

## **PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT is made in Johnson County, Kansas, by and between the City of Olathe, Kansas, hereinafter "City," and George Butler Associates, Inc., 9801 Renner Blvd., Lenexa, KS, hereinafter "Consultant" (collectively, the "Parties").

City intends to construct an improvement project (hereinafter called the "Project") in Olathe, Kansas, described as follows:

### **Kansas Avenue Streetscape** **Project No. 3-P-001-22**

The Project is more fully described in **Exhibit A** (attached hereto and incorporated herein by reference).

By executing this Agreement, Consultant represents to City that Consultant is professionally qualified to perform services on this Project and is licensed to practice engineering by all public entities having jurisdiction over Consultant and the Project.

### **SECTION I - DEFINITIONS**

As used in this Agreement, the following terms will have the following meanings unless otherwise stated or reasonably required by the Agreement, and other forms of any defined words will have a meaning parallel thereto. All terms defined in the most recent version of the Engineers Joint Contract Documents Committee (EJCDC) Standard General Conditions of the Construction Contract (the "General Conditions") adopted by City will have the same meaning when used in this Agreement unless otherwise specifically stated or in the case of a conflict in which case the definition used in this Agreement will prevail in the interpretation of this Agreement.

**"Additional Services"** means services in addition to those listed in **Exhibit B**.

**"City"** means the City of Olathe, Kansas, a municipal corporation duly organized under the laws of the State of Kansas, its employees, appointees, and officers.

**"Consultant"** means the company or individual identified above, herein, and its affiliates, subsidiaries, employees, agents, and assigns.

**"Construction Cost"** means and includes but is not limited to the cost of the entire construction of the Project, including all supervision, materials, supplies, labor, tools, equipment, transportation and/or other facilities furnished, used or consumed in connection with the Project, without deduction on account of penalties, liquidated damages or other amounts withheld from payment to a construction contractor or contractors, but such cost will

not include Consultant's fee, or any other payments to Consultant as set forth herein, and will not include cost of land or rights-of-way and easement acquisition.

"Contract Documents" means those documents so identified in the Agreement for Construction of this Project including all Consultant Documents.

"Consultant Documents" means all documents required or reasonably implied by the nature of the scope of services to be performed by Consultant hereunder, including, but not limited to, plans, specifications, drawings, tracings, designs, calculations, sketches, models and reports.

"Professional Services" means the professional services, labor, materials, supplies, testing, surveying, title work, inspection, if applicable, and all other acts, duties, and services required of Consultant under this Agreement including any Additional Services.

"Project" is as above described.

"Project Manager" means the person employed and designated by City to act as the City's representative for the Project.

"Right-of-Way" and "Easements" means and includes the public street, highway, or road right-of-way and any other land dedicated to or otherwise subject to public use.

"Subsurface Borings and Testing" means borings, probings and subsurface explorations, laboratory tests and inspections of samples, materials and equipment; appropriate professional interpretations of all the foregoing.

"Traffic Control Plan" means a specific plan that includes but is not limited to signing; application and removal of pavement markings; construction sequencing and scheduling; methods and devices for delineation and channelization; placement and maintenance of devices; traffic regulation; and inspection made in accordance with the City's technical specifications.

## **SECTION II - COMPENSATION**

### **A. FEES & EXPENSES**

1. **Total Fee:** City agrees to pay Consultant an amount not to exceed One Hundred Eighty Four Thousand Seven Hundred and Eighty Two Dollars (\$184,782), including reimbursable expenses as described herein. The fee is based on the performance of the scope of services outlined in this Agreement, including **Exhibit B** attached hereto and incorporated by reference, and will be billed by Consultant using hourly rates and equipment charges as set forth in **Exhibit C** attached hereto and incorporated by reference, plus reimbursable expenses as set forth below. All bills will be submitted to City monthly as provided herein.
2. **Reimbursable Expenses:** Consultant will be reimbursed at the actual cost, not to exceed a total expense of Five Hundred and Twelve Dollars (\$512) for the following expenses related only to the Project: (a) expense of transportation in connection with the Project; (b) expenses in connection with authorized out-of-town travel; (c) long-distance communications; (d) expenses of printing and reproductions; (e) postage and facsimile transmissions; (f) expenses of renderings and models requested by City, and (g) other costs as authorized by City in writing as set forth herein.

### **B. SERVICES BEYOND THE SCOPE OF SERVICES**

1. **Change in Scope:** For substantial modifications in authorized Project scope, substantial modifications of drawings, or substantial modifications to specifications previously accepted by City, when requested by City and through no fault of Consultant, Consultant will be compensated for time and expense required to incorporate such modifications at Consultant's standard hourly rates per **Exhibit C**; provided, however, that any increase in fee or extension of time for Consultant to complete the services must be approved by City in writing. Consultant will correct or revise any errors or deficiencies in its designs, drawings or specifications without additional compensation when due to Consultant's negligence or other actionable fault.
2. **Additional Services:** Consultant will provide Additional Services authorized by a supplemental agreement executed in writing by the Parties. Prior to commencing any Additional Services, Consultant must submit a proposal outlining the Additional Services to be provided, estimation of total hours, completion date, and a maximum fee based upon the hourly rate schedule attached hereto as **Exhibit C**. Such Additional Services may include, but are not limited to, making computations and determinations of special assessments, making special trips requested by City other than those required by Section III, preparing changes in plans ordered by City or made necessary by causes beyond the control of Consultant, providing services necessitated in the event the Professional Services are suspended or abandoned, if such suspension or abandonment is not the result of a breach of this Agreement by Consultant, and providing any other

special services not otherwise covered by this Agreement which may be requested by City to complete the Project. Payment to Consultant as compensation for Additional Services will be in accordance with the hourly rate schedule attached as **Exhibit C**.

3. Special Services: Consultant may be called on to serve as a consultant or witness in any litigation, arbitration, legal or administrative proceeding arising out of this Project. If Consultant is requested, in writing, by City, to appear as a witness, it will be paid its hourly fee as reflected on the hourly rate schedule attached hereto as **Exhibit C**. Consultant will not be paid extra by City if Consultant's appearance is to defend its Professional Services.

#### **C. BILLING & PAYMENT**

1. Billing: Consultant may bill City monthly for completed Professional Services, including reimbursable expenses. The bill submitted by Consultant must itemize the Professional Services and reimbursable expenses for which payment is requested. City agrees to pay Consultant within thirty (30) days of approval by the Governing Body or other agent of City in accordance with the City's Procurement Policy.
2. City's Right to Withhold Payment: In the event City becomes credibly informed that any representations of Consultant provided in its monthly billing are wholly or partially inaccurate, City may withhold payment of sums then or in the future otherwise due to Consultant until the inaccuracy and the cause thereof is corrected to City's reasonable satisfaction. In the event City questions some element of an invoice, that fact will be made known to Consultant immediately. Consultant will help effect resolution and transmit a revised invoice, if necessary. Amounts not questioned by City will be paid to Consultant in accordance with the contract payment procedures.
3. Progress Reports: A progress report must be submitted with each monthly pay request indicating the percentage of Professional Services completed to date. This report will serve as support for payment to Consultant.

#### **D. SCHEDULE**

All services must be completed on or before November 1, 2022. If circumstances occur that are out of control of the Consultant, a revised schedule will be discussed and agreed on by both the City and Consultant.

### **SECTION III - RESPONSIBILITIES OF CONSULTANT**

Consultant will perform the Professional Services in all phases of the Project to which this Agreement applies as herein provided and which are required for the construction of the Project as described below:

**A. PRELIMINARY DESIGN PHASE**

1. Services: The Professional Services to be provided during this phase are set out in **Exhibits B and D**, attached hereto and incorporated by reference.
2. Preliminary Design Documents: Consultant will furnish City copies of the above preliminary design documents per the City of Olathe Technical Specifications and Design Criteria for Public Improvements, unless otherwise noted in **Exhibit B**.
3. Preliminary Cost Estimate: Consultant will furnish City an estimate of probable Construction Cost based on the preliminary design and at subsequent design review submittals as specifically requested by City. Consultant's estimate of probable Construction Cost is to be made based on Consultant's experience and qualifications and represent Consultant's best judgment as an experienced and qualified design professional, familiar with the construction industry.
4. Budget: Consultant will immediately advise City if, in its opinion, the amount budgeted for construction is not sufficient to adequately design and construct the improvement as requested.
5. Permits and Right-of-Way: These Professional Services will include preparation of plans, exhibits and applications required for securing approvals, licenses, or permits from governmental or corporate agencies or authorities, and providing City with documents for right-of-way and/or easement acquisition necessary for the construction of the improvement, unless eminent domain proceedings are required to secure the right-of-way and/or easements. Consultant will comply with the conditions set out in the Land Acquisition Checklist for Consultant Projects as in **Exhibit D**. City will be responsible for acquiring the necessary Right-of-Way or Easements, unless otherwise agreed upon between City and Consultant. A property map of the areas needed to be acquired, and other necessary information related to such acquisition, will be provided by Consultant with copies of the preliminary construction plans to the Project Manager. It is recognized that such information cannot be provided for some tracts until the completion of the final construction plans. Consultant will also provide any necessary ownership and encumbrance (O&E) documents.

**B. FINAL DESIGN PHASE**

1. Services: The Professional Services to be provided during this phase are set out in **Exhibit B** attached hereto and incorporated by reference.
2. Final Design Documents: Consultant will furnish City copies of the final design plans per

the City of Olathe Technical Specifications and Design Criteria for Public Improvements unless otherwise noted in **Exhibit B**.

3. Contract Documents: Consultant will prepare for City all Project contract agreement forms, final design plans, general conditions and supplementary conditions, bid forms, invitations to bid and instructions to bidders, and assist in the preparation of other related documents requested by City, unless such documents are provided by City.
4. Final Cost Estimate: Consultant will furnish City an estimate of probable Construction Cost based on final design. This estimate is commonly known as the "Engineer's Estimate" and will be used as the basis for construction contract award. The Engineer's Estimate must be sealed and provided by a professional engineer licensed by the State of Kansas. Since Consultant has no control over the cost of labor, materials, or equipment furnished by others not under contract to Consultant, or over the resources provided by others not under contract to Consultant to meet Project schedules, Consultant's opinion of probable costs and of Project schedules for construction may be made based on experience and qualifications as a professional engineer. Consultant does not guarantee that proposals, bids, or actual Project costs will not vary from Consultant's opinions of probable cost or that actual schedules will not vary from Consultant's projected schedules.
5. Budget: Consultant will immediately advise City if, in its opinion, the amount budgeted for the Project is not sufficient to cover all Project costs, including but not limited to, construction, right-of-way and easement acquisition, inspection, and testing.

**C. BIDDING PHASE**

1. Services: The Professional Services to be provided during this phase are set out in **Exhibit B**, attached hereto and incorporated by reference.
2. Bids Exceeding Cost Estimate: If all bids exceed Consultant's Final Cost Estimate, Consultant, at the request of City and for no additional cost, will prepare a report for City identifying why all the bids exceed the estimate. City has four (4) options if all bids exceed Consultant's estimate. City may: (1) give written approval of an increase in the Project cost up to a maximum of 7% above the authorized total; (2) authorize rebidding of the Project; (3) terminate the Project and this Agreement; or (4) cooperate in revising the Project scope or specifications, or both, as necessary to reduce the construction cost.

**D. CONSTRUCTION PHASE**

1. In-House Administration and Inspection: It is understood that City will provide full-time, in-house administration and inspection of the construction Project and the work of the

construction contractor at City's expense, unless otherwise agreed upon in writing by the Parties. Consultant will also check shop drawings and assist City in making interpretation of plans and specifications and reviewing pay estimates for making payments to the construction contractor.

2. Services: The Professional Services provided during this phase are set out in **Exhibit B**, both attached hereto and incorporated by reference.
3. Additional Drawings: If during construction, situations arise which require additional drawings or details, Consultant agrees to provide such additional drawings or details at no cost to City when the additional drawings or details are required to correct Consultant's errors or omissions or clarify Consultant's intent in the original design and preparation of construction drawings when clarification is required due to insufficient detail for construction. If such situations occur through no fault of Consultant, or are beyond Consultant's control, both Parties agree to negotiate an equitable payment to Consultant for Consultant's Professional Services rendered, which will be accomplished through a Change Order.
4. Staking: Unless otherwise provided, staking must be included in the bid specifications to be performed by the construction contractor.
5. Notice of Defects: If, based on Consultant's involvement during the construction phase, Consultant observes or otherwise becomes aware of any defect in the work, Consultant will give prompt written notice to City of such defects and their approximate location on the Project. However, Consultant will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions, inspections and programs in connection with the work, since these are solely the construction contractor's responsibility under the contract for construction to be entered into with City. Consultant will not be responsible for the construction contractor's schedules or failure to carry out the work in accordance with the Contract Documents. Consultant will not have control over or charge of acts or omissions of any construction contractor, any of a construction contractor's subcontractors, or any of the agents or employees of a construction contractor selected by City to construct the Project.
6. Shop Drawings: Consultant will review and take appropriate action on the chosen construction contractor's shop drawings and samples, and the results of tests and inspections and other data which each construction contractor is required to submit for the purposes of reviewing for compliance with the design concept and conformance with the requirements of the Contract Documents and the City of Olathe Technical Specifications and Design Criteria for Public Improvements.

## **E. GENERAL DUTIES AND RESPONSIBILITIES**

1. Personnel: Consultant will assign only qualified personnel to perform any service concerning the Project as identified in Consultant's response to the Request for Proposals. At the time of execution of this Agreement, the Parties anticipate that the following individual will perform as the principal on this Project: John Cooper, P.E. As principal on this Project, this person will be the primary contact with the City's Project Manager and will have authority to bind Consultant. So long as the individual named above remains actively employed or retained by Consultant, such individual will perform the function of principal on this Project. For the Professional Services rendered hereunder, Consultant, and any of its subcontractors, will employ engineers, architects, landscape architects, and surveyors licensed by the Kansas State Board of Technical Professions.
2. Service By and Payment to Others: Any services authorized in writing by City and performed by any party other than Consultant or its subconsultants (a "Third Party") in connection with the proposed Project will be contracted for and paid for by City. In addition to payments for the Third Party's professional services, this may also include necessary permits, licenses, ownership certifications, materials testing, advertising costs, and other special tests or other services required or requested by City or Consultant which are not defined within the scope of services of Consultant as set forth herein. Fees for such extra services will be subject to negotiation between City and the Third Party. Fees will be approved by City in writing prior to the execution of any extra services. Although Consultant may assist City in procuring such services of Third Parties, Consultant will in no way be liable to either City or such Third Parties in any manner whatsoever for such services or for payment thereof.
3. Subcontracting or Assignment of Services: Consultant may not subcontract or assign any of the Professional Services to be performed under this Agreement without first obtaining the written approval of City unless included in the original scope of services. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge Consultant from any obligation under this Agreement. Any person or firm proposed for subcontracting Professional Services under this Agreement will maintain throughout the duration of the Agreement, insurance as provided in Section V.D.2. herein, and will additionally maintain Professional Liability insurance in a minimum amount of \$1,000,000 per claim and in the aggregate and provide City with an insurance certificate showing the insurance limits provided by Consultant's subconsultant. Any services completed by a City-approved subconsultant of Consultant pursuant to this Agreement may not be increased more than ten percent (10%) over the actual cost of the services.
4. Endorsement: Consultant or subconsultant must sign and seal all final plans, specifications, estimates and engineering data furnished by Consultant. Any review or



approval by City of any documents prepared by Consultant, including but not limited to the plans and specifications, will be solely for determining whether such documents are consistent with the City of Olathe Technical Specifications and Design Criteria for Public Improvements and may not be construed as City assuming responsibility for the accuracy, adequacy, fitness, suitability and coordination of Consultant's services and deliverables. No review of such documents will relieve Consultant of its responsibility for the accuracy, adequacy, fitness, suitability and coordination of its services and deliverables.

5. Inspection of Documents: Consultant must maintain all Project records for inspection by City at reasonable times and places upon written request during the contract period and for three (3) years from the date of final payment.
6. Standard of Care: Consultant will exercise the same degree of care, skill, and diligence in the performance of the Professional Services as is ordinarily possessed and exercised by a professional engineer under similar circumstances. If Consultant fails to meet the foregoing standard, Consultant will perform at its own cost, and without reimbursement from City, the Professional Services necessary to correct errors and omissions which are caused by Consultant's negligence.

#### **SECTION IV - CITY OF OLATHE'S RESPONSIBILITIES**

##### **A. COMMUNICATION**

City will provide to Consultant information and criteria regarding City's requirements for the Project; examine and timely respond to Consultant's submissions; and give written notice to Consultant, who will respond promptly, whenever City observes or otherwise becomes aware of any defect in the Professional Services.

##### **B. ACCESS**

City will provide access for Consultant to enter public and private property related to the Project and performance of Consultant's obligations under this Agreement.

##### **C. DUTIES**

City will perform the various duties and services in all phases of the Project which are outlined and designated in **Exhibit B** as City's responsibility.

##### **D. PROGRAM AND BUDGET**

City will provide all relevant information reasonably required for Consultant to perform its obligations herein, including but not limited to City's objectives, schedule, constraints,

budget with reasonable contingencies, and other necessary design criteria for the Project.

**E. ADMINISTRATIVE SERVICES**

City will furnish all City-related legal, accounting, insurance and audit services as may be necessary at any time for completion of the Project. However, in no event will any City-related legal, accounting, insurance and or audit services be provided on behalf of Consultant, nor will Consultant serve any other role than as an independent contractor of City.

**F. BOND FORMS**

City will furnish all bond forms required for the Project.

**G. PROJECT REPRESENTATIVE**

City will designate a Project Manager to represent City in coordinating this Project with Consultant. The City's Project Manager will have the authority to transmit instructions and decisions of City.

**SECTION V - GENERAL PROVISIONS**

**A. TERMINATION**

1. Notice: City reserves the right to terminate this Agreement for either cause (due to Consultant's failure to substantially perform its obligations hereunder) or for its convenience and without cause or default on the part of Consultant, by providing fifteen (15) days' written notice of such termination to Consultant. Upon receipt of such notice from City, Consultant will, at City's option as contained in the notice: (1) immediately cease all Professional Services; or (2) meet with City and, subject to City's approval, determine what Professional Services will be required of Consultant in order to bring the Project to a reasonable termination in accordance with the request of City. Consultant will also provide to City copies of all drawings and documents completed or partially completed at the date of termination for which Consultant has been fully paid. If City defaults on its obligations under this Agreement, (due to City's failure to substantially perform its obligations under this Agreement), Consultant must notify City by written notice of its intent to terminate and City will have fifteen (15) days from the date of the notice to cure or to submit a plan for cure acceptable to Consultant. In no event may Consultant terminate the contract solely for its convenience without cause.

Address for Notice:

City of Olathe  
Attn: Nico Estrada-Stephen, PE  
100 E. Santa Fe  
P.O. Box 768  
Olathe, KS 66051-0768

George Butler Associates, Inc.  
Attn: John Cooper, PE  
9801 Renner Blvd. Ste. 300  
Lenexa, KS 66219

2. Compensation for Convenience Termination: If City terminates for its convenience as provided herein, City will compensate Consultant for all Professional Services completed and accepted and reimbursable expenses incurred to the date of its receipt of the termination notice and any additional Professional Services and reimbursable expenses requested by City to bring the Project to reasonable termination. Compensation will not include anticipatory profit or consequential damages, neither of which will be allowed.
3. Compensation for Cause Termination: If City terminates for cause or default on the part of Consultant, City will compensate Consultant for the reasonable cost of Professional Services and reimbursable expenses completed and accepted to date of its receipt of the termination notice. Compensation will not include anticipatory profit or consequential damages, neither of which will be allowed. City also retains all its rights and remedies against Consultant including but not limited to its rights to sue for damages, interest and attorney fees.
4. Incomplete Documents: Neither Consultant nor its subcontractors will be responsible for errors or omissions in documents which are incomplete because of an early termination under this Section, or Consultant having been deprived of the opportunity to complete such documents and prepare them to be ready for construction.
5. Termination for Lack of Funds: If, for whatever reason, adequate funding is not made available to City to support or justify continuation of the level of Professional Services to be provided by Consultant under this Agreement, City may terminate or reduce the amount of Professional Services to be provided by Consultant under this Agreement. In such event, City will notify Consultant in writing at least thirty (30) days in advance of such termination or reduction of Professional Services for lack of funds.

**B. DISPUTE RESOLUTION**

City and Consultant agree that disputes relative to the Project will first be addressed by negotiations between the Parties. If direct negotiations fail to resolve the dispute, the Party initiating the claim that is the basis for the dispute may take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute, Consultant will proceed with the Professional Services as per this Agreement as if no dispute existed, and City will continue to make payment for Consultant's completed Professional Services; and provided

further that no dispute will be submitted to arbitration without both Parties' express written consent.

#### **C. OWNERSHIP OF CONSULTANT DOCUMENTS**

Consultant will provide City a copy of all final Consultant Documents, including but not limited to prints, reproductions, reports, plans, specifications and related documents, which will become the property of City, if Consultant's copyrighted instruments will remain in the ownership of Consultant if Consultant, at Consultant's sole discretion, may so identify them by appropriate markings. If Consultant is paid in full for its Professional Services, then City may subsequently reuse these final documents without any additional compensation or agreement of Consultant. However, such reuse without written verification or adaptation by Consultant for the specific purpose intended by City will be at City's sole risk and without liability or legal exposure to Consultant. City does not take any responsibility for the reuse of documents by others.

#### **D. INSURANCE**

1. General: Consultant will maintain, throughout the duration of this Agreement, insurance (on an occurrence basis unless otherwise agreed to) of such types and in such amounts as required in **Exhibit E (City of Olathe Insurance Requirements)**. Professional Liability may be written on a "claims made" basis. Consultant will provide certificates of insurance and renewals thereof on forms acceptable to City (**Exhibit F – Certificate of Insurance**). Consultant is required to promptly notify City of a material change or cancellation of any policy listed on the Certificate.
2. Subconsultant's Insurance: If a part of the Professional Services under this Agreement is to be sublet, Consultant will either (a) cover all subconsultants in its insurance policies, or (b) require each subconsultant not so covered to secure insurance which will protect subconsultant against all applicable hazards or risks of loss in the minimum amounts designated herein. If Consultant selects option (b), then Consultant agrees to provide the City's Risk Manager a certificate of insurance acceptable to the Risk Manager at least seven (7) days prior to allowing the subconsultant to perform any services on this Project. Consultant agrees that any subconsultant providing services on said Project without providing a certificate of insurance acceptable to the City's Risk Manager will immediately cease all services on said Project and will assume all financial risk associated with such failure thereto.

#### **E. INDEMNITY**

1. Loss: For purposes of indemnification requirements, the term "Loss" means any and all loss, damage, liability or expense, of any nature whatsoever, whether incurred as a judgment, settlement, penalty, fine or otherwise (including reasonable attorney's fees

and the cost of defense), in connection with any action, proceeding, demand or claim for injury, including death, to any person or persons or damages to or loss of, or loss of the use of, property of any person, firm or corporation, including the parties hereto, which arise out of or are connected with the performance of this Agreement.

2. Indemnification and Hold Harmless: For purposes of this Agreement, Consultant agrees to indemnify and hold harmless City and its agents from any and all Loss where Loss is caused or incurred as a result of the intentional misconduct, recklessness, negligence, or other actionable fault of Consultant or its subcontractors.
3. Comparative Fault & Contributory Negligence: It is a specific element of consideration of this Agreement that the indemnity in Section V.E.2 will apply notwithstanding the joint, concurring or contributory or comparative fault or negligence of City or any Third Party and, further notwithstanding any theory of law including, but not limited to, a characterization of City's or any Third Party's joint, concurring or contributory or comparative fault or negligence as either passive or active in nature; provided, however, that Consultant's obligation hereunder will not include amounts attributable to the fault or negligence of City or any Third Party for whom Consultant is not responsible.
4. Damage Limitations: The indemnification obligation contained in this Agreement will not be limited by any limitation on amount or type of damages, compensation or benefits payable by or for Consultant or its subconsultants, by the minimum insurance required by this Agreement, nor under workers' compensation acts, disability benefit acts, or other employee benefit acts.
5. Negligence by the City: Consultant is not required hereunder to defend City or its agents from assertions that they were negligent, nor to indemnify and hold them harmless from liability based on City's negligence.

**F. AFFIRMATIVE ACTION/OTHER LAWS**

1. Kansas Act Against Discrimination: During the performance of this Agreement, Consultant agrees that:
  - a. Consultant will observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and will not discriminate against any person in the performance of work under the present contract because of race, religion, color, gender, disability, national origin, ancestry, or age;
  - b. in all solicitations or advertisements for employees, Consultant will include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("commission");

- c. if Consultant fails to comply with the way Consultant reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, Consultant will be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by City without penalty;
  - d. if Consultant is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final, Consultant will be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by the contracting agency; and
  - e. Consultant will include the provisions of subsections a. through d. in every subcontract or purchase order so that such provisions will be binding upon such subconsultant or vendor.
- 2. Exceptions to Applicability: The provisions of this Section will not apply to a contract entered into by City with Consultant if (a) Consultant employs fewer than four (4) employees during the term of such contract; or (b) Consultant's contract with City totals Ten Thousand Dollars (\$10,000) or less in aggregate.
  - 3. Kansas Age Discrimination in Employment Act: Consultant further agrees and acknowledges that it will abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 et seq.) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) as well as all other federal, state and local laws, ordinances and regulations applicable to this Project and to furnish any certification required by any federal, state or local governmental agency in connection therewith.
  - 4. Kansas Fairness in Public Construction Contract Act: The Parties agree and acknowledge that the services provided under this Agreement are within the scope of the Kansas Fairness in Public Construction Contract Act (K.S.A. 16-1901 et seq.) and that no provision of this Agreement waives, alters, or supersedes any provisions of said Act.

#### **G. ENTIRE AGREEMENT**

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

#### **H. APPLICABLE LAW, JURISDICTION, AND VENUE**

Interpretation of this Agreement and disputes arising out of or related to this

Agreement will be subject to and governed by the laws of the State of Kansas, excluding Kansas' choice-of-law principles. Jurisdiction and venue for any suit arising out of or related to this Agreement will be in the District Court of Johnson County, Kansas.

**I. NO THIRD-PARTY BENEFICIARIES**

Nothing contained herein will create a contractual relationship with, or any rights in favor of, any Third Party.

**J. INDEPENDENT CONTRACTOR**

Consultant is an independent contractor and not an agent or employee of City.

**K. DELIVERABLES**

1. Project Drawings: Project drawings which are developed by Consultant using a Computer Aided Drafting (CAD) System will be made available to City per the City of Olathe Technical Specifications and Design Criteria for Public Improvements. However, due to the potential that the information set forth on the electronic media could be modified by City, or other City consultants, unintentionally or otherwise, Consultant will remove all indices of its ownership, professional corporation name, seal, and/or involvement from each electronic display. If City provides such electronic media to others for any purpose, City will require the electronic media to be returned to City upon completion of such use. City recognizes that use of such electronic media will be at City's sole risk and without any liability risk or legal exposure by Consultant.
2. Project Documentation: All documentation provided City other than Project drawings will be furnished in either Microsoft Word file format, pdf format, or Microsoft Excel.
3. Conformed To Construction Drawings ("As Built" Drawings): Following construction, City and/or construction contractor will provide copies of changes and alterations made in the field during construction to Consultant to provide Conformed To Construction Drawings per the City of Olathe Technical Specifications and Design Criteria for Public Improvements. Consultant may rely on the information provided by City in preparing such documents, subject to the professional standard of care required by this Agreement.

**L. COVENANT AGAINST CONTINGENT FEES**

Consultant represents that it has not employed or retained any company or person, other than a bona fide employee working for Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide

employee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this representation, City may terminate this Agreement without liability or may, in its discretion, deduct from the Total Fee or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

**M. COMPLIANCE WITH LAWS**

Consultant will abide by all applicable federal, state and local laws, ordinances and regulations applicable to the performance of Professional Services at the time the Professional Services are performed. Consultant will secure all occupational and professional licenses and permits from public and private sources necessary for the fulfillment of the obligations under this Agreement, and will provide City a copy of its certificate of good standing to conduct business in the State of Kansas with this Agreement (**Exhibit G**).

**N. TITLES, SUBHEADS AND CAPITALIZATION**

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

**O. SEVERABILITY CLAUSE**

If any provision of this Agreement is determined to be void, invalid, unenforceable or illegal for whatever reason, such provision(s) will be null and void; provided, however, that the remaining provisions of this Agreement will be unaffected and will continue to be valid and enforceable.

**P. AMBIGUITY CLAUSE AND HIERARCHY OF INTERPRETATION**

If any ambiguity, inconsistency or conflict arises in the interpretation of this Agreement, the same will be resolved by reference first to the terms and conditions of this Agreement, and any exhibits attached hereto or incorporated by reference as noted below. In the event of any conflict or inconsistency between this Agreement and its exhibits, the following hierarchy of interpretation will apply:

1. This Agreement;
2. Scope of Services (Exhibit B);
3. City's Request for Proposals/Request for Qualifications (incorporated by reference);
4. Consultant's Response to RFP/RFQ (incorporated by reference).

***[The remainder of this page is intentionally left blank.]***



**Q. EXECUTION OF CONTRACT**

The parties hereto have caused this Agreement to be executed this \_\_\_\_ day of \_\_\_\_\_ 202\_\_.

**CITY OF OLATHE, KANSAS**

By: \_\_\_\_\_  
John Bacon, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(Seal)

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney/Deputy City Attorney/  
Assistant City Attorney

George Butler Associates, Inc.

By:  \_\_\_\_\_

\_\_\_\_\_  
John Cooper, PE  
Principal  
9801 Renner Blvd. Ste 300  
Lenexa, KS 66219

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OF EXHIBITS**

<b>Exhibit A</b>	<b>Description of Project &amp; Map</b>
<b>Exhibit B</b>	<b>Scope of Services</b>
<b>Exhibit C</b>	<b>Fee &amp; Rate Schedule</b>
<b>Exhibit D</b>	<b>Land Acquisition Checklist for Consultant Projects</b>
<b>Exhibit E</b>	<b>City of Olathe Insurance Requirements</b>
<b>Exhibit F</b>	<b>Certificate of Insurance</b>
<b>Exhibit G</b>	<b>Certificate of Good Standing to Conduct Business in Kansas</b>

## EXHIBIT A

### Description of Project & Map

This agreement provides the design services to improve Kansas Avenue, from just south of Cedar Street to Santa Fe Street (135<sup>th</sup> Street). Improvements will include a variable mill and overlay, sidewalk, cycle track, signal modifications and lighting. For detailed scope, see Exhibit B.



**EXHIBIT B**  
**Scope of Services**

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CLASSIFICATION	PRI	SRASC	ASC	Proj Lead	Senior AES	Project AES	Design AES	Staff AES	SRST	ST3	SRPLS	PLS	SP2	CLI	TOTAL	GPS	Mileage	Mileage	Additional	TOTAL	TOTAL
	\$276	\$232	\$208	\$180	\$168	\$148	\$130	\$118	\$134	\$112	\$152	\$140	\$192	\$98	HOURS	Units	Personal	Survey	Expenses	EXPENSES	COST
Final Design																					
Project Management																					
Provide General Project Management, Supervision, and Coordination	2		6			24									32					\$0.00	\$5,352.00
Attend design meetings with City (2 Meetings)			2	2		4	2								10					\$0.00	\$1,628.00
Submit Final Plans to City						2									2					\$0.00	\$296.00
Contract Administration	2					8								8	18					\$0.00	\$2,520.00
																				Subtotal	\$9,796.00
Traffic																					
Address City Comments from Preliminary Plans				2		8		8							18					\$0.00	\$2,488.00
Traffic Signal Plan, Details & Quantities				16											16					\$0.00	\$2,880.00
Pavement Marking Plan, Details & Quantities						8		8							16					\$0.00	\$2,128.00
Signing Plan, Details & Quantities				4		4		12							20					\$0.00	\$2,728.00
Street Lighting Plans, Details, and Quantities						16		8							24					\$0.00	\$3,312.00
Traffic Control and Detour Plans, Details, and Quantities						40		16							56					\$0.00	\$7,808.00
QA/QC			2	4		4		8							18					\$0.00	\$2,672.00
Internal Coordination Meetings				1		1		1							3					\$0.00	\$446.00
Prepare Final Estimate				1		2									3					\$0.00	\$476.00
Address City Comments				2		4		8							14					\$0.00	\$1,896.00
																				Subtotal	\$24,346.00
Roadway																					
Internal Coordination Meetings			2			4	4								10					\$0.00	\$1,752.00
Address City Comments from Preliminary Plans			2			2	8								12					\$0.00	\$816.00
Design Coordination with Traffic for Cycle Track						2	4								6					\$0.00	\$816.00
Final Storm Sewer Layout (No Analysis)			2	2		2	2								8					\$0.00	\$1,332.00
Develop Quantities			1			8	18								27					\$0.00	\$3,732.00
Title Sheet							2								2					\$0.00	\$260.00
Typical Sections Sheet							2								2					\$0.00	\$260.00
General Notes Sheet							2								2					\$0.00	\$260.00
Survey Reference Sheet							1								1					\$0.00	\$130.00
Plan and Profile Sheets			1			2	12								15					\$0.00	\$2,064.00
Storm Sewer Plan and Profile Sheets						2	16													\$0.00	\$2,376.00
Standard Detail Sheets						1	6								7					\$0.00	\$928.00
Intersection Details and Geometry Sheets						4	16								20					\$0.00	\$2,672.00
Summary and Recap of Quantities Sheet			1			2	8								11					\$0.00	\$1,544.00
Cross Sections			1			2	24								27					\$0.00	\$3,624.00
QA/QC			4	4		16	8								32					\$0.00	\$4,960.00
Prepare Final Estimate			1			1	4								6					\$0.00	\$876.00
Address City Comments			1			2	8								11					\$0.00	\$1,544.00
																				Subtotal	\$27,378.00
Utility Coordination																					
Provide Electronic Files to Utilities as required							2								2					\$0.00	\$260.00
Schedule and Attend Utility Coordination Meetings (1 Large Group, 2 Individual)	1					6	2								9					\$0.00	\$1,424.00
Conflict Analysis (3) and Review Relocation Plans (3)	2					16	8								26					\$0.00	\$3,960.00
																				Subtotal	\$5,644.00
Public Involvement																					
Individual Property Owner and Stakeholder Meetings (2 Meetings)			2			4									6					\$0.00	\$1,008.00
															0					Subtotal	\$1,008.00
Final Design Subtotal	7	0	28	38	0	201	159	69	0	0	0	0	0	8	492	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$68,172.00
Post Design																					
Answer Contractor Questions During Bidding						1	2								3					\$0.00	\$408.00
Prepare Contract Documents						4	12								16				\$300.00	\$300.00	\$2,452.00
Prepare Written Addenda						1	2								3					\$0.00	\$408.00
Attend Pre-Construction Meeting			1			2									3					\$0.00	\$504.00
Answer Construction Questions			2			8	8					4			22					\$0.00	\$3,200.00
Shop Drawing Review (Drainage Structures, Pavement)				4											4					\$0.00	\$720.00
Prepare Final Record Drawings						2	8								10					\$0.00	\$1,336.00
																				Subtotal	\$9,028.00
Post Design Subtotal	0	0	3	4	0	18	32	0	0	0	0	4	0	0	61	\$0.00	\$0.00	\$0.00	\$300.00	\$300.00	\$9,028.00
Sub Consultants																					
Landscaping/Irrigation - Olsson - See attached scope.																			\$26,900.00	\$26,900.00	\$26,900.00
Alynix																			\$1,850.00	\$1,850.00	\$1,850.00
																				Subtotal	\$28,750.00
GRAND TOTAL FOR DESIGN SERVICES	11	0	55	87	0	404	345	121	12	16	0	8	32	16	1,089	\$0.00	\$212.00	\$0.00	\$29,050.00	\$29,262.00	\$184,782.00

CLASSIFICATION	PRI	SRASC	ASC	Proj Lead	Senior AES	Project AES	Design AES	Staff AES	SRST	ST3	SRPLS	PLS	SP2	CLI	TOTAL	GPS	Mileage	Mileage	Additional	TOTAL	TOTAL
	\$276	\$232	\$208	\$180	\$168	\$148	\$130	\$118	\$134	\$112	\$152	\$140	\$192	\$98	HOURS	Units	Personal	Survey	Expenses	EXPENSES	COST
General Assumptions																					
Structural design including retaining wall design will be additional services.																					
Storm Sewer Analysis will be additional services.																					
TTC will primarily consist of 2 phases, keeping two-way traffic throughout construction																					
No signal modifications will be made at Santa Fe Street. Loop replacement only.																					
Design of any smart cities technologies will be additional services																					
City will determine street light pole, luminaire, and any decorative features and provide it to GBA.																					
Conceptual designs for deicions needed are: bike improvements at Santa Fe intersection, south beginning of cycle track, cycle track at Park, ped crosswalks across tracks, bike signal designs, pedestrian lighting, green pavement marking design, handicap parking crossing cycle track, Cedar to Elm design options, 1x 2hr meeting																					
																				Total Fee	\$184,782.00
Title work and easement documentation are considered additional services.																					

## **SCOPE OF SERVICES**

This exhibit is hereby attached to and made a part of the Letter Agreement for Professional Services dated March 18, 2021 between George Butler Associates, Inc. ("Client") and The Olsson Studio dba Olsson, Inc. ("Olsson") providing for professional services. Olsson's Scope of Services for the Agreement is indicated below.

### **PROJECT DESCRIPTION AND LOCATION**

Project will be located at: Kansas Avenue from Santa Fe Street to Cedar Street  
Olathe, Kansas

Project Description: Kansas Avenue Streetscape Improvements

### **SCOPE OF SERVICES**

Olsson shall provide the following services (Scope of Services) to Client for the Project:

#### **Phase 100 – Schematic Design**

##### **Project Kick-Off / Research / Analysis**

Olsson shall meet with Client to confirm Project schedule and details, including requirements for inclusion of streetscape landscape and amenities.

Olsson shall review relevant codes and ordinances related to Project to confirm streetscape design, zoning requirements, and site improvement issues.

Olsson shall review available base map information provided by Client. Olsson shall create a base map to prepare required streetscape plan documents, based upon Client-provided information. It is Client's responsibility to provide current and accurate base information for Olsson's use.

##### **Schematic Design Plan**

Olsson shall prepare schematic design plans for Project streetscape landscape areas and amenities identified in the attached Exhibit A.

Schematic design will include landscape and pedestrian enhancement, appropriateness of materials/massing, contextual fit, themes, and reinforcement of pedestrian scale throughout Project site, including raised masonry planters, site furnishings, and landscape materials. Olsson shall provide a maximum of two (2) paver and landscape design concepts for review by Client's consultant team. Olsson shall meet with Client's consultant team to review paver design concepts and other features proposed in the schematic design plan.

Olsson shall prepare one (1) revised schematic design plan based on comments received from Client's consultant team.

Olsson shall prepare color rendered plans of schematic design plans for presentation and meetings.

Olsson shall provide a preliminary opinion of construction costs for amenities, landscape, and irrigation included on schematic design plan.



**Meetings:** Olsson will attend one (1) design team/review meeting and one (1) Client review meeting. Olsson anticipates conference or video call meetings.

**Work Products:** Schematic design plan, preliminary opinion of construction costs; and meeting notes and memorandums, as required.

**Phase 100 Fee: \$6,700.00**

## **Phase 200 – Construction Documents**

### **Design Development**

Olsson shall prepare design development plans, including locations, sizes, and types of major components identified on schematic design plans. Final design development plans will be considered 30 percent complete construction documents. Olsson shall prepare the following design development plans:

#### **Amenity Plan**

Olsson shall develop preliminary design of amenities to include paver layouts, raised masonry planters, and site furnishings. Plans will detail amenity elements to a level appropriate for preliminary engineering and cost estimating purposes. Site furnishings include benches, bike racks, and trash receptacles.

#### **Landscape Plan**

Olsson shall develop a landscape plan, based on City approved site plans. Landscape plan will identify location, species and variety, quantity, plant sizes, and special requirements or conditions for plant materials and areas of seed and/or sod. Final landscape planting details shall be provided.

#### **Irrigation Plan**

Olsson shall prepare conceptual design of an irrigation system for review by Client's design team including mainline layout, controller layout, and other equipment locations based on streetscape design requirements.

#### **Design Meetings**

Olsson shall attend one (1) design team meeting for coordination and review of Project design and one (1) Client review meeting. Olsson anticipates conference call or video call meetings.

#### **Opinion of Cost**

Olsson shall provide preliminary opinion of construction costs for amenities, landscape, and irrigation shown in the design development plan.

### **Construction Documents**

Olsson shall prepare construction documents, submitted as a 95 percent complete check set documents and 100 percent complete final plan documents. Final plan documents will include specifications, plan quantities, and bid form including measurement and payment items. Olsson shall prepare the following construction documents:

**Amenity Plans**

Olsson shall prepare amenity plan construction documents. Plans will detail paver layouts, raised masonry planters, and site furnishings to a level of detail for construction. Site furnishings include all benches, bike racks, and trash receptacles.

**Landscape Plan**

Olsson shall prepare landscape construction documents for Client approved design development landscape plans. Plans will identify location, species and variety, quantity, planting sizes, and special requirements or conditions for the plant materials and areas of seed and/or sod. Final landscape planting details are also included. Landscape plans will be prepared at a scale of 1-inch = 30 feet or larger. Landscape construction specifications are also included.

**Irrigation Plan**

Olsson shall prepare irrigation construction documents to identify location of irrigation mainline tap, mainline and lateral piping, zone control valves, irrigation heads, and all necessary equipment. Plans will indicate pipe sizes, valve sizes, head type, controller type, and circuit zoning. Irrigation installation details and specifications will be provided, and domestic irrigation systems will be used on site. Olsson shall coordinate with Client on providing electrical and water service for the irrigation system.

**Design Meetings**

Olsson shall attend one (1) Client review meeting for review of Project design. Olsson anticipates conference call or video call meeting.

**Opinion of Cost**

Olsson shall provide preliminary opinion of construction costs for amenities, landscape and irrigation shown in the design development plan.

**Work Products:** Amenity, landscape, irrigation, details design development and construction documents, specifications, meeting notes, as required, and memorandums, as required.

**Phase 200 Fee: \$17,600.00**

**Phase 300 – Construction Administration****Limited Construction Administration**

Olsson shall provide limited construction administration services, including product submittals and shop drawing reviews for landscape-related items, and issuance of project change orders, RFIs, submittals, and clarifications, as required.

**Work Products:** Clarification documents, as required and memorandums, as required.

**Phase 300 Total: \$2,400.00**

## **Phase 900 – Reimbursable Expenses**

### **Reimbursable Expenses**

**\$See Reimbursable Expense Schedule**

Includes all Project related reimbursable expenses, as defined in the Reimbursable Expense Schedule attached to this Agreement.

**Phase 900 Total Fee: \$200.00**

**TOTAL PROJECT FEE: \$26,900.00  
+Reimbursable Expenses**

## **ASSUMPTIONS**

- Client shall provide water source, submeter, and backflow preventer for irrigation system
- Client or Client's Contractor directed revisions to previously approved schematic, design development, or construction documents will be considered as additional services
- Final construction documents will be prepared based on direction from Client. Significant site revisions after this stage will be considered as additional services.
- All submittals shall be in electronic PDF format
- Design will be prepared as one (1) package. Additional phasing or plan sets will be considered as additional services.
- Construction documents shall be prepared, based on direction from Client; and final site plan shall be determined, prior to document preparation. Significant site revisions or modifications shall be considered as additional services.
- Olsson reserves the right to adjust this Agreement if services extend beyond a 12-month period from the date of this Agreement.

## **EXCLUSIONS**

- Site survey or geotechnical services
- 3Dimensional modeling design services
- Hardscape, signage, and monumentation design
- Site lighting for walkways, sidewalks, greenspace, signs, flag poles, and all hardscape lighting design and circuiting
- LEED design or documentation
- Site civil design of streets, curbs, parking lots, storm, sanitary, water, gas, and other utilities
- Utility service connection plans for amenities including power, gas, water, sanitary sewer and storm sewer source locations, routing, and connection to amenities
- Mechanical, electrical, and structural engineering design services
- Installation observation, punch review, or construction meetings
- Architectural services
- Permitting and submittal fees
- Title policy
- Construction testing and staking
- Post-construction survey
- Pot-holing existing utilities
- Value engineering
- 6- and 12-month review of Project site following construction

Should Client request work in addition to the Scope of Services, Olsson shall invoice Client for such additional services (Optional Additional Services) at the standard hourly billing labor rate charged for those employees actually performing the work, plus reimbursable expenses if any. Olsson shall not commence work on Optional Additional Services without Client's prior written approval.

Olsson agrees to provide all of its services in a timely, competent and professional manner, in accordance with applicable standards of care, for projects of similar geographic location, quality and scope.

**EXHIBIT C**  
**Fee & Rate Schedule**

**Exhibit C**  
**George Butler Associates, Inc.**  
**Engineers/Architects**  
**Standard Hourly Rates – Effective September 26, 2020**

<b>Employment Classification</b>	<b>Hourly Rate</b>
Principal	\$276.00
Senior Associate	232.00
Director of AES	232.00
Associate	208.00
Senior Lead AES	208.00
Senior Specialist	208.00
Project Leader	180.00
Lead AES	180.00
Specialist	152.00
Senior AES	168.00
Senior Technician	144.00
Project AES	148.00
Project Technician	112.00
Design AES	130.00
Design Technician	95.00
Staff AES	118.00
Staff Technician	85.00
Senior Construction Inspector	136.00
Construction Inspector 4	116.00
Construction Inspector 3	108.00
Construction Inspector 2	100.00
Construction Inspector 1	90.00
Senior Field Technician	122.00
Field Technician 3	100.00
Field Technician 2	90.00
Field Technician 1	80.00
Senior Professional Land Surveyor	152.00
Professional Land Surveyor	140.00
Land Surveyor in Training	112.00
Survey Technician 3	108.00
Survey Technician 2	80.00
Survey Technician 1	64.00
Instrument Operator	72.00
2-Man Survey Party	188.00
Project Admin	98.00
Senior Administrative Assistant	98.00
Administrative Assistant	85.00
General Office 2	88.00

**Equipment**

(CAD and Total Station Survey Equipment expenses are included in the above hourly rates unless otherwise stipulated by contract.)

Real Time Kinematic Global Positioning System Equipment (RTK)	60.00 per hour
Nuclear Density/Soil Testing Equipment	50.00 per day

**Expenses**

Reimbursable expenses (travel, vehicle mileage, vehicle rental, printing and plotting, meals, etc.) incurred will be charged at cost plus 10% to cover administrative overhead.

The following items will be charged as shown (effective January 1, 2021):

Company Pick-up Truck	0.56 per mile
Personal and Company Cars	0.56 per mile

## EXHIBIT D

### LAND ACQUISITION CHECKLIST FOR CONSULTANT PROJECTS

**Complete submittal of these documents is required 7 months prior to bid opening.**

- \_\_\_ Determine what types of easements are required for each tract:
  - i.e. Street Dedication; Permanent Street Easement; Temporary Construction Easement; Permanent Utility Easement; Permanent Drainage Easement; Permanent Sanitary Sewer Easement; Permanent Waterline Easement; Permanent Sidewalk & Utility Easement; Permanent Wall Easement; Permanent Bike Trail, Utility & Recreational Easement.
  
- \_\_\_ REQUIRED INFORMATION:
  - a) City Project No. and Project Name
  - b) Current Ownership (both husband and wife's name, even if only owned by one spouse)
    - 1) If a trust, the name and date of the trust
    - 2) If a corporation or LLC, state of incorporation or formation
    - 3) If partnership, full name of partnership
  - c) Johnson County Parcel ID number
  - d) Number the tracts in the project (up one side and down the other) (Tract No. \_\_)
  - e) Situs Address
  - f) Mailing Address
  - g) Legal description of the new taking, including total square footage
  - h) Tract map
  - i) Ownership & Encumbrance (O&E) title report, not more than 9 months since certification, showing current ownership, liens, mortgages, existing easements, leases (if recorded) and any other encumbrances upon the property. This requirement also includes tracts where only a temporary construction easement is needed.
  - j) Copy of last deed(s) of record. If an undivided interest is conveyed in the deed, provide copies of all deeds which comprise the whole interest. (If undivided one-half is conveyed to husband's trust and undivided one-half interest is conveyed to wife's trust, provide copies of both deeds.
  - k) Common errors to avoid – verify marital status. *BEFORE SUBMITTING DOCUMENTS TO CITY OF OLATHE VERIFY THE O&E'S TO ENSURE OWNERSHIP HAS NOT CHANGED.*



\_\_\_\_ Tract Map will be considered complete when it contains the following information (example available upon request):

- a) Map of entire property (May not be possible on large parcels and still showing legible taking) showing location of the proposed easement(s) and existing easements. Any trees to be removed, fences to be moved, monument signs, and irrigation systems should be noted on the plans. Outlines of buildings are to be shown on the plans so that it is evident how close the easements are to the existing building. Dimensions/bearings for easements to be clearly shown on map. It is acceptable to place all easements on one exhibit as long as each easement is easily identified. If the exhibit is too cluttered, then the easements should be placed on separate exhibits with permanent easements on one exhibit and temporary easements on a separate exhibit. EASEMENT SHALL BE CLEARLY VISIBLE ON DRAWING. Johnson County Register of Deeds scans the recorded easement in black and white, so be aware of this when drawing the easement on the tract map. Make sure easement area can easily be seen in black and white.
- b) Property owner's names, mailing address, situs address (if different from mailing address), Johnson County Parcel ID number, and tract number.
- c) Map of tract should show dimensions of tract and property lines clearly marked.
- d) Common errors to avoid: North arrow pointing in the wrong direction, verification that the easement legal description closes upon itself.

\_\_\_\_ Legal description and tract maps shall be signed by a Registered Land Surveyor stating that the ownership, easement legal descriptions, description in the deed for the entire tract only when a total property taking is occurring, and surveys for the easement area have been personally reviewed and determined to be accurate in accordance with the plans for the project. The consultant shall make corrections, at no cost to the City, to fix errors determined by the City or the Johnson County Register of Deeds that are the responsibility of the Registered Land Surveyor. These errors may include but are not limited to clerical errors, inconsistencies between the easement legal description and tract map, easement legal description not closing upon itself, or other errors in requirements on this checklist. **Both legal description and tract map(s) shall be marked Exhibit "A" as referenced in the easement documents.**

\_\_\_\_ Appropriate easement document in Word (sometimes referred to as "front end" document). PDF's are available on the City's website (<http://www.olatheks.org/government/public-works/dedications-easements>). Word copies can be obtained by contacting the Olathe Public Works Department Project Manager.

\_\_\_\_ Submit Documents to Public Works staff in electronic format:

- Word copy of legal description
- PDF of signed and sealed legal description
- Tract map signed and sealed
- Word copy of easement ("front end") document
- O&E title report
- Last deed of record

**EXHIBIT E**  
**CITY OF OLATHE INSURANCE REQUIREMENTS**

**A.** Consultant shall procure, and maintain as required, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the project. The cost of such insurance shall be included in the Consultant's bid.

**B.** Consultant shall maintain the following coverages and minimum limits.

1. Commercial General Liability (CGL): [ISO "occurrence" form or its equivalent] \$1,000,000 per occurrence limit including personal and advertising injury and products - completed operations. Any general aggregate limit should be at least \$2,000,000.
2. Business Auto Coverage: (*Owned and non-owned autos*) \$500,000 per occurrence, combined single limit.
3. Workers Compensation and Employers Liability: Workers compensation limits as required by applicable state workers' compensation laws and employer's liability limits or equivalent of \$500,000/\$500,000/\$500,000.
4. Professional Liability: Minimum limits to be \$1,000,000 each claim / annual aggregate.
5. Coverage Limits. Coverage limits for General and Auto Liability exposures may be met by a combination of primary and umbrella policy limits.
6. Exposure Limits: The above are minimum acceptable coverage limits and do not infer or place a limit on the liability of the Consultant nor has the City assessed the risk that may be applicable to Consultant. Consultant shall assess its own risks and if it deems appropriate and/or prudent maintain higher limits and/or broader coverages. The Consultant's insurance shall be primary and any insurance or self-insurance maintained by the City will not contribute to, or substitute for, the coverage maintained by Consultant.

**C.** Additional Insured. CGL and auto policies must be endorsed to include the City as additional insured for the project. Any and all coverage available to the named insured is applicable to the additional insured. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

**D.** Verification of Coverage.

1. A certificate of insurance, listing the City as a certificate holder, accompanied by an additional insured endorsement or equivalent.
2. The insurance coverages are to be provided by Kansas authorized insurance companies with a Best's rating of at least A- VII. Those not meeting this standard must be approved by City.
3. Any self-insurance or self-insured retentions must be specified on the certificate of insurance. In addition, when self-insured the name, address, and telephone number of the claims office must be indicated on the certificate or separate attached document. Any and all deductibles or self-insurance in the above described coverages shall be the responsibility and at the sole risk of the Consultant.
4. When any of the foregoing insurance coverages are required to remain in force after final payment, additional certificates with appropriate endorsements evidencing continuation of such coverage shall be submitted along with the application for final payment.
5. Any coverage provided by a Claims-Made form policy must contain a three-year tail option, extended reporting period, or must be maintained for three years' post contract.

**E.** Cancellation. Each insurance policy required shall not be suspended, voided, or canceled, except after Consultant has provided thirty (30) days' advance written notice to the City.

**F.** Sub-Consultants. All coverages for sub-Consultants must meet all of the requirements stated herein.

**EXHIBIT F**  
**Certificate of Insurance**



# CERTIFICATE OF LIABILITY INSURANCE

9/15/2021

DATE (MM/DD/YYYY)

3/22/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Lockton Companies 444 W. 47th Street, Suite 900 Kansas City MO 64112-1906 (816) 960-9000	<b>CONTACT NAME:</b>		
	<b>PHONE (A/C, No, Ext):</b>	<b>FAX (A/C, No):</b>	
<b>INSURED</b> 1402002 GEORGE BUTLER ASSOCIATES, INC. ATTN: SHAUN KOTWITZ 9801 RENNER BLVD. LENEXA KS 66219	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
	<b>INSURER A:</b> Twin City Fire Insurance Company		29459
	<b>INSURER B:</b> Hartford Underwriters Insurance Company		30104
	<b>INSURER C:</b> Travelers Property Casualty Insurance Co		36161
	<b>INSURER D:</b> Hartford Casualty Insurance Company		29424
	<b>INSURER E:</b>		
<b>INSURER F:</b>			

**COVERAGES \*** **CERTIFICATE NUMBER:** 17431364 **REVISION NUMBER:** XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
B	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y	N	37UEAQI0398	9/15/2020	9/15/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY	N	N	37UEAQI0525	9/15/2020	9/15/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
C	<input type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	N	N	ZUP-51N20560-20-NF	9/15/2020	9/15/2021	EACH OCCURRENCE \$ 9,000,000 AGGREGATE \$ 9,000,000 \$ XXXXXXXX
D	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	37WEAQI0524	9/15/2020	9/15/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

PROJECT: KANSAS AVENUE STREETSCAPE, CITY PN 2-P-001-22. CITY OF OLATHE IS ADDITIONAL INSURED ON GENERAL LIABILITY COVERAGE, ON A PRIMARY, NON-CONTRIBUTORY BASIS, AS REQUIRED BY WRITTEN CONTRACT.

## CERTIFICATE HOLDER

17431364  
CITY OF OLATHE  
100 E. SANTA FE  
PO BOX 768  
OLATHE KS 66051

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*Joseph M. Agnello*



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
03/22/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Holmes Murphy & Associates, LLC  1828 Walnut Sreet Suite 700 Kansas City, MO 64108	1-866-574-6282	<b>CONTACT NAME:</b> Monica Wilks <b>PHONE (A/C, No, Ext):</b> 816 857-7820 <b>E-MAIL ADDRESS:</b> mwilks@holmesmurphy.com	<b>FAX (A/C, No):</b>
<b>INSURED</b> George Butler Associates, Inc.  9801 Renner Blvd.  Lenexa, KS 66219		<b>INSURER(S) AFFORDING COVERAGE</b> INSURER A: XL SPECIALTY INS CO INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	<b>NAIC #</b> 37885

**COVERAGES****CERTIFICATE NUMBER:** 61686031**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N <input type="checkbox"/> N/A						PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	<b>Professional Liability</b>			DPR9966168	09/15/20	09/15/21	<b>Each Claim</b> 5,000,000 <b>Annl Aggr</b> 10,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: Kansas Avenue Streetscape, City PN 3-9-001-22

**CERTIFICATE HOLDER****CANCELLATION**

City of Olathe  100 E. Santa Fe P.O. Box 768 Olathe, KS 66051  USA	<b>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</b>  <b>AUTHORIZED REPRESENTATIVE</b> 
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**EXHIBIT G**  
**Certificate of Good Standing to Conduct Business in Kansas**

**STATE OF KANSAS**  
**OFFICE OF**  
**SECRETARY OF STATE**  
**SCOTT SCHWAB**

I, SCOTT SCHWAB, Secretary of State of the state of Kansas, do hereby certify, that according to the records of this office.

Business Entity ID Number: 0607564

Entity Name: GEORGE BUTLER ASSOCIATES, INC.

Entity Type: DOM: FOR PROFIT CORPORATION

State of Organization: KS

was filed in this office on October 29, 1979, and is in good standing, having fully complied with all requirements of this office.

No information is available from this office regarding the financial condition, business activity or practices of this entity.



In testimony whereof I execute this certificate and affix the seal of the Secretary of State of the state of Kansas on this day of March 22, 2021

A handwritten signature in cursive script that reads "Scott Schwab".

**SCOTT SCHWAB**  
**SECRETARY OF STATE**

Certificate ID: 1170064 - To verify the validity of this certificate please visit <https://www.kansas.gov/bess/flow/validate> and enter the certificate ID number.