



2043 Woodland Parkway, Suite 201 › St. Louis, Missouri 63146 › t: 314.434.8898 › kdginc.com

February 25, 2020

Mr. Mike Dell'Orco
Acting City Engineer
City of Warson Woods
10015 Manchester Road
Warson Woods, Missouri 63122

Re: City of Warson Woods – Street Program 2020
Warson Woods, Missouri
KdG Proposal No. 200013-0001

Dear Mr. Dell'Orco:

KdG, Inc. is pleased to forward our proposal for civil engineering services to provide construction management of paving and slab replacement activities.

The scope of services, Exhibit A, represents our understanding of the tasks and deliverables for the project.

If this proposed contract is acceptable, please provide an official authorization of Notice to Proceed for our records.

Thank you for your cooperation, and we look forward to working with you.

Sincerely,

Mark A. Beck, AIA
Senior Associate

MAB/dpb

Enclosures

cc: W. Peter Maruska, AIA, KdG, Inc.
Ronald T. Stuckel, PE, KdG, Inc.

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STANDARD CONTRACT FOR PROFESSIONAL SERVICES

CLIENT NAME:	City of Warson Woods	DATE:	February 25, 2020
ADDRESS:	10015 Manchester Road Warson Woods, Missouri 63122	PROJECT NAME:	City of Warson Woods * Street Program 2020
CONTACT:	Mr. Mike Dell'Orco	PROJECT NUMBER:	200013-0001
PHONE:	314.965.3100	PROJECT LOCATION:	Warson Woods, Missouri

FAX:

SCOPE OF SERVICES

See Exhibit A: Scope of Services, attached and made part of this agreement.

FEE SCHEDULE

Hourly with Estimate - AmountFourteen Thousand Eight Hundred Seventy and 00/100 Dollars (\$14,870.00)

CONDITIONS OF PAYMENT

To be billed monthly with payment due within 15 days.

The proposal is valid for 30 days from the date shown above, and is void thereafter.

If the services covered by this Agreement have not been completed within nine (9) months of the date of this Agreement, through no fault of the Architect/Engineer, extension of the Architect's/Engineer's services beyond that time shall be compensated as Additional Services.

Signing of this contract indicates understanding and acceptance of the Terms and Conditions herein and authorizes KdG to proceed with the services described. Please retain one copy and return one fully executed copy to KdG.

KdG, Inc.		City of Warson Woods
SIGNATURE:	_____	AUTHORIZED SIGNATURE: _____
NAME:	W. Peter Maruska, AIA	NAME: _____
TITLE:	President and Chief Executive Officer	TITLE: _____
DATE:	February 25, 2020	DATE: _____

"IMPORTANT TERMS AND CONDITIONS ON REVERSE"

TERMS AND CONDITIONS

To assure an understanding of matters related to our mutual responsibilities, these terms and conditions for professional services are made a part of this agreement for our services:

AMENDMENTS: This agreement may be amended in writing providing both the Client and Kuhlmann design Group, Inc. (KdG) agree to such modifications. This contract constitutes the entire agreement between the parties and no oral agreements, statements or representations are a part of this agreement.

COMPENSATION FOR SERVICES: The basis for compensation will be as identified in the agreement. All items not covered in this agreement and requested by the Client will be performed at an hourly rate based upon the current rate schedule.

When "Lump Sum" Fee is utilized, it shall include all labor incurred by KdG and shall not exceed the fixed payment amount without prior authorization of the Client.

All expenses and/or outside services will be billed at 1.1 times direct cost.

INVOICE AND PAYMENT: KdG may submit monthly statements for services and expenses based upon the proportion of the actual work completed at the time of billing. Unless provided for otherwise, payments for services will be due within 15 days.

If the Client fails to make any payment due KdG for services and expenses within the period specified, a service charge of 1 1/2% per month will be added to the Client's account. This is an annual rate of 18%. If Client fails to fully and timely make any payment due to KdG, KdG may, without any liability or prior notice to Client, suspend all work under this contract until such payment is made, with interest as provided herein.

The Client shall pay the cost of the employees of KdG engaged in connection with collection of any delinquent amounts at the rates specified in KdG's current rate schedule for the time spent

If legal or collection services are employed to collect any outstanding bills, any expenses including all attorneys' fees and court cost shall be paid by Client.

LIMITATION OF LIABILITY: The Client agrees to limit KdG's liability to the Client and to all construction Contractors and Subcontractors where applicable, on this work, for damages to them, due to KdG's negligent acts, errors or omissions, such that the total aggregate liability of KdG and to all those named shall not exceed the total fee paid to KdG for services rendered on this project.

In no event shall KdG be liable for any indirect, special or consequential loss or damage of any type whatsoever arising out of the performance of the work on this project including, but not limited to, loss of use, loss of income, profit, interest or financing, management or employee productivity, or business interruption, whether caused by the negligence of KdG, or otherwise, and Client shall fully indemnify and hold KdG harmless from any such damages or liability.

By executing this agreement, the Client assumes full liability for any errors or negligence contained in any documentation or information furnished by or on behalf of client.

CERTIFICATE OF MERIT In any action, whether it is in Tort, Contract, or otherwise in which the Client, Owner, Contractor, or any of their subcontractors, sub-subcontractors, agents and employees, seek damages for personal injuries, property damage, lost profits or expectancies, business interruption, death, or other monetary loss by reason of alleged professional malpractice, negligence, or breach of contract by KdG, the plaintiff's attorney or the Plaintiff, if the Plaintiff is proceeding pro se, shall, before filing suit in any competent Court or arbitration forum, submit to KdG an Affidavit declaring that the affiant has consulted and reviewed the facts of the case with an independent architect or engineer who the affiant reasonably believes:

- (i) is knowledgeable of the relative issues involved in the particular action;
- (ii) practices or has practiced within the last ten years or teaches or has taught within the last ten years in the same area of architecture, engineering, or land surveying that is at issue in the particular action; and
- (iii) is qualified by experience or demonstrated competence in the subject of the case; that the reviewing architect, engineer, or land surveyor has determined in a written report, after a review of relevant material involved in the particular action that there is a reasonable and meritorious cause for the filing of such action; and that the affiant has concluded on the basis of the reviewing architect or engineer's review and consultation that there is a reasonable and meritorious cause of filing of such action.

A copy of the written report, clearly identifying the Plaintiff and the reasons for the reviewing architect or engineer's determination that a reasonable and meritorious cause for the filing of the action exists, must be attached to the Affidavit, but information which would identify the reviewing party may be deleted from the copy attached to the Affidavit.

If an Affidavit complying with this section is not submitted to KdG before suit is filed, such suit shall be subject to dismissal by KdG, with prejudice, with costs and attorney's fees related to the dismissal to be paid by the Plaintiff in favor of KdG.

REUSE OF DOCUMENTS: All documents including drawings and specifications furnished by KdG pursuant to this Agreement are instruments of service and shall remain the property of KdG. They are not intended or represented to be suitable for reuse by Client or others on extensions of this work, or on any other work. Any reuse without specific written consent or adaptation by KdG will be at Client's sole risk, and without liability to KdG. The Client shall indemnify and hold harmless KdG from all claims, damages, losses and expenses including attorneys fees arising out of any unauthorized reuse. Any such reuse will entitle KdG to further compensation at rates to be agreed upon by Client and KdG.

RIGHT OF ENTRY: The Client will provide right of entry for our staff, subcontractors, and all necessary equipment to complete the work. KdG will take all reasonable precautions to minimize damage to the property. It is understood by the Client that in the normal course of work some damage may occur, the correction of which is not part of this agreement.

UTILITIES AND BURIED STRUCTURES: In the prosecution of our work, KdG will take all reasonable precautions to avoid damage or injury to subterranean structures or utilities. Client agrees to hold KdG harmless for any damages to subterranean structures and utilities.

GOVERNING LAWS: The validity or construction of this Agreement, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of Missouri. Client consents to jurisdiction in St. Louis County, Missouri and agrees that all court proceedings shall take place in St. Louis County, Missouri.

DISPUTES: If litigation occurs in connection with this agreement, and KdG prevails in such litigation, Client shall pay all costs incurred by KdG, including staff time, court costs, attorney's fees and other expenses related to the litigation.

STANDARD OF CARE: Services performed by KdG will be conducted with the level of care and skill ordinarily exercised by members of the professions currently practicing under similar conditions. No other warranty, express or implied, is made.

PARTIAL INVALIDITY: If any term, covenant, condition or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect, and shall in no way be affected, impaired or invalidated thereby.

HEADINGS: Headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing the terms, covenants, and conditions of this Agreement.

RENOVATION/REHABILITATION OF EXISTING STRUCTURES: Where the work involves remodeling and/or rehabilitation of an existing structure, Client agrees that certain assumptions must be made regarding existing conditions and because some of these assumptions may not be verifiable without expending additional sums of money, or destroying otherwise adequate or serviceable portions of the structure, Client agrees that, except for negligence on the part of KdG, Client will hold harmless, indemnify and defend KdG from and against any and all claims arising out of the professional services provided under this Agreement.

ASBESTOS AND HAZARDOUS WASTES: Where the SCOPE OF SERVICES includes asbestos abatement and/or hazardous waste/remediation, Client agrees that the handling or removal of asbestos, asbestos products, and hazardous wastes involves certain health risks which require specific safety measures. KdG will be responsible for safety and safety measures of KdG employees only. The Client is responsible for his own negligence and safety measures for the protection of the Client's employees, contractors, subcontractors and the general public. Client agrees that, except for claims and damages arising from negligent acts, errors or omissions of KdG, Client will hold harmless, defend and indemnify KdG from all claims, suits, expenses or damages arising from or alleged to arise from exposure to, contact with or inhalation of asbestos, asbestos fibers, or any other hazardous or toxic substances, wastes or materials as so designated by any federal, state or local governmental entity or agency.

When the SCOPE OF WORK does not include asbestos and/or hazardous wastes and if, during the performance of work, the presence of hazardous or toxic materials or substances, which are not being properly or safely handled or disposed of, is discovered or suspected by KdG, KdG shall be permitted to immediately cease all work on the project which requires contact with or exposure to such hazardous or toxic materials, until Client has made arrangements satisfactory to KdG for the removal, disposal or handling of same.

Nothing in this agreement shall impose any responsibility or liability on KdG for claims, lawsuits, expenses or damages arising from, or in any manner related to, the exposure to, or the handling, manufacture or disposal of asbestos, asbestos products, or any other hazardous waste or toxic substance of any kind, as so designated by federal, state or local governmental entities or agencies.

CONSTRUCTION PHASE: KdG shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work. The fees quoted are based on the time necessary to provide the services specified from KdG based on "normal construction performance" of the selected contractor. Client agrees that any additional time required of KdG to administer or review due to delays or other issues of the selected construction contractor will be an added cost to this contract. Additional services are billed hourly per our current hourly rate schedule.

INSURANCE & INDEMNITY: KdG represents and warrants that its employees are protected by Workers Compensation Insurance and that KdG has such coverage under public liability and property damage insurance policies which it believes to be adequate. Certificates for all such policies of insurance shall be provided to Client, upon request in writing. Within the limits and conditions of such insurance, KdG agrees to indemnify and save the Client harmless from and against any loss, damage or liability asserted by third parties solely to the extent arising from any negligent acts by KdG employees, except as otherwise limited by this contract. KdG shall not, in any way, be responsible or liable for any loss, damage or liability beyond the amounts, limits and conditions of such insurance coverage. KdG shall not be responsible for any loss, damage or liability arising from any negligent acts by Client, its agents, staff or other consultants.

To the fullest extent permitted by law, Client shall indemnify and hold KdG harmless from and against any and all claims, damages, losses, suits, actions or expenses, including, but not limited to, attorney's fees, in connection with the project, provided that such claims, damages, suits, losses or expenses are attributable to bodily injury, sickness, disease or death, or to injury or destruction of tangible property (including loss of use resulting therefrom), to the extent caused in whole or in part by negligent errors, acts or omissions of Client, anyone acting directly or indirectly for Client, or anyone for whose acts Client may be liable, regardless of whether or not such claim, damage, suit, action, loss or expense is caused in part by KdG.

It is agreed that General Contractor is solely responsible for jobsite safety, and that this intent shall be made evident in the Client's Agreement with General Contractor. The Client also agrees to list the General Contractor's general liability insurance policy as being primary, and KdG shall be made as additional insured under the General Contractor's general liability insurance policy. KdG shall also be named as an additional insured, with the Client in the contract with the General Contractor, from liability arising from acts of negligence or omissions by the General Contractor.

TERMINATION: This agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof. Such termination shall not be effective if that substantial failure has been remedied before expiration of the period in the written notice. In the event of termination, Client will pay KdG for all services performed and expenses incurred to the termination notice date plus reasonable termination expenses.

In the event of termination or suspension for more than three (3) months, prior to completion of all work covered by this agreement, KdG may, in its sole discretion, complete such analysis and other work necessary to complete required files and may also complete a report on the services performed to the notice date of termination or suspension. The expenses of termination or suspension shall include all direct costs of completing such analyses, records and reports billable at KdG's standard hourly rates.

In the event any phase of the project is delayed for reasons beyond KdG's control, unbilled work will be invoiced at the standard hourly rates for the actual number of hours expended.

ASSIGNS: Neither the Client nor KdG may delegate, assign or transfer his duties or interest in this Agreement without the written consent of the other party. The individual signing this Agreement for client warrants that he or she has full power and authority to do so on behalf of Client.

ENTIRE AGREEMENT: This Agreement constitutes the whole agreement between the parties with respect to the subject matter contained herein and there are no terms other than those contained herein. No modifications or amendment of this Agreement shall be valid unless in writing and signed by the parties hereto. The individual signing this Agreement for Owner warrants that he or she has full power and authority to do so on behalf of Owner.

MISCELLANEOUS: Client recognizes that design and construction documents are imperfect, that changes are a normal part of the construction process and that both Contractor and architect-initiated changes during construction are unavoidable. Under no circumstances shall KdG be responsible to pay for any item, system, structure or component that would have been required or included in the original construction documents or for any betterment cost (i.e. the cost of improving or enhancing the Project).

If Client or its representative observes or otherwise becomes aware of any fault, deficiency or defect in the Project, or any non-conformity with the Contract Documents, Client shall promptly notify KdG in writing of such fault, deficiency, defect or non-conformity.

KdG services under this Agreement are being performed solely for Client's benefit and no other person or entity shall have any claim against KdG because of this Agreement or the performance or non-performance or any services hereunder. Client shall include this provision in any agreement it enters into with another personal entity involving this Project.



EXHIBIT A – SCOPE OF SERVICES

CLIENT NAME:	City of Warson Woods	DATE:	February 24, 2020
ADDRESS:	10015 Manchester Road Warson Woods, Missouri 63122	PROJECT NAME:	City of Warson Woods * Street Program 2020
		PROJECT NUMBER:	200013-0001
		PROJECT LOCATION	Warson Woods, Missouri

SCOPE OF SERVICES

Provide civil engineering design services to evaluate pavement conditions, recommend improvements, prepare construction documents, estimate of the construction costs and provide construction management of paving and slab replacement activities.

Street Replacement Construction Management

\$14,870.00

- Accompany the city on a street walk through of each ward, identifying the pavement conditions and marking them per the recommended improvement/repair.
- Develop ward maps that show all locations of paving repair and the recommended improvement method.
- Provide a spread sheet of each ward, identifying each street and the type and quantity of each repair. The spreadsheet will include the cost of each repair method based on predetermined unit costs and quantities.
- Provide construction coordination and management between the city and contractor
- Provide on-site construction inspection for asphalt pavement and street slab replacements
- Calculate completed contractor quantities for pay applications
- Assist the city in review of contractor pay applications
- Complete pre-final inspection once punch list items are completed
- Assist city with completion of project close out

EXCEPTIONS:

- Design phase services (available upon request)
- No survey services are included
- Utility design or relocations
- Floodplain Analysis or Submittals
- Submittals such as MoDNR, USACE etc.
- Geotechnical services, but can be provided per sub-consultant if approved by the city
- Stormwater, water quality or detention design
- Sanitary sewer design or adjustments
- Water utility design or adjustments

ASSUMPTIONS:

- There will be no survey deliverables to the client
- Detention will not be required
- No easements are required
- If printing is required, costs will be per the current KdG printing rate schedule

ADDITIONAL SERVICES:

Additional services authorized by the client that are beyond the listed Scope of Services shall be performed on an hourly basis according to our current hourly rate fee schedule (attached, Exhibit B).



EXHIBIT B - HOURLY RATE FEE SCHEDULE

DESCRIPTION	AMOUNT PER HOUR
Project Principal	\$180.00
Project Manager IV	\$165.00
Project Manager III	\$150.00
Project Manager II	\$145.00
Project Manager I	\$140.00
Project Architect/Engineer/Designer III	\$135.00
Project Architect/Engineer/Designer II	\$125.00
Project Architect/Engineer/Designer I	\$115.00
Architect/Engineer/Designer III	\$105.00
Architect/Engineer/Designer II	\$ 95.00
Architect/Engineer/Designer I	\$ 85.00
Technician II	\$ 75.00
Technician I	\$ 65.00
Word Processor	\$ 55.00

All reimbursable expenses incurred for a project are billed at cost plus ten percent (10%).

A 1.5 multiplier will be applied to the above hourly rates for services relating to litigation and expert witness.

Travel time to and from jobsite will be charged at the above hourly rates.

Expenses include but are not limited to: travel, subsistence when applicable, telephone charges, reproductions, shipping charges, rental equipment (including repair); additional vehicle, if required; and all Subcontractors (borings, survey, test pit excavations, etc.) engaged by us on behalf of Clients.

THIS FEE SCHEDULE IS SUBJECT TO REVISION.