

**RESOLUTION NO. R-18-05**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH GEORGE BUTLER ASSOCIATES, INCORPORATED, (GBA) IN AN AMOUNT NOT TO EXCEED \$44,078.00 FOR THE FINAL DESIGN OF IMPROVEMENTS TO OLD PIKE ROAD FROM VIVION ROAD TO NORTHWEST ENGLEWOOD ROAD.**

**WHEREAS**, GBA completed the design of improvements to Old Pike Road from Northwest 52<sup>nd</sup> Terrace to NW 54<sup>th</sup> Terrace in 2010; and

**WHEREAS**, Gladstone was awarded \$900,000 from the Federal Surface Transportation Program for the construction of improvements to Old Pike Road from Vivion Road to Northwest Englewood Road; and

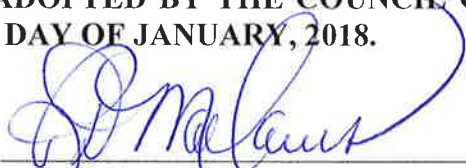
**WHEREAS**, Gladstone has requested GBA's assistance to update the design plans to reflect existing conditions and current design standards.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, AS FOLLOWS:**

**THAT**, the City Manager of the City of Gladstone, Missouri, is hereby authorized to execute a contract with George Butler Associates, Incorporated, for professional engineering services for City Project No. TP1712 in an amount not to exceed Forty Four Thousand and Seventy-Eight Dollars and 00/100, (\$44,078.00); and

**FURTHER, THAT**, funds for such purpose are budgeted in the TST Fund.

**INTRODUCED, READ, PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI THIS 8<sup>TH</sup> DAY OF JANUARY, 2018.**

  
\_\_\_\_\_  
R.D. Mallams, Mayor

Attest:

  
\_\_\_\_\_  
Ruth Bocchino, City Clerk



**Department of Public Works  
Memorandum**

**DATE:** January 3, 2018  
**TO:** Scott Wingerson, City Manager  
**FROM:** Timothy A. Nebergall, Director of Public Works *TAN*  
**RE:** George Butler Associates, Incorporated (GBA) Design Contract  
Project #TP1712

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GBA completed the design of improvements to Old Pike Road from NW 52<sup>nd</sup> Terrace to NW 54<sup>th</sup> Terrace in 2010. Recommended improvements included the installation of curbs and gutters, sidewalks, stormwater improvements, asphalt pavement, and on-street bicycle lanes.

The extents of the project were further expanded as part of a successful grant application to the Mid-America Regional Council (MARC) to include all of Old Pike Road from Vivion Road to NW Englewood Road that secured \$900,000 in Federal Surface Transportation Funds.

The project is currently in the property acquisition phase. Staff is recommending that the City execute a time and materials contract in the amount of \$44,078.00 with GBA to update the 2010 plans to reflect current conditions and design practices, incorporate easement acquisition comments, and public engagement. Funds for this purpose are budgeted in the TST Fund.

If you have any questions please contact me.

R-18-05

# PROFESSIONAL ENGINEERING SERVICES AGREEMENT

THIS AGREEMENT, made and entered into this 21 day of January, 2018, by and between the City of Gladstone, a Missouri municipal corporation, hereinafter referred to as the "City" and George Butler Associates, Inc. (GBA), hereinafter referred to as the "Engineer".

*WITNESSETH:*

WHEREAS, the accomplishment of the work and services described in this Agreement is necessary and essential to the public works improvement program of the City; and

WHEREAS, GBA completed the design of improvements to Old Pike Road in 2010 and the development of right of way plans in 2017; and

WHEREAS, the City desires to engage the Engineer to render professional engineering services for the project described in this Agreement, and the Engineer is willing to perform such services.

NOW, THEREFORE, in consideration of the premises and covenants hereinafter contained, the parties hereto hereby agree as follows:

## ARTICLE I

### DESCRIPTION OF PROJECT

**Revise design plans to address changes in field conditions since 2010 and participate in two (2) public meetings. Refer to Exhibit A.**

## ARTICLE II

### ENGINEER'S SCOPE OF SERVICES

1. The Engineer shall perform professional engineering services relevant to the Project in accordance with the terms and conditions set forth herein, and as provided in Exhibit A, which is attached hereto and incorporated by reference herein.
2. The Engineer hereby agrees that, immediately upon execution of this Agreement and upon receipt of a "Notice to Proceed" from the City, it will enter upon the duties herein prescribed, proceed with the work continuously, and make the various submittals on or before the schedule specified in Section C of Article IV. The City is not liable and will not pay the Engineer for any services rendered before the Engineer receives written authorization.
3. If any delay is caused to the Engineer by order of the City to change the design or plans; or by failure of the City to designate easements, right-of-way, or to supply or cause to be supplied

any data not otherwise available to the Engineer which is required in performing the work described; or by other delays due to causes entirely beyond the control of the Engineer; then, in that event, the time schedules will be adjusted equitably, in writing, as mutually agreed between the City and the Engineer at the time a cause for delay occurs.

4. Since the work of the Engineer must be coordinated with the activities of the City (including firms employed by and governmental agencies and subdivisions working with the City), the Engineer shall advise the City in advance, of all meetings, and conferences between the Engineer and any governmental agency, political subdivision, or third party which is necessary to the performance of the work of the Engineer.

### ARTICLE III

#### CHANGES IN SCOPE

If changes occur either in the Engineer's Scope of Services or the Description of the Project, a supplemental agreement for additional services may be negotiated at the request of either party.

### ARTICLE IV

#### ENGINEER'S FEE

##### 1. Basic Fee and Schedule.

- a) As compensation for Basic Services as described in Exhibit A of this Agreement, and for services required in the fulfillment of the terms and conditions of this Agreement, the Engineer shall be paid a "Basic Fee", which shall constitute full and complete payment for said services and all expenditures which may be made and expenses incurred, except as otherwise expressly provided in this Agreement. The Basic Fee for design services shall be based upon time and materials expended on the project and shall not exceed \$44,078.00.
- b) **Payment Schedule for Compensation.** The Compensation shall be paid in monthly installments based upon time and materials expended by the Engineer. The Engineer shall provide City with a monthly invoice. The invoice shall summarize, by phase, hours worked, standard billing rates, and a summary of expenses incurred over the billing period. The City shall pay invoices within thirty (30) days of receipt of such invoice.
- c) **Project Schedule.** Public Meeting No. 1 – January 31, 2018  
MoDOT Plan Submittal – March 1, 2018  
Public Meeting No. 2 – October 1, 2018

## ARTICLE V

### OWNERSHIP OF PLANS AND DOCUMENTS: RECORDS

1. The field notes, design notes, original drawings of the construction plans, and logs of any wells drilled, as instruments of service, are and shall remain, the property of the Engineer; however, the City shall be furnished, at no additional cost, one set of reproducible Mylars of the original drawings of the work. Mylars shall be polyester with clear matte on both sides. The Engineer shall also deliver all electronic information on CD in Autocad format.
2. The City shall make copies, for the use of the Engineer, of all of its maps, records, laboratory tests, or other data pertinent to the work to be performed by the Engineer pursuant to this Agreement, and also make available any other maps, records, or other materials available to the City from any other public agency or body. The Engineer shall have no liability for defects in the services attributable to the Engineer's reliance upon or use of data, design criteria, as-built drawings, or other information furnished by the City or third parties retained by the City.
3. The Engineer shall furnish to the City, copies of all maps, records, field notes, and soil tests which were developed in the course of work for the City and for which compensation has been received by the Engineer.

## ARTICLE VI

### TERMINATION

1. This Agreement may be terminated by either party upon fifteen (15) days prior written notice to the other party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party and the failure by the breaching party to cure or commence proceedings in good faith to remedy such breach within fifteen (15) days after receipt of such written notice.
2. This Agreement may be terminated by the City for its convenience upon fifteen (15) days prior written notice to the Engineer.
3. In the event of termination, as provided in this Article, the Engineer shall be paid as compensation in full for services performed to the date of such termination, an amount calculated in accordance with Article IV of this Agreement. Such amount shall be paid by the City upon the Engineer's delivering or otherwise making available to the City, all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Engineer in performing the services included in this Agreement, whether completed or in progress.

## **ARTICLE VII**

### **ASSIGNMENT**

This Agreement shall not be assignable except at the written consent of the parties hereto, and if so assigned, shall extend to and be binding upon the successors and assigns of the parties hereto., except that it may be assigned without such consent to the successor of either party, or to a related entity, an affiliate or wholly owned subsidiary of either party, but such assignment shall not relieve the assigned party of any of its obligations under this Agreement.

## **ARTICLE VIII**

### **DISCLOSURE**

The Engineer hereby affirms that it has not made or agreed to make any valuable gift whether in the form of service, loan, thing, or promise to any person or any of the person's immediate family, having the duty to recommend, the right to vote upon, or any other direct influence on the selection of consultants to provide professional design services to the City within the two years preceding the execution of this Agreement.

## **ARTICLE IX**

### **INDEMNITY**

The Engineer agrees to indemnify, and hold harmless the City of Gladstone and its officers, agents, and employees from and against all suits, actions, attorney fees, costs, expenses or claims of any character brought because of any injury or damage received or sustained by any person, persons, or property arising out of or resulting from any negligent act, error, or omission of the engineer or its agents or employees. The Engineer is not required hereunder to defend the City of Gladstone, its officers, agents or employees, or any of them from assertions that they were negligent, or indemnify and save them harmless from liability based on the City, its officers, agents or employees' negligence. The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in this Agreement.

## **ARTICLE X**

### **INSURANCE**

The Engineer agrees to procure and maintain at its expense until final payment by the City for services covered by this Agreement, insurance in the kinds and amounts hereinafter provided with insurance companies authorized to do business in the State of Missouri, covering all operations under this Agreement; whether performed by it or its agents. Before commencing the work, the Engineer shall furnish to the City a certificate or certificates in form satisfactory to the City, showing that it has

complied with this paragraph. All certificates shall provide that the policy shall not be changed or canceled until at least ten (10) days prior written notice shall have been given to the City. Kinds and amounts of insurance required are as follows:

Workmen's Compensation Insurance. Workmen's Compensation Insurance for its employees in accordance with the provisions of the Workmen's Compensation Act of the State of Missouri.

Liability Insurance. Professional Liability insurance in an amount not less than \$2,000,000 Combined Single Limit and Automobile Liability insurance in an amount not less than \$1,000,000 Combined Single Limit with hired car and non-owned vehicle coverage or a separate policy carrying similar limits, and an amount of not less than \$1,000,000 for Property Damage to protect the Consultant and its agents from claims which may arise from services rendered under this Agreement, whether such services are rendered by the Consultant or by any of its agents or by anyone employed by either.

## ARTICLE XI

### DISCRIMINATION PROHIBITED

In performing the services required hereunder, the Engineer shall not discriminate against any person on the basis of race, color, religion, sex, national origin or ancestry, age, or physical handicap.

## ARTICLE XII

### STANDARD OF CARE

Engineer will perform the Services in accordance with the standards of care and diligence normally practiced by recognized engineering firms in performing services of a similar nature in existence at the time of performance of the Services. If, during the one year period following completion of the Services under a particular Request for Service, it is shown there as an error in the Services provided under such Request for Services caused solely by the Engineer's failure to meet such standards and the City has notified the Engineer in writing of any such error within that period, the Engineer shall re-perform, at no additional cost to the City, such Services within the original scope of Services as may be necessary to remedy such error.

## ARTICLE XIII

### PRE-EXISTING CONDITIONS

Anything herein to the contrary notwithstanding, title to, ownership of, and legal responsibility and liability for any and all pre-existing contamination shall not be assumed by the Engineer. "Pre-existing contamination" is any hazardous or toxic substance, material, or condition present at the site or sites concerned which was not brought onto such site or sites by the Engineer for the exclusive benefit of the Engineer to the extent the City is responsible for such contamination.

#### **ARTICLE XIV**

##### **FORCE MAJEURE**

Engineer shall not be in default under this Agreement for delays in performance caused by circumstances beyond its reasonable control. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; lockouts, work slowdowns, and other labor disturbances; riots; sabotage; judicial restraint; and, inability to procure permits, licenses or authorizations from governmental agencies for any of the supplies, materials, access or services required to be provided under this Agreement.

Should such circumstances occur, the Engineer shall give the City written notice of such event within a reasonable time and the parties shall mutually agree on a reasonable extension of the project schedule and adjustment to the Engineer's compensation.

#### **ARTICLE XV**

##### **MEANS AND METHODS**

Engineer shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, for failure of the Company to comply with the drawings and specifications, or for safety precautions or programs in connection with the construction work.

#### **ARTICLE XVI**

##### **WORKER AUTHORIZATION**

Pursuant to Section 285.530(1), RSMo., by its sworn affidavit in substantially the form attached hereto and incorporated herein, the Contractor hereby affirms its enrollment and participation in a federal work authorization program with respect to the employees working in connection with this agreement. Furthermore, the Contractor affirms that it does not knowingly employ any person who is an unauthorized alien in connection with the services provided for in this Agreement.



ARTICLE XVI

ADMINISTRATION OF AGREEMENT

The City Manager, or his authorized representative, shall administer this Agreement for the City.

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

City of Gladstone, Missouri

Engineer: GBA  
By: George C. Clark  
Title: SENIOR ENGINEER

Attest: Cee af

City of Gladstone

Attest:

By: Scott Wingerson  
Scott Wingerson; City Manager

Ruth E Bocchino  
Ruth Bocchino; City Clerk

Reviewed by the legal department: Chris Williams  
Chris Williams; City Attorney

WORK AUTHORIZATION

STATE OF Kansas )  
 ) ss.  
COUNTY OF Johnson )

As used in this Affidavit, the following terms shall have the following meanings:

EMPLOYEE: Any person performing work or service of any kind or character for hire within the State of Missouri.  
FEDERAL WORK AUTHORIZATION PROGRAM: Any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603.

KNOWINGLY: A person acts knowingly or with knowledge, (a) with respect to the person's conduct or to attendant circumstances when the person is aware of the nature of the person's conduct or that those circumstances exist; or (b) with respect to a result of the person's conduct when the person is aware that the person's conduct is practically certain to cause that result.

UNAUTHORIZED ALIEN: An alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. 1324a(h)(3).

BEFORE ME, the undersigned authority, personally appeared George C. Clark, who, being duly sworn, states on his oath or affirmation as follows:

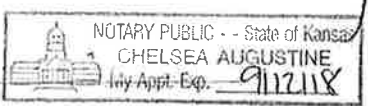
1. My name is George C. Clark and I am currently the Sr Assoc of George Butler Associates, Inc (hereinafter "GBA"), whose business address is 1627 Main St #600, Kansas City, MO 64108 and I am authorized to make this Affidavit.
2. I am of sound mind and capable of making this Affidavit and am personally acquainted with the facts stated herein.
3. GBA is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the revision of design plans to Missouri Department of Transportation standards and the update of environmental permitting for Old Pike Road contracted between GBA and the City of Gladstone, Missouri.
4. GBA does not knowingly employ any person who is an unauthorized alien in connection with the contracted services set forth above.

George C. Clark  
Affiant

George C. Clark  
Printed Name

Subscribed and sworn to before me this 4 day of January, 2018.

Chelsea Augustine  
Notary Public  
SEAL





**EXHIBIT A**  
**GEORGE BUTLER ASSOCIATES, INC.**  
**ENGINEERS/ARCHITECTS**  
**STANDARD HOURLY RATES – EFFECTIVE JULY 1, 2017**

<b>Employment Classification</b>	<b>Hourly Rate</b>
Principal	\$268.00
Senior Associate	219.00
Director of AES	219.00
Associate	188.00
Senior Lead AES	188.00
Senior Specialist	160.00
Project Leader	165.00
Lead AES	165.00
Specialist	145.00
Senior AES	155.00
Senior Technician	130.00
Project AES	130.00
Project Technician	100.00
Design AES	110.00
Design Technician	82.00
Staff AES	102.00
Staff Technician	70.00
Senior Construction Inspector	130.00
Construction Inspector 4	105.00
Construction Inspector 3	100.00
Construction Inspector 2	90.00
Construction Inspector 1	80.00
Senior Field Technician	110.00
Field Technician 3	90.00
Field Technician 2	80.00
Field Technician 1	70.00
Senior Professional Land Surveyor	130.00
Professional Land Surveyor	120.00
Survey Technician 3	100.00
Survey Technician 2	70.00
Survey Technician 1	52.00
2-Man Survey Party	170.00
Training Coordinator	93.00
Senior Administrative Assistant	93.00
Administrative Assistant	70.00
General Office 2	75.00
General Office 1	54.00

**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
Traffic Counters	20.00 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:

Company Pick-up Truck	0.53 per mile
Personal and Company Cars	0.53 per mile