

JAN 18 2011

ORDINANCE NO. 2835

J. Ronald Colyer
City Clerk

**AN ORDINANCE TO EMPLOY OATES ASSOCIATES, INC. OF
COLLINSVILLE, ILLINOIS TO RENDER PROFESSIONAL
SERVICES TO THE CITY OF COLUMBIA, ILLINOIS IN
CONNECTION WITH RIGHT OF WAY NEGOTIATION
SERVICES FOR THE MAIN STREET STREETSCAPE PROJECT**

WHEREAS, the City Council of the City has found and determined and does hereby declare that it is necessary and appropriate that the City employ Oates Associates, Inc. to provide professional services to the City for the negotiation and acquisition of right of way according to IDOT requirements for the Main Street Streetscape Project;

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, as follows:

Section 1. The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

Section 2. The City Council of the city does hereby authorize the employment of Oates Associates, Inc. to provide the professional services to the city with regard to the City's Main Street Streetscape Project. The Mayor is hereby authorized and directed to execute and deliver to Hoelscher Engineering P.C., for and on behalf of the City, the "Proposal to Render Right of Way Negotiation Services" between the City of Columbia, Illinois and Oates Associates, Inc. for a lump sum not to exceed Four Thousand Dollars (\$4,000) in the form attached hereto, which is hereby approved as to form, in as many counterparts as the Mayor shall determine and the City Clerk is hereby authorized and directed to attest the same and to affix thereto the corporate seal of the City.

Section 3. This ordinance shall be in full force and effect from and after its passage, as provided by law.

Alderman Ebersohl moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Roessler, and the roll call vote was as follows:

YEAS: Aldermen Ebersohl, Agne, Niemietz, Hejna, Oberfell and Roessler.

NAYS: None.

ABSENT: Aldermen Row and Stumpf.

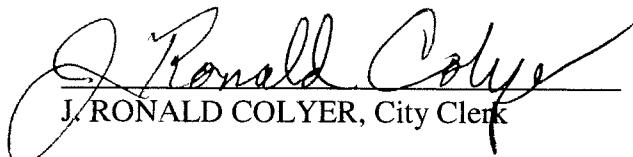
ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 18th day of January, 2011.



KEVIN B. HUTCHINSON, Mayor

ATTEST:



J. RONALD COLYER, City Clerk

(SEAL)

STATE OF ILLINOIS)
) SS
COUNTY OF MONROE)

CERTIFICATE OF TRUE COPY

I, J. Ronald Colyer, hereby certify that I am the duly elected and acting City Clerk of the City of Columbia, Illinois and as such I am the keeper of the books, records, files and corporate seal of said City.

I do further certify that Ordinance No. 2835, entitled:

“AN ORDINANCE TO EMPLOY OATES ASSOCIATES, INC. OF COLLINSVILLE, ILLINOIS TO RENDER PROFESSIONAL SERVICES TO THE CITY OF COLUMBIA, ILLINOIS IN CONNECTION WITH RIGHT OF WAY NEGOTIATION SERVICES FOR THE MAIN STREET STREETSCAPE PROJECT.”

to which this certificate is attached, is a true, perfect, complete and correct copy of said ordinance as adopted at a regular meeting of the Columbia, Illinois City Council held on the 18th day of January, 2011.

IN WITNESS WHEREOF, I have made and delivered this certificate for the uses and purposes hereinabove set forth this 18th day of January, 2011.

On this 18th day of January, 2011.



J. RONALD COLYER, City Clerk

(SEAL)



January 5, 2011

Mr. Ron Williams, PE
City Engineer
City of Columbia
208 South Rapp Avenue
Columbia, IL 62236

Re: Main Street Streetscape
Section 06-00045-00-SW
Columbia, IL

Dear Mr. Williams:

We propose to render right of way negotiation services in connection with the Main Street Streetscape project (hereinafter called the "Project").

Our Basic Services will consist of negotiating the acquisition of additional right of way according to IDOT requirements for federally-funded projects. We estimate negotiating 5 temporary construction easements from 5 property owners. We will also document the donation of 3 additional easements on 2 City-owned parcels, two permanent and one temporary. We will also furnish such Additional Services as you may request. These services are provided subject to the General Conditions shown on the attached Exhibit A.

You agree to pay us for our Basic Services and any authorized Additional Services at the hourly rates set forth on Exhibit A. Fee estimates are based on a maximum of 2 negotiation meetings per parcel. Billings for Basic Services are estimated at \$4,000.

This proposal and the attachments represent the entire understanding between you and Oates Associates, Inc. with respect to the Project and may only be modified in writing signed by both of us. If it satisfactorily sets forth your understanding of our agreement, please sign the enclosed copy of this letter in the space provided below and return it to us. This proposal will be open for acceptance until February 11, 2011, unless changed by us in writing.

Sincerely,

OATES ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read 'Alan J. Goepfert'.

Alan J. Goepfert, PE, PLS
Principal

Accepted this _____ day of _____, 2011.

By: _____

Title: _____

ILLINOIS
Eastport Business Center 1
100 Lanter Court, Suite 1
Collinsville, IL 62234
tel 618.345.2200
fax 618.345.7233

MISSOURI
Laclede Gas Building
720 Olive, Suite 1660
St. Louis, MO 63101
tel 314.588.8381
fax 314.588.9605

www.oatesassociates.com

EXHIBIT A

HOURLY RATE SCHEDULE

Principal Engineer	175.00
Senior Professional II	150.00
Senior Professional I	130.00
Professional III	120.00
Professional II	110.00
Professional I	95.00
Designer	115.00
Junior Professional	80.00
Technician III	95.00
Technician II	85.00
Technician I	70.00
Technician Intern	45.00

The above hourly rates are effective as of July 1, 2010 and are subject to adjustment annually.

GENERAL CONDITIONS

TERMS

When used below, the term "we" and "our" refers to Oates Associates, Inc. and its consultants, stockholders, agents and employees. The term "you" and "your" refers to the person or entity to whom this proposal is addressed.

PAYMENT PROVISIONS

We will bill you monthly for services and reimbursable expenses. Our invoices are due and payable within 30 days of issuance. If invoices are not paid when due, we will stop work on the project until paid. In addition, a late charge of 1-1/2% per month will be assessed on invoices not paid within 30 days.

We will bill you for any direct costs we incur in the prosecution of this work. Direct costs may include subconsultants we contract to perform a portion of our scope. Reimbursable expenses will also include any out of pocket costs directly related to this project. Basis for billings of reimbursable expenses will be actual cost.

The above financial arrangements are on the basis of prompt payment of our bills and the orderly and continuous progress of the Project. We would expect to start our services promptly after receipt of your acceptance of this proposal. If there are protracted delays for reasons beyond our control, we would expect to negotiate with you an equitable adjustment of our compensation taking into consideration the impact of such delay including but not limited to changes in price indices and pay scales applicable to the period when services are in fact being rendered.

GENERAL LIABILITY AND LIMITATION THEREOF

We agree to hold you harmless and to indemnify you on account of any liability due to bodily injury or property damage arising directly out of our negligent acts, but such hold harmless and indemnity will be limited to that covered by our comprehensive general liability insurance. At your request, we will provide certificates evidencing such coverage and, if available, will purchase additional limits of liability that you may require as a separate cost item to be borne by you.

LIMITATION OF LIABILITY

You recognize that our fee includes an allowance for funding a variety of risks which are imposed on us by virtue of our involvement in and association with your project. One of these risks stems from the potential for human error. In order for you to obtain a reduction in fee by virtue of a smaller allowance for risk funding, you agree to limit our professional liability to you for any and all claims, losses, expenses, injuries or damages (including consequential damages) arising from our professional acts, errors, or omissions, such that our total aggregate liability to you shall not exceed the total compensation received by us under this agreement, or the sum of \$50,000, whichever is greater. If you wish to discuss higher limits and the charges involved, you should speak with our personnel.

THIRD PARTY CLAIMS

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either you or us. Our services under this Agreement are being performed solely for your benefit, and no other entity shall have any claim against us because of this Agreement or the performance or nonperformance of services hereunder. You agree to include a provision in all contracts with contractors and other entities involved in this project to carry out the intent of this paragraph.

OWNERSHIP AND USE

Upon full payment of all sums due or anticipated to be due us under this Agreement and upon performance of all your obligations under this Agreement, the latest original Drawings and Specifications and the latest electronic data prepared by us for the Project shall become your property. This conveyance shall not deprive us of the right to retain electronic data or other reproducible copies of the Drawings and Specifications or the right to reuse information contained in them in the normal course of our professional activities. We shall be deemed the author of such electronic data or documents, shall retain all rights not specifically conveyed, and shall be given appropriate credit in any public display of such Drawings and Specifications. We will, however, retain ownership and possession of original recorded plats.

You will not use or authorize any other person to use the Drawings, Specifications, electronic data and other instruments of service on other projects, for additions to this Project or for completion of this Project by others so long as we are not adjudged to be in default under this Agreement. Reuse without our professional involvement will be at your sole risk and without liability to us. You agree to indemnify and hold us and our subconsultants or agents harmless from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of unauthorized reuse of Drawings, Specifications, electronic data or other instruments of service.

EXHIBIT A

GENERAL CONDITIONS (continued)

TIMING OF STANDARDS

We endeavor to perform our services in accordance with standards, building codes, and ordinances in effect at the time of service using that level of care and skill ordinarily exercised by members of the profession currently practicing in the same or similar locality and under similar conditions. You understand that these standards and level of care and skill change with time and that substantially delayed use of our documents without our involvement is at your own risk.

TERMINATION, SUSPENSION OR ABANDONMENT

You recognize that if you terminate, suspend or abandon this project we will incur many costs which we would not have incurred had the project continued to completion. Therefore it is agreed that an equitable adjustment to our compensation shall include but not be limited to all reasonable costs incurred by us on account of suspension or abandonment of the Project, for preparation of documents for storage; maintaining space and equipment pending resumption; orderly demobilization of staff; maintaining employees on a less than full-time basis; terminating employment of personnel because of suspension; rehiring former employees or new employees because of resumption; reacquainting employees with the Project upon resumption; and making revisions to comply with Project requirements at the time of resumption.

DISPUTE RESOLUTION

In an effort to resolve any conflicts that arise during the design or construction of the Project or following the completion of the Project, you and we agree that all disputes between us arising out of or relating to this Agreement or the Project shall be submitted to non-binding mediation unless the parties mutually agree otherwise.

UNFORESEEN CONDITIONS

Our services may be provided to assist you in making changes to an existing facility for which you shall furnish documentation and information upon which we may rely for its accuracy and completeness. Unless specifically authorized or confirmed in writing by you, we shall not be required to perform or to have others perform destructive testing or to investigate concealed or unknown conditions. In the event documentation or information furnished by you is inaccurate or incomplete, all resulting damages, losses and expenses, including the cost of our Additional Services, shall be borne by you.

You shall indemnify and hold harmless Oates Associates, Inc. our subconsultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, which arise as a result of documentation or information furnished by you.

CONSTRUCTION MEANS AND METHODS

Performance of our services does not imply liability by us for Contractor means, methods, techniques, sequences or procedures of construction selected by Contractor or safety precautions and programs incident to the work of Contractor or for any failure of Contractor to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor furnishing and performing their work. Accordingly we can neither guarantee the performance of the construction contracts by Contractor nor assume responsibility for Contractor failure to furnish and perform work in accordance with Contract Documents.

JOB SITE SAFETY

Insofar as jobsite safety is concerned, we are responsible solely for our own and our employees activities on the jobsite, but this shall not be construed to relieve you or any construction contractors from their responsibilities for maintaining a safe jobsite. Neither our professional activities nor the presence of our employees and subconsultants, shall be construed to imply we have any responsibility for methods of work performance supervision, sequencing of construction, or safety in, on, or about the jobsite. You agree that the general contractor is solely responsible for jobsite safety, and you warrant that this intent shall be made evident in your agreement with the general contractor. You also warrant we shall be made an additional insured under the general contractor's general liability insurance policy.

HAZARDOUS MATERIALS

As used in this Agreement, the term "hazardous materials" shall mean any substances, including but not limited to asbestos, toxic or hazardous waste, PCBs, combustible gasses and materials, petroleum or radioactive materials (as each of these is defined in applicable federal statutes) or any other substances under any conditions and in such quantities as would pose a substantial danger to persons or property exposed to such substances at or near the Project site.

You and we acknowledge that our scope of services does not include any services related to the presence of any hazardous or toxic materials. In the event that we or any other party encounter any hazardous materials, or should it become known to us that such materials may be present on or about the jobsite or any adjacent areas that may affect the performance of our services, we may, at our option and with out liability for consequential or any other damages, suspend performance of our services under this Agreement until you retain appropriate consultants or contractors to identify and abate or remove the hazardous materials and warrant that the jobsite is in full compliance with laws and regulations regarding such materials.