automatically be extended for a Renewal Term unless Licensee notifies Licensor that it does not to renew this Agreement at least sixty (60) days prior to the commencement of the following Renewal Term. For the purposes of this Agreement, "Term" shall mean the Initial Term plus any applicable Renewal Term(s). Licensee may terminate this License at any time by giving Licensor not less than 6 months written notice of termination and paying Licensor, on or before the date of termination, 4 months additional rent, which is full and adequate consideration for Licensor allowing Licensee to terminate the License on the date of termination contained in the notice.

3. RENT. Crossroads shall pay Owner rent quarterly in advance beginning on the Commencement Date and thereafter every three (3) months as set forth above. The quarterly rent for the initial Term shall be Two Thousand Five Hundred Fifty Dollars, (\$2,550.00) ("Initial Monthly Rent"), together with any applicable sales tax. The quarterly rent for each Option Period (defined below) shall be the Initial Quarterly Rent, increased, upon the commencement of the Option Period, by a percentage of the Initial Quarterly Rent which shall be computed by multiplying the number of years in the then expiring term (whether initial term or Option Period) times three percent (3%). Owner agrees to provide Crossroads any information necessary to allow Crossroads to make all rent payments through direct deposit or similar paperless transfer of funds. Any amount not paid within ten days of receipt by Crossroads of written notice that such payment has not been made shall also bear interest until paid at the lesser of ten percent (10%) or the highest rate permitted by law. If this lease is terminated at a time other than on the last day of a quarter, Rent shall be prorated as of the date of termination and, in the event of termination for any reason other than a default by Crossroads, all prepaid rents shall be refunded to Crossroads.
4. OPTION TERMS. Crossroads may extend the term of the Agreement four (4) additional five (5) year Option Periods (individually, an "Option Period" and collectively, the "Option Periods"). Crossroads shall have elected to extend the term for each successive Option Period unless it gives Owner written notice of its intention not to extend at least thirty (30) days prior to the expiration of the then-current term. If Crossroads shall remain in possession of the Property at the expiration of this Lease or any Option Period without a written agreement, such tenancy shall be deemed a month-to-month tenancy under the same terms and conditions of this Lease with the exception that the rent shall be at one and one-half times the rent herein specified.
5. USE. Crossroads may use the Property for the purpose of installing, removing, replacing, maintaining and operating a communications facility generally in accordance with Exhibit "A" subject to such modifications and alterations as may result from changes or improvements in technology (collectively, the "Communications Facility"), provided that Crossroads shall not be required to occupy the Property. Any modifications from that specified in Exhibit A must be approved by Owner, which approval shall not be unreasonably withheld or delayed. The manner in which the Communications Facility may be attached shall be subject to the prior approval of Owner. Owner shall provide Crossroads with twenty-four (24) hour, seven (7) day a week year around access to the Property. Crossroads will pay all personal property taxes assessed against the Communications Facility. Owner shall timely pay all real property taxes and assessments against the Owner's Property. Crossroads will not allow any mechanic's or materialmen's liens to be placed on the Property as a result of its work on the Property.

Crossroads, its agents and contractors, are hereby granted the right, at its sole cost and expense, to enter upon the Owner's Property and conduct such studies as Crossroads

deems necessary to determine the Property's suitability for Crossroads' intended use. These studies may include surveys, soil tests, environmental evaluations, radio wave propagation measurements, field strength tests and such other analyses and studies as Crossroads deems necessary or desirable. Owner shall cooperate with Crossroads and execute all documents required to permit Crossroads' intended use of the Property in compliance with zoning, land use, and for building regulations. Owner hereby appoints Crossroads as its agent and attorney-in-fact for the limited purpose of making such filings and taking such actions as are necessary to obtain any desired zoning and/or land use approvals.

Governmental Approvals. Crossroads shall obtain and comply with, at Crossroads' expense, all licenses and permits or authorizations required for Crossroads' use of the Property from all applicable government and/or regulatory entities (the "Governmental Approvals") and all present and future federal, state and local laws, ordinances, rules and regulations (including but not limited to laws and ordinances relating to health, safety, radio frequency emissions, and radiation). Crossroads shall pay, as they become due and payable, all fees, charges, taxes and expenses required for franchise, licenses and/or permits required for or occasioned by Crossroads' use of the Property, and such payments shall be separate and in addition to Crossroads' duty to pay rent. Crossroads shall also keep all antennas and equipment in good condition and repair.

Interference. Crossroads and Crossroads' subtenants and licensees shall not use the Property in any way which interferes with the use of the Property by Owner, or tenants or licensees of Owner, with rights to the Property prior in time to Crossroads' (subject to Crossroads' rights under this Lease, including non-interference).

6. **UTILITIES.** Payment for electric service and for telephone or other communication services to the Communications Facility shall be Crossroads' responsibility. Owner agrees to cooperate with Crossroads in its efforts to connect the Communications Facility to existing utility service at Crossroads' expense.
7. **REMOVAL OF COMMUNICATIONS FACILITY.** All personal property and trade fixtures of Crossroads shall be removed by Crossroads at the sole cost of Crossroads upon the termination of this Agreement.
8. **INSURANCE**
 - A. Owner and Crossroads hereby mutually release each other (and their successors or assigns) from liability and waive all right of recovery against the other for any loss or damage covered by their respective first party property insurance policies for all perils insured thereunder. In the event of such insured loss, neither party's insurance company shall have a subrogated claim against the other.
 - B. Crossroads will provide Commercial General Liability Insurance in a per occurrence amount of \$1,000,000.00 and an aggregate amount of \$2,000,000.00. Crossroads may satisfy this requirement by obtaining an appropriate endorsement to any master policy of liability insurance Crossroads may maintain.

The policy shall provide blanket contractual liability insurance for written contracts, and shall include coverage for products and completed operations liability, independent contractor's liability; coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage.

- C. Crossroads will provide Worker's Compensation Insurance meeting applicable statutory requirements and Employer's Liability Insurance with minimum limits of \$100,000.00 for each accident, \$100,000.00 for each employee and \$500,000.00 policy limit.
- D. Crossroads will insure for the start of and during the period of construction, property coverage covering cables, materials, machinery and supplies of any nature whatsoever which are to be used in or incidental to the installation of the equipment. Upon completion of the installation of the equipment, Crossroads shall substitute for the foregoing insurance policies of fire, extended coverage and vandalism and malicious mischief insurance on the Property. The amount of insurance at all times shall be representative of the insurable values installed or constructed, subject to reasonable deductibles.
- E. Named Insured. All policies, except for business interruption and worker's compensation policies, shall name Owner as an additional insured (herein referred to as to the "Additional Insured"), Owner will be named as Additional Insured on Crossroads' coverage with respect to indemnification contained in this Agreement.
- F. Evidence of Insurance. Certificates of insurance for each insurance policy required to be obtained by Crossroads in compliance with this paragraph, shall be filed and maintained with Owner upon written request during the term of the Lease, Crossroads shall immediately advise Owner of any claim or litigation that may result in liability to Owner.
- G. Cancellation of Policies of Insurance. All insurance policies maintained pursuant to the this Lease shall contain an endorsement stating that they will not be terminated or modified or not renewed without giving Owner at least thirty (30) days prior written notice, unless replaced with similar or superior limits, coverage and/or deductibles so that there is no lapse of the coverages required by this agreement.
- H. Insurance Companies. All insurance shall be effected under valid and enforceable policies, insured by insurers licensed to do business by the State of Kansas or surplus line carriers on the State of Kansas Insurance Commissioner's approval list of companies qualified to do business in the State of Kansas.
- I. Contractors. Crossroads shall require that each and every one of its contractors and their subcontractors who perform work on the Property to carry, in full force and effect, worker's compensation, and comprehensive general liability and automobile liability insurance coverage's of the type which Crossroads is required to obtain under the terms of this paragraph with appropriate limits of insurance.
- J. Review of Limits. Once during each calendar year during the term of this Lease, Owner may review the insurance coverages to be carried by Crossroads. If Owner reasonably determines that higher limits of coverage are necessary to protect the

interest of Owner, or that Crossroads has failed to comply with the insurance requirements as stated in the Lease, Crossroads shall be notified and shall obtain the additional limits of insurance, at its sole cost and expense.

- K. The coverage amounts set forth above may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those stated.
9. **TERMINATION.** Except as otherwise provided herein, this Lease may be terminated, without any penalty or further liability as follows:
- A. **Default.** Upon ten (10) days' written notice in the event of a Default;
 - B. **Loss of Governmental Approval.** Upon ninety (90) days' written notice by Crossroads, if Crossroads is unable to obtain, maintain, or otherwise forfeits or cancels any license, permit or Governmental Approval necessary to the construction and/or operation of the Antenna Facilities or Crossroads' business;
 - C. **Design/Engineering Change.** Upon ninety (90) days' written notice by Crossroads if the Property are or become unacceptable under Crossroads' design or engineering specifications for its Antenna Facilities or the communications system to which the Antenna Facilities belong provided that Crossroads' reasons for such termination are established in good faith;
 - D. **Destruction/Damage of Facilities.** Immediately upon written notice if the Property or the Antenna Facilities are destroyed or damaged so as in Crossroads' reasonable judgment to substantially and adversely affect the effective use of the Antenna Facilities. In such event, all rights and obligations of the parties shall cease as of the date of the damage or destruction, and Crossroads shall be entitled to the reimbursement of any Rent prepaid by Crossroads. If Crossroads elects to continue this Lease, and Owner or Owner's agent is responsible for such destruction or damage, then Rent shall abate until the Property and/or Antenna Facilities are restored to the condition existing immediately prior to such damage or destruction.
10. **HOLD HARMLESS.** Crossroads agrees to hold Owner harmless from claims arising from the installation, use, maintenance, repair or removal of the Antenna Facilities, except for claims arising from the negligence or intentional acts of Owner, its employees, its agents or independent contractors.
11. **CASUALTY/CONDEMNATION.** If any portion of the Owner's Property or Communications Facility is damaged by any casualty and such damage adversely affects Crossroads' use of the Property, or if a condemning authority takes any portion of the Owner's Property, this Agreement shall terminate as of the date of the casualty or the date the title vests in the condemning authority, as the case may be if Crossroads gives written notice of the same within thirty (30) days after Crossroads receives notice of such casualty or taking. The parties respective interests in the Property (which for Crossroads may include, where applicable, the value of the Communications Facility, moving expenses, prepaid rent, and business dislocation expenses). Sale of all or part of the Property to a purchaser with the power of eminent domain in the face of the exercise of

the power shall be treated as a taking by condemnation.

12. QUIET ENJOYMENT, TITLE AND AUTHORITY.

Owner covenants and warrants to Crossroads that Owner has full right, power and authority to execute this Lease; it has good and unencumbered title to the Property free and clear of any liens or mortgages, except those disclosed to Crossroads which will not interfere with Crossroads' rights to or use of the Property; the Property constitute a legal lot; and execution and performance of this Lease will not violate any laws, ordinances, covenants, or the provisions of any mortgage, lease, or other agreement binding on Owner.

Owner covenants that, at all times during the term of this Lease, Crossroads' quiet enjoyment of the Property or any part thereof shall not be disturbed as long as Crossroads is not in default beyond any applicable grace or cure period.

13. Liens. Crossroads shall cause all construction to occur lien-free and in compliance with all applicable laws and ordinances. Crossroads will not allow any mechanics' or materialmen's liens to be placed on the Property as a result of any work on the Property by Crossroads or its subtenants and licensees. If any such lien shall at any time be filed as aforesaid, Crossroads may contest the same in good faith; but notwithstanding such contest, Crossroads shall, within forty-five (45) days after Crossroads received notice of the filing thereof, cause such lien to be released of record by payment, bond, order of court of competent jurisdiction or otherwise. The Antenna Facilities shall remain the exclusive property of Crossroads. Crossroads shall have the duty to remove the Antenna Facilities upon termination of this Lease.

14. FENCING. Crossroads, at its expense, may use any and all appropriate means of restricting access to the Antenna Facilities, including, the construction of a fence as approved by the Owner which approval shall not be unreasonably withheld or delayed.

15. MAINTENANCE AND CONDITIONS OF PROPERTY. Crossroads shall, at Crossroads' expense, keep and maintain the Property and all buildings and improvements now or hereafter located thereon in commercially reasonable condition and repair during the term of this Lease and keep and maintain its equipment and other personal property on the Property in good working order, condition and repair. Crossroads shall keep the Property free of debris and anything of a materially dangerous, noxious or offensive nature or which would create a material hazard or undue vibration, heat, noise or interference. Owner may require Crossroads to submit to an annual inspection of its improvements, equipment, fixtures and personal property placed on the Property by Crossroads. As a part of the annual inspection, Crossroads may be required to make reasonable repairs, at its cost, for damages to the Property, pole, equipment or personal property attributable to Crossroads' use. Upon termination of this Lease, Crossroads shall remove Crossroads' equipment, antennas and personal property and the Property shall be returned to Owner to its original condition, normal wear and tear excepted.

16. UTILITIES. Crossroads shall have the right to install utilities, at Crossroads' expense,

and to improve the present utilities on the Property (including, but not limited to the installation of emergency power generators). Crossroads shall be responsible for all such additional utility expense or fee.

17. REPAIR. Crossroads agrees to repair any damage to the Property caused solely by Crossroads in a timely, workmanlike manner from the installation, construction, replacement, repair and operation of the Antenna Facilities, including but not limited to utility access for the same.

18. DEFAULT. Any of the following occurrences, conditions, or acts shall be deemed a "Default" under this Lease:
 - A. if Crossroads fails to pay amounts due under this Lease within ten (10) days of its receipt of written notice that such payments are overdue;
 - B. if either party fails to observe or perform its obligations under this Lease and does not cure such failure within thirty (30) days from its receipt of written notice of breach; or such longer period as may be required to diligently complete a cure commenced within the thirty (30)-day period
 - C. If Crossroads abandons or vacates the Property;
 - D. If Crossroads is adjudicated as bankrupt or makes any assignment for the benefit or creditors.
 - E. In the event of any Default of this Lease by Crossroads, Owner may at any time at its option, after notice, cure the Default of the account of and at the expense of the Crossroads. If Owner is compelled to pay or elects to pay any sum of money or to do any act which will require the payment of any sum of money or is compelled to incur any expense, including reasonable attorneys fees in instituting prosecuting or defending any action to enforce the Owner's rights under this Lease, the sums so paid by Owner, with all interest, costs (including but not limited to actual and reasonable attorneys fees) and damages shall be deemed to be Additional Rent and shall be due from the Crossroads to Owner on the first day of the month following the incurring of the respective expenses.

19. NOTICES. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the following addresses:

If to Owner, to:

If to Crossroads, to:

20. MISCELLANEOUS.
 - a. Owner represents and warrants that Owner has full authority to enter into and sign this Agreement and has good and marketable title to the Owner's Property.

- b. This Agreement supersedes all prior discussions and negotiations and contains all agreements and understandings between the Owner and Crossroads. This Agreement may only be amended in writing signed by all parties. Exhibit "A" is incorporated into this Agreement by reference.
- c. This Agreement may be signed in counterparts by the parties hereto.
- d. The terms and conditions of this Agreement shall extend to and bind the heirs, personal representatives, successors and assigns of Owner and Crossroads.
- e. The prevailing party in any action or proceeding in court to enforce the terms of this Agreement shall be entitled to receive its reasonable attorney's fees and other reasonable enforcement costs and expenses from the non-prevailing party.
- f. Crossroads may assign this Agreement at any time without Owner's consent provided that the same shall not release Crossroads from any of the obligations arising under this Agreement, however, any assignee of this agreement shall also, by separate written agreement acceptable to Owner, agree to be bound by the terms of this agreement.
- g. Notices shall be in writing and sent by United States Mail, postage prepaid, certified or registered with return receipt requested or by any nationally recognized overnight courier service to the address set forth beneath the signature of each party below. Any such notice shall be deemed given when deposited in the United States Mail or delivered to such courier service.
- h. This Agreement shall be construed in accordance with the laws of the state of Kansas.
- i. If any term of this Agreement is found to be void or invalid, such invalidity shall not effect the remaining terms of this Agreement, which shall continue in full force and effect.
- j. Owner and Crossroads each represent that they have not been represented by a real estate broker or other listing agent in this transaction. Each party ("Indemnifying Party") shall indemnify and hold the other party harmless from any claims for commission, fee or other payment by such broker or any other leasing agent claiming to have represented the Indemnifying Party herein.

IN WITNESS WHEREOF, the parties hereto bind themselves to the Agreement on the day and year first written above.

OWNER

City of Osawatomie

By: _____

Print Name: Bret Glendening

Print Title: City Manager

Federal Tax ID No.

CROSSROADS

Crossroads Wireless Holding LLC, a Delaware limited liability company

By: _____

Name:

Title:

7 North McCormick

Oklahoma City, Oklahoma 73127-6620

Copy to:

ACKNOWLEDGMENTS

State of Kansas)
)ss.
County of Miami)

On this ____ day of _____, 2008, before me personally appeared Bret Glendening, the individual that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said individual for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

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

NOTARY PUBLIC in and for the said
county and state

State of Kansas
My commission expires _____

State of)
)ss.
County of)

On this ____ day of _____, 2008, before me, the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared _____ to me known to be an authorized representative of Crossroads Wireless Holdings LLC, Inc., a Delaware limited liability company, the limited liability company that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of Crossroads Wireless Holdings LLC, Inc., a Delaware limited liability company, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute the said instrument.

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

Print or Type Name: _____
Notary Public in and for the State of _____
residing _____
at _____
My appointment _____
expires: _____

EXHIBIT A

to the Site Lease Agreement dated _____, 2008, between the City of Osawatomie, Kansas as Landlord, and Crossroads Wireless Holdings LLC, Inc., a Delaware limited liability company, as Tenant.

Legal Description

The property is legally described as follows:

The north one hundred (100) feet of lots number seven (7) and eight (8) in block number one (1) of Caffery & Sheldon's addition to the City of Osawatomie, Miami County, Kansas.

(Published in the Osawatome Graphic, March 5, 2008) 1t

ORDINANCE NO. _____

AN ORDINANCE REGULATING PROPERTY MAINTENANCE IN THE CITY OF OSAWATOMIE AND ITS GROWTH AREA INCORPORATING BY REFERENCE THE 2006 EDITION OF THE "INTERNATIONAL PROPERTY MAINTENANCE CODE" (IPMC), PROVIDING FOR CERTAIN ADDITIONS, DELETIONS AND AMENDMENTS TO THE 2006 IPMC, ADOPTING CERTAIN ADDITIONAL APPENDICES TO THE 2006 INTERNATIONAL BUILDING CODE AND THE 2006 INTERNATIONAL ONE AND TWO FAMILY RESIDENTIAL CODE, AND PROVIDING A PENALTY FOR VIOLATING PROVISIONS OF THE CITY'S BUILDING CODES.

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

SECTION ONE: INCORPORATION OF INTERNATIONAL PROPERTY MAINTENANCE CODE; AMENDMENTS AND DELETIONS. There is incorporated by reference, for the purpose of adopting regulations, provisions, terms, and specifications, for the control of property maintenance within the City and growth areas of Osawatome; the 2006 "International Property Maintenance Code", dated January 2006, as published by the International Code Council, Inc., excepting only such parts or portions thereof as are specifically deleted or amended and including such new and additional provisions added to said code herein after referred to as the 2006 Property Maintenance Code. Not less than one (1) copy of said 2006 Property Maintenance Code shall be marked "Official Copy as Adopted by Ordinance No.____", to which shall be attached a copy of the ordinance codified herein, and filed with the City Clerk to be open to inspection and available to the public at all reasonable business hours.

SECTION TWO: ADDITIONS, DELETIONS AND AMENDMENTS TO THE 2006 INTERNATIONAL PROPERTY MAINTENANCE CODE. The following additions, deletions and amendments to the 2006 International Property Maintenance Code are hereby made:

A. Additions to the 2006 IPMC:

- a. Section 106.4 Violation penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense. **Per day fines for violating any section of this code shall be not less than \$50 and not more than \$100.**
- b. Section 111.1 Application for appeal. Any person directly affected by a decision of the code official or a notice or order issued under this code shall

have the right to appeal to the **Building Code** Board of Appeals, provided that a written application for appeal is filed within 20 days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. **Applications for appeal shall be accompanied by a non-refundable fee of \$50.**

B. Deletions to the 2006 IPMC:

- a. Section 304.14 – Insect Screens is hereby deleted. The relevant section(s) of Osawatomie’s building codes shall take precedence.
- b. Section 306 – Handrails and Guardrails is hereby deleted. The relevant section(s) of Osawatomie’s building codes shall take precedence.
- c. Section 404.6 – Efficiency Unit is hereby deleted. The relevant section(s) of Osawatomie’s building codes shall take precedence.
- d. Section 602.4 – Occupiable work spaces is hereby deleted. The relevant section(s) of Osawatomie’s building codes shall take precedence.
- e. Section 704 – Fire Protection Systems is hereby deleted. The relevant section(s) of Osawatomie’s building codes shall take precedence.

C. Amendments to the 2006 IPMC:

- a. Section 101.1 – Title. These regulations shall be known as the “Property Maintenance Code of the **City of Osawatomie**”, hereinafter referred to as “this code.”
- b. Section 302.4 Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of **twelve inches (12”)**. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annuals plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.
Upon failure of the owner of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner responsible for the property.
- c. Section 602.3 Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall

supply heat during the period **from January 1 to December 31** to maintain a temperature of not less than 68 degrees Fahrenheit in all habitable rooms, bathrooms, and toilet rooms.

- d. Section 702.4 – Emergency Escape Openings is hereby amended to read: Section 702.4 Emergency Escape Openings. Required emergency escape openings shall be maintained. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools.

SECTION THREE: INCORPORATION OF CERTAIN APPENDICES OF THE 2006 INTERNATIONAL BUILDING CODE AND INTERNATIONAL ONE AND TWO FAMILY RESIDENTIAL CODE. The following Appendices to the 2006 Codes as adopted in Ordinance 3622, are hereby adopted and incorporated herein by reference:

A. International Building Codes
(1) Appendix H: Signs

B. International One & Two Family Residential Codes
(1) Appendix L: Permit Fees

SECTION FOUR: PENALTY FOR VIOLATING PROVISIONS OF THE CITY'S BUILDING CODES. Whenever any individual, firm, corporation or other entity is found to be in violation of the city's building codes as adopted herein and by Ordinance No. 3622 and amendments thereto, and the individual, firm, corporation or other entity refuses to make necessary corrections or modifications as directed by the Chief Building Inspector or their designee, the individual, firm, corporation or other entity shall be fined no more than \$500 per day, for each day the violation is allowed to continue. The Municipal Court Judge shall be responsible for determining the severity of the violation, taking into consideration any testimony or other recommendation(s), written or otherwise, of the Chief Building Inspector or their designee.

SECTION FIVE: SEVERABILITY. In the event any clause, sentence, paragraph, or section of this ordinance or any application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this ordinance and the application thereof to other persons or circumstances, but shall be confined in its operation to the clause, sentence, paragraph, or section thereof directly involved in the controversy in which judgment shall have been rendered and the persons or circumstances involved. It is hereby declared to be the intent that this ordinance and the 2006 Building Codes and the 2006 IPMC would have been adopted had such provisions not been included.

SECTION SIX: INTERACTION BETWEEN THE 2006 BUILDING CODES, THE 2006 PROPERTY MAINTENANCE CODE AND THE CITY OF OSAWATOMIE'S NUISANCE ORDINANCE No. 3541. In the event any conflict exists between the 2006 Property Maintenance Code and the 2006 Building Codes as adopted by Ordinance No. 3622, the 2006 Building Codes shall take precedence. When the 2006 Property Maintenance Code is in conflict with the City's Nuisance Code as adopted by Ordinance No. 3541, the 2006 Property Maintenance Code shall take precedence.

SECTION SEVEN: EFFECTIVE DATE. This Ordinance shall take effect and be in force from and after its publication in the City's official newspaper.

PASSED AND APPROVED by the Governing Body of the City of Osawatomie, Kansas, this 28th day of February, 2008.

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

February 25, 2008

To: City Manager

Re: Bids for Dump Truck Body and Hydraulic System

We have received three bids from dealers for the purchase and installation of a dump body with hydraulic system on our new cab/chasis. Breakdown is as follows:

Knaphiede Truck Equipment Center
Bid Price- \$17,613.00
Roll Tarp 1004.00
Total Price \$18,617.00 delivered

American Equipment Company
Bid Price- \$17,998.00
Roll Tarp 1098.00
Total Price \$19,096.00

Kranz of Kansas City
Bid Price- \$18,143.00
Roll Tarp 1586.00
Total Price \$19,729.00

It is my suggestion that the bid from Knaphiede be accepted as the low bid for the purchase. Delivery time is expected to be 60 days on the bed. Thank you for your assistance in this matter.

Respectfully,

Director of Public Works