



## CITY OF MIDWEST CITY MEETINGS FOR JULY 26, 2022

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Meetings will be streamed live on the City of Midwest City's (MWC) YouTube channel: [bit.ly/CityofMidwestCity](https://bit.ly/CityofMidwestCity). Due to temporary relocation of the Chamber, this service is not available.

The recorded video will be available on MWC's YouTube channel: [bit.ly/CityofMidwestCity](https://bit.ly/CityofMidwestCity) and MWC's website: [www.midwestcityok.org](http://www.midwestcityok.org) within 48 hours. The meeting minutes and video can be found on MWC's website in the Agenda Center: <https://www.midwestcityok.org/meetings>.

To make a special assistance request, call 739-1220 or email [tanderson@midwestcityok.org](mailto:tanderson@midwestcityok.org) no less than 24 hours prior to the start of a meeting. If special assistance is needed during a meeting, call 739-1388.

MWC continues to take steps to follow federal, state and local guidelines regarding social distancing and crowd size. Thank you for helping us keep our community safe.



### **CITY COUNCIL AGENDA**

City Hall - Midwest City Municipal Court, 100 N. Midwest Boulevard

July 26, 2022 – 6:00 PM

Presiding members: Mayor Matthew Dukes

Ward 1 Susan Eads

Ward 2 Pat Byrne

Ward 3 Megan Bain

Ward 4 Sean Reed

Ward 5 Sara Bana

Ward 6 Rick Favors

City Staff:

City Manager Tim Lyon

City Clerk Sara Hancock

City Attorney Don Maisch

A. **CALL TO ORDER.**

B. **OPENING BUSINESS.**

- Invocation by Assistant City Manager Vaughn Sullivan
- Pledge of Allegiance by Councilmember Megan Bain
- Community-related announcements and comments
- Mayoral Proclamations: Retiree Brian Phillips and Maciek Hoyetski, and Lakes Appreciation Month

- C. CONSENT AGENDA. These items are placed on the Consent Agenda so the Council, by unanimous consent, can approve routine agenda items by one motion. If any Council member requests to discuss an item(s) or if unanimous consent is not received, then the item or items will be removed and heard in regular order.
1. Discussion and consideration for adoption, including any possible amendments, of the June 28, 2022 meeting minutes. (City Clerk - S. Hancock)
  2. Discussion and consideration for adoption, including any possible amendment, of the City Manager's Report for the month of June 2022. (Finance - T. Cromar)
  3. Discussion and consideration for adoption, including any possible amendment of supplemental budget adjustments to the following funds for FY 2022-2023, increase: Grants Fund, revenue/Intergovernmental (88) \$1,229,182; expenditures/Transfers Out (88) \$1,229,182. Disaster Relief Fund, revenue/Transfers In (88) \$1,229,182. Dedicated Tax 2012 Fund, expenditures/Economic (87) \$13,980. Grants Fund, revenue/Intergovernmental (21) \$11,000; expenditures/Emergency Operations (21) \$11,000. (Finance - T. Cromar)
  4. Discussion and consideration for adoption, including any possible amendment of supplemental budget adjustments to the following funds for FY 2021-2022, increase: Street Light Fee Fund, expenditures/General Government (14) \$47,000. Grant Fund, revenues/Intergovernmental (88) \$27,037; expenditures/Transfers Out (88) \$27,037. Disaster Relief Fund, revenues/Transfers In (88) \$27,037. 29<sup>th</sup> & Douglas Property Fund, expenditures/Transfers Out (17) \$3,065. (Finance - T. Cromar)
  5. Discussion and consideration of passing and approving, including any possible amendment of a resolution for the City of Midwest City, Oklahoma to release unappropriated fund balances at the close of day June 30, 2022 to be made available for fiscal year 2022-2023; and amending the budgets for fiscal year 2022-2023 to include the released appropriations from the fiscal year 2021-2022 budgets as supplemental appropriations; and, effective July 1, 2022, renewing encumbrance commitments cancelled at the close of day June 30, 2022. (Finance - T. Cromar)
  6. Discussion and consideration of adopting, including any possible amendment, the monthly report on the City of Midwest City Employees' Health Benefits Plan by the City Manager and action as deemed necessary by the Council to maintain the plan. (Human Resources - T. Bradley)
  7. Discussion and consideration, including any possible amendments, of accepting the Urban Renewal Authority's Fiscal Year 2021-2022 Annual Report. (Economic Development - R. Coleman)
  8. Discussion and consideration, including any possible amendment, of awarding the bid and entering into a Property Lease Agreement for Turn-key Concession Operations at Kiwanis Park with Tasty Snow in the amount of \$850.00 per month from March to October. (City Manager - V. Sullivan)

9. Discussion and consideration, including any possible amendment of awarding a contract for construction management to Lippert Brothers Construction, Inc. (LBI), associated with phase II additions to the Multi-Athletic Complex (MAC) in the amount of 6% of actual construction costs for construction management services and a flat fee of \$5,000.00 for pre-construction services. (City Manager - V. Sullivan)
10. Discussion and consideration for adoption, including any possible amendment, of a Memorandum of Understanding for 2022-23 in the amount of \$75,000 with the Boys and Girls Clubs of Oklahoma County Inc. for the operation of a club site at Country Estates Elementary School, located at 1609 Felix Place in Midwest City. (Grants Management - T. Craft)
11. Discussion and consideration of adoption, including any possible amendment of, a contract for FY 22-23 in the amount of \$203,980 with Central Oklahoma Transportation and Parking Authority (COTPA) for the provision of EMBARK Route 15 bus service in Midwest City. (Grants Management - T. Craft)
12. Discussion and consideration, including any amendment thereto, of accepting a State and Local Assistance Performance Grant from and entering into an Agreement for the Sub-Grant of the Emergency Management Performance Grant American Rescue Plan Act (EMPG-ARPA) with the State of Oklahoma Department of Emergency Management and Homeland Security (OEMHS) in the amount of \$1,000 effective February 8, 2022 for the acquisition of a pallet of water designated for emergency use. (Emergency Management - D. Wagner)
13. Discussion and consideration, including any amendment thereto, of accepting a State and Local Assistance Performance Grant from and entering into an Agreement for the Sub-Grant of Emergency Management Performance Grant American Rescue Plan Act (EMPG-ARPA) with the State of Oklahoma Department of Emergency Management and Homeland Security (OEMHS) in the amount of \$10,000 effective February 8, 2022 for the acquisition of a generator. (Emergency Management - D. Wagner)
14. Discussion and consideration for adoption, including any possible amendment of change order #7 amending the contract with Shiloh Enterprises, Inc. to construct the WP Bill Atkinson Park in an increase of \$2,459.47 and add 6 days of time. (Engineering & Construction Services - B. Bundy)
15. Discussion and consideration for adoption, including any possible amendment of change order #01 amending the contract with Downey Contracting, LLC to construct the Midwest City Council Chambers COVID and ADA retrofit in an increase of \$3,500 and with no time added. (B. Bundy - Engineering & Construction Services)
16. Discussion and consideration of adoption, including any possible amendment, of renewing the utility bill production agreement with DataProse, LLC contract, with modifications for Fiscal Year 22-23. (City Clerk - S. Hancock)
17. Discussion and consideration, including any amendment, of reappointing Dave Herbert and Russell Smith to the Midwest City Urban Renewal Authority for an additional three-year term to end on July 22, 2025. (City Manager - T. Lyon)

18. Discussion and consideration, including any possible amendment of declaring various items of City property as surplus property and authorizing their disposal through sealed bid, public auction, or by other means as necessary. (Engineering & Construction Services - B. Bundy)

D. DISCUSSION ITEMS.

1. Public Hearing, discussion, consideration and to provide information and answer questions, pursuant to Title 62, Section 859 of the Oklahoma Statutes regarding the establishment of “Increment District Number Three, City of Midwest City, Oklahoma” in consideration of MTG Property Holdings, LLC and Centrillum Proteins, LLC request for development financing assistance in constructing a ± 55,000 square foot food processing plan near 7210 NE 36<sup>th</sup> Street; and in consideration of Global Turbine Systems request for economic development finance assistance to develop a maintenance, repair and jet turbine overhaul facility near 7450 NE 23<sup>rd</sup> Street. (Presentation By Dan McMahan, Representing the City of Midwest City)
2. Discussion and consideration for entering into and approving, including any possible amendment for Professional Services with Plummer Associates, Inc. in the amount of \$299,365 to provide survey and design services for a future utility extension to serve Centrillum Proteins and the Water Resource Recovery Facility. (Engineering & Construction Services - B. Bundy)
3. Discussion and consideration for entering into and approving, including any possible amendment for Professional Services with Freese and Nichols, Inc. in the amount of \$296,000 to provide services for the Eastside Sanitary Sewer Study. (Engineering & Construction Services - B. Bundy)
4. Public hearing, presentation and discussion of proposed amendments to Chapter 14, Elections; Section 14-1, Wards created; boundaries of the City Ordinances for the City of Midwest City that create and define the ward boundaries for the six wards in Midwest City. (City Attorney – D. Maisch)

E. EXECUTIVE SESSION.

1. Discussion and consideration of 1) entering into executive session, as allowed under Title 25 Section 307 (B)(4) to discuss confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest; and 2) authorizing the City Manager to take action as appropriate based on discussion. (City Manager - T. Lyon)

D. DISCUSSION ITEMS CONTINUED.

5. Discussion and consideration for approval, a resolution approving the proposed settlement agreement with the following opioid distributors: Cardinal Health, McKesson Corporation and AmerisourceBergen Corporation. (City Attorney - D. Maisch)



6. Discussion and consideration for approval, including any possible amendment of a resolution approving the proposed settlement agreement with Johnson and Johnson concerning opioid litigation. (City Attorney - D. Maisch)
  7. Discussion and consideration for approval, a resolution approving the proposed sharing agreement with Mallinckrodt concerning opioid litigation. (City Attorney – D. Maisch)
- F. NEW BUSINESS/PUBLIC DISCUSSION. In accordance with State Statute Title 25 Section 311. Public bodies - Notice. A-9, the purpose of the "New Business" section is for action to be taken at any Council/Authority/Commission meeting for any matter not known about or which could not have been reasonably foreseen 24 hours prior to the public meeting. The purpose of the "Public Discussion" section of the Agenda is for members of the public to speak to the Council on any Subject not scheduled on the Regular Agenda. The Council shall make no decision or take any action, except to direct the City Manager to take action, or to schedule the matter for discussion at a later date. Pursuant to the Oklahoma Open Meeting Act, the Council will not engage in any discussion on the matter until that matter has been placed on an agenda for discussion. THOSE ADDRESSING THE COUNCIL ARE REQUESTED TO STATE THEIR NAME AND ADDRESS PRIOR TO SPEAKING TO THE COUNCIL.
- G. FURTHER INFORMATION.
1. Monthly Residential and Commercial Building report for June 2022 Building Report (Engineering & Construction Services — B.Bundy)
- H. ADJOURNMENT.



CONSENT AGENDA



Notice for the Midwest City Council meetings was filed for the calendar year with the City Clerk of Midwest City. Public notice of this agenda was accessible at least 24 hours before this meeting at City Hall and on the Midwest City website (www.midwestcityok.org).

## Midwest City Council Minutes

June 28, 2022

This meeting was held in the Midwest City Chambers at City Hall, 100 N Midwest Blvd, Midwest City, County of Oklahoma, State of Oklahoma.

Mayor Matt Dukes called the meeting to order at 6:04 PM with following members present:

Ward 1 Susan Eads	Ward 4 Sean Reed	City Manager Tim Lyon
Ward 2 Pat Byrne	Ward 5 Sara Bana	City Clerk Sara Hancock
Ward 3 Megan Bain	Ward 6 Rick Favors	City Attorney Don Maisch

OPENING BUSINESS. The Invocation was given by Assistant City Manager Vaughn Sullivan. The Pledge of Allegiance was led by Mayor Dukes. Staff and Council made community-related announcements and comments. Mayor Dukes and City Manager Lyon presented a proclamation and plaque to Retiree Michele Keys.

CONSENT AGENDA. Bana made a motion to approve the consent agenda with exception of #12, #14 and #23, seconded by Reed. Voting aye: Eads, Byrne, Bain, Reed, Bana, Favors and Dukes. Nay: none. Motion Carried.

1. Discussion and consideration, including any amendments, of approving the amended minutes from May 11, 2021.
2. Discussion and consideration for adoption, including any possible amendments, of the June 14, 2022 meeting minutes.
3. Discussion and consideration for adoption, including any possible amendment, of the City Manager's Report for the month of May 2022.
4. Discussion and consideration for adoption, including any possible amendment of supplemental budget adjustments to the following funds for FY 2021-2022, increase: General Gov't Sales Tax Fund, revenue/Transfers In (09) \$346; expenditures/Street (09) \$346; revenue/Transfers In (10) \$14,900; expenditures/Animal Welfare (10) \$14,900; revenue/Transfers In (16) \$7,396; expenditures/Information Technology (16) \$7,396. 2018 Election GO Bonds Fund, expenditures/29<sup>th</sup> Street (92) \$30,173. General fund, revenue/Transfers In (00) \$1,291,483; expenditures/Transfers Out (00) \$3,933,522. Police Department Fund, revenue/Transfers In (00) \$1,460,108. Fire Department Fund, revenue/Transfers In (00) \$1,181,931. Hotel-Motel Fund, revenue/ Taxes (00) \$96,385; expenditures/Transfers Out (87) \$96,385. Park & Recreation Fund, revenue/Transfers In (00) \$13,494. Conv/Visitors Bureau Fund, revenue/Transfers In (00) \$53,975. MWC Welcome Center Fund, revenue/Transfers In (00) \$28,916. Sales Tax Capital Improv. Fund, expenditures/Transfers Out (00) \$983,234; expenditures/Sales Tax Capital Improv. (00) \$770. Capital Improvements Fund, revenue/Transfers In (00) \$318,902. Street and Alley Fund, revenue/Transfers In (00) \$25,000. Interservice Fund, revenue/Charges for Services

Minutes continued.

(00) \$118,135; expenditures/ Fleet Maintenance (25) \$118,135. Grants Fund, revenue/Intergovernmental (14) \$4,929,120; expenditures/Transfers Out (14) \$4,929,120. Disaster Relief Fund, revenue/Transfers In (00) \$4,929,120.

5. Discussion and consideration for adoption, including any amendments, of adopting RES 2022-13, designating a site for the temporary City Council Chambers at the Court Room at City Hall, with the Midwest City Community Center designated as a backup and to temporarily move the meetings of the City Council, and any Trusts or Authorities to the temporary City Council Chambers for the months of July, August, September and October of 2022.
6. Discussion and consideration, including any amendment, of renewing an administrative service contract with Consolidated Benefits Resources to provide claims services for the City of Midwest City's workers compensation, and general liability programs for the 2022-2023 fiscal year for the amount of \$42,000 per year. There are no changes from the current contract and the proposed contract.
7. Discussion and consideration, including any amendment, of renewing excess general liability insurance coverage with States Self-Insurers Risk Retention Group, Inc. for the City of Midwest City's general liability self-insurance plan for the 2022-2023 fiscal year at an annual cost of \$142,664 for a self-insured retention of \$250,000 per occurrence.
8. Discussion and consideration, including any amendment, of renewing 1) a property insurance policy with a \$10,000 deductible, including wind and hail for the premium rate of \$318,330 and 2) a vehicle and equipment policy with a \$1,000 deductible for comprehensive and collision coverage, including auto liability at a premium rate of \$159,744 for fiscal year 2022-2023 with Oklahoma Municipal Assurance Group (OMAG).
9. Discussion and consideration, including any amendment, of renewing excess workers compensation coverage with Safety National for the City of Midwest City's Workers' Compensation Self-Insurance Plan for the 2022-2023 fiscal year at an annual cost of \$186,744 for self-insured retention of \$450,000 per claim for all employees. There are no changes from the current policy and the proposed policy.
10. Discussion and consideration of adopting, including any possible amendment, the monthly report on the City of Midwest City Employees' Health Benefits Plan by the City Manager and action as deemed necessary by the Council to maintain the plan.
11. Discussion and consideration for adoption, including any possible amendment, of a Programmatic Agreement with the Oklahoma State Historic Preservation Office and the Oklahoma Archeological Survey regarding the administration of certain HUDfunded activities.
13. Discussion and consideration, including any possible amendment to, an agreement with the Oklahoma County Board of County Commissioners, continuing for FY 22-23 to provide certain firefighting equipment in exchange for furnishing fire protection services for persons and property located within the unincorporated areas of Oklahoma County. No fees apply.

15. Discussion and consideration of approving and entering, including any amendment thereto, into an agreement with US Geological Survey (USGS) for installation and maintenance of two stream Gaging Stations at no cost for a term of 10 years and 11 months.
16. Discussion and consideration for adoption, including any possible amendment, of change order #6 amending the contract with Shiloh Enterprises, Inc. to construct the WP Bill Atkinson Park in an increase of \$30,172.86 and add 12 days of time.
17. Discussion and consideration for adoption, including any possible amendment, to approve the annual water meter schedule of fees as stated per Midwest City Municipal Code, Chapter 43 Water, Sewer, Sewage Disposal and Stormwater Quality, Article II, Water, Section 18 Installation fees; meter installation, etc.
18. Discussion and consideration for adoption, including any possible amendment, of renewing a contract with modifications for FY 22-23 Midstate Traffic Control, Inc. for traffic signal maintenance.
19. Discussion and consideration for adoption, including any possible amendment, of renewing a contract, with modifications, for FY 22-23 Public Works General and Emergency Services with Silver Star Construction Company.
20. Discussion and consideration of approving, including any possible amendment, a Public Safety Answering Point Agreement with SSM Health-St. Anthony Hospital- Midwest to continue to provide dispatching services for SSM Health-St. Anthony Hospital- Midwest Ambulance Service from July 1, 2022 through June 30, 2023 for \$220,774.80 per year.
21. Discussion and consideration, including any amendment, of renewing contracts for FY 2022-2023 with Azteca Systems, LLC, First Amendment, for Cityworks maintenance in the amount of \$168,000.00 and Tyler Technologies for software maintenance for Police, 911, and Court in an amount not to exceed \$170,693.46.
22. Discussion and consideration, including any amendment thereto, of reappointing Jim McWhirter and Joel Bryant to the Builders' Advisory Board for an additional threeyear term.
24. Discussion and consideration for adoption, including any possible amendment of, declaring a janitor cart, two tables, a book shelf, an office chair, a printer stand, a two drawer filing cabinet, and a Savin C4503 copier, as surplus and authorizing their disposal by public auction, sealed bid or destruction, if necessary.
- 12. Discussion and consideration, including any amendment thereto, of renewing for fiscal year 2022-23 for the Departments of Community Development and Engineering and Construction Services Contracts with, RL Shears and HW. Lochner.** B. Harless addressed Council. After Staff and Council discussion, Bana made a motion to approve the contract, seconded by Reed. Voting aye: Eads, Byrne, Bain, Reed, Bana, Favors and Dukes. Nay: none. Motion Carried.

14. **Discussion and consideration for adoption, including any possible amendment of supplement 1 to the contract with Poe and Associates, Inc. in an increase of \$50,708 for a total contract price of \$215,741 for the purposes of developing construction plans for the Midwest Boulevard resurfacing project.** B. Bundy addressed Council. After Staff and Council discussion, Bana made a motion to approve amendment to the contract, seconded by Reed. Voting aye: Eads, Byrne, Bain, Reed, Bana, Favors and Dukes. Nay: none. Motion Carried.
23. **Discussion and consideration including any possible amendment of, declaring (7) Chevrolet Impalas (and their contents) as surplus and authorizing disposal by public auction, sealed bid or other means necessary.** Chief Porter addressed Council. After Staff and Council discussion, Bana made a motion to approve, seconded by Reed. Voting aye: Eads, Byrne, Bain, Reed, Bana, Favors and Dukes. Nay: none. Motion Carried.

#### DISCUSSION ITEMS.

1. **(PC – 2111) Public hearing with discussion and consideration for adoption, including any possible amendment, of a resolution for a Special Use Permit to allow the use of Automotive Sales & Rentals: Light in the C-3, Community Commercial, for the property described as a part of the NE/4 of Section 9, T-11-N, R-2-W, located at 2029 South Air Depot.** B. Harless and Applicant Shaun Dierksen addressed Council. After discussion, Eads made a motion to approve RES 2022-14, seconded by Bain. Voting aye: Eads, Byrne, Bain, Reed, Bana, and Favors. Nay: Dukes. Motion Carried.
2. **(PC – 2114) Public hearing with discussion and consideration for adoption, including any possible amendment of a resolution for a Special Use Permit to allow the use of Automotive Sales & Rentals: Light in the C-3, Community Commercial zoning district, for the property described as Lot 2 and the North 95 feet of the West 15 feet of Lot 3, McCorkle Park Addition, addressed as 2224 South Air Depot.** B. Harless, Applicant Paul Crossfield, T. Lyon, M. Stroh, D. Maisch addressed Council. After discussion, Eads made a motion to approve RES 2022-15, seconded by Reed. Voting aye: Eads, Byrne, Bain, Reed, Bana, and Favors. Nay: Dukes. Motion Carried.

Council recessed at 7:31 PM and reconvened at 7:40 PM.

3. **(PC-2115) Public hearing with discussion and consideration, including any amendment, of an ordinance to redistrict from R-6, Single Family Detached Residential, to C-3, Community Commercial zoning district for the unplatted property described as the South Half (S/2) of the East Half (E/2) of the Southwest Quarter (SW/4) of the Southeast Quarter (SE/4) of Section One, Township Eleven, North, Range Two (2) West of the I.M., Oklahoma County, Oklahoma addressed as 9809 S.E. 15th Street.** B. Harless, Applicant Terri Batten, John Cauffiel of 1545 Meade, and Lisa Goodman of 6820 Legacy addressed Council. After discussion, Byrne made a motion to deny, seconded by Eads. Voting aye: Eads, Byrne, Bain, Reed, Bana, and Dukes. Nay: Favors. Motion Carried.



4. **Public hearing with discussion and consideration, including any amendments, of passing a resolution declaring the structure(s) located at 512 E ERCOUPE DR a dilapidated building(s) as defined in MCO 9-2 and abatement accordingly to the Municipal Code and setting dates to demolish and remove the structure(s) from the site.** M. Stroh addressed Council. After Staff and Council discussion, Eads made a motion to approve RES 2022-16, seconded by Reed. Voting aye: Eads, Byrne, Bain, Reed, Bana, Favors and Dukes. Nay: none. Motion Carried.
5. **Discussion and consideration for adoption, including any possible amendment of, awarding and entering into a contract for the construction of the Tactical Burn Building at the Police and Fire Training Center located off SE 15th Street behind the City of Midwest City Public Works Department to Lonestar Tactical Buildings LLC in the amount of \$561,806.03.** B. Norton addressed Council. After Staff and Council discussion, Eads made a motion to approve, seconded by Favors. Voting aye: Eads, Byrne, Bain, Reed, Bana, Favors and Dukes. Nay: none. Motion Carried.
6. **Discussion and consideration for adoption, including any possible amendment of, awarding and entering into a contract for the construction of the Police and Fire Training Center located off SE 15th behind the City of Midwest City Public Works Department to Shiloh Enterprises, Inc. in the amount of \$3,477,000.00.** B. Norton, and David Oman with Guernsey addressed Council. After discussion, Eads made a motion to approve, seconded by Reed. Voting aye: Eads, Byrne, Bain, Reed, Bana, Favors and Dukes. Nay: none. Motion Carried.
7. **Discussion and consideration of a quarterly update on the progress of the execution of the General Obligation Bond (G.O. Bond) projects. Informational item only.** V. Sullivan and T. Lyon addressed Council. Discussion was had no action was needed.
8. **Discussion and consideration of adopting, including any possible amendment, the Collective Bargaining Agreement (CBA) between the City of Midwest City and the International Association of Firefighters (IAFF) Local 2066, as negotiated to be effective from July 1, 2022, through June 30, 2025.** Reed made a motion to approve the agreement, seconded by Bana. Voting aye: Eads, Byrne, Bain, Reed, Bana, Favors and Dukes. Nay: none. Motion Carried.
9. **Discussion and consideration of approving, including any possible amendment, a 6.0 percent across the board increase to the base salary of City Employees not covered by a collective bargaining agreement, to be effective July 1, 2022.** Byrne made a motion to amend the agenda item to read as follows, “a 6.0 percent across the board increase to the base salary of Full-time City Employees and Regular Part-time City Employees not covered by a collective bargaining agreement, to be effective July 1, 2022” and approve, seconded by Eads. Voting aye: Eads, Byrne, Bain, Reed, Bana, Favors and Dukes. Nay: none. Motion Carried.

NEW BUSINESS/PUBLIC DISCUSSION. City Manager Lyon made announcement for the months of July, August and September the Council Meetings will be held in the municipal court with the backup being the community center.

EXECUTIVE SESSION.

1. **Discussion and consideration of 1) entering into executive session as allowed under 25 O.S. § 307 (B) (2) to discuss negotiations concerning employees and representatives of employee groups; and 2) in open session, authorizing the city manager to take action as appropriate based on the discussion in executive session.** This Item was not needed.

ADJOURNMENT. There being no further business, Mayor Dukes adjourned the meeting at 8:31 PM.

ATTEST:

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MATTEW D. DUKES II, Mayor

\_\_\_\_\_  
SARA HANCOCK, City Clerk



**Finance Department**  
100 N. Midwest Boulevard  
Midwest City, OK 73110  
tcromar@midwestcityok.org  
Office: 405-739-1245  
www.midwestcityok.org

TO: Honorable Mayor and City Council

FROM: Tiatia Cromar, Finance Director/ City Treasurer

DATE: July 26, 2022

SUBJECT: Discussion and consideration for adoption, including any possible amendment, of the City Manager's Report for the month of June 2022.

The funds in June that experienced a significant change in fund balance from the May report are as follows:

<b>Police Capitalization (21)</b> decreased due to the purchase of: Vehicles	<\$296,900>
<b>2018 Election G.O. Bond (270)</b> decreased because of the payments for: Various Capital Outlay	<\$840,014>
<b>Sooner Rose TIF (352)</b> decreased due to the payment for: Debt service	<\$1,222,014>
<b>MWC Hospital Authority (425)</b> activities for June: Compounded Principal (9010) - unrealized loss on investment Discretionary (9050) - unrealized loss on investment	<\$4,643,414> <\$1,792,329>

*Tiatia Cromar*

Tiatia Cromar  
Finance Director/ City Treasurer

City of Midwest City  
Financial Summary by Fund  
for Period Ending June, 2022

(Unaudited)

Fund Number	Fund Description	Assets	Liabilities	6/30/2021 Fund Balance	Revenues	Expenditures	Gain or (Loss)	Fund Balance
9	GENERAL GOVERNMENT SALES TAX	6,202,732	-	4,541,773	3,783,576	(2,122,617)	1,660,959	6,202,732
10	GENERAL	13,533,211	(152,404)	10,404,097	43,660,547	(40,683,836)	2,976,711	13,380,807
11	CAPITAL OUTLAY RESERVE	730,854	-	741,398	1,917	(12,461)	(10,544)	730,854
13	STREET AND ALLEY FUND	1,545,784	-	1,617,200	630,345	(701,761)	(71,416)	1,545,784
14	TECHNOLOGY FUND	608,488	-	433,563	327,733	(152,808)	174,925	608,488
15	STREET LIGHT FEE	1,410,644	-	1,747,738	596,676	(933,769)	(337,093)	1,410,644
16	REIMBURSED PROJECTS	1,218,188	-	1,055,221	491,094	(328,126)	162,967	1,218,189
17	29TH & DOUGLAS PROPERTY	-	-	291	10,008	(10,298)	(291)	-
20	MWC POLICE DEPARTMENT	10,828,673	(7,042)	8,840,718	18,446,219	(16,465,306)	1,980,913	10,821,631
21	POLICE CAPITALIZATION	1,171,789	-	724,080	1,662,364	(1,214,655)	447,708	1,171,789
25	JUVENILE FUND	75,439	-	38,163	68,031	(30,754)	37,276	75,439
30	POLICE STATE SEIZURES	101,472	-	87,864	19,650	(6,042)	13,609	101,472
31	SPECIAL POLICE PROJECTS	84,349	-	87,241	6,874	(9,767)	(2,892)	84,349
33	POLICE FEDERAL PROJECTS	45,893	-	48,467	56	(2,630)	(2,575)	45,893
34	POLICE LAB FEE FUND	30,303	-	25,123	11,071	(5,891)	5,180	30,303
35	EMPLOYEE ACTIVITY FUND	16,755	(30)	24,677	5,645	(13,597)	(7,952)	16,725
36	JAIL	209,742	-	148,088	117,112	(55,458)	61,654	209,742
37	POLICE IMPOUND FEE	111,802	-	114,337	41,264	(43,798)	(2,535)	111,802
40	MWC FIRE DEPARTMENT	7,320,008	(4)	5,798,220	14,388,121	(12,866,337)	1,521,784	7,320,004
41	FIRE CAPITALIZATION	1,787,927	-	1,263,814	910,334	(386,221)	524,113	1,787,927
45	MWC WELCOME CENTER	341,538	-	337,163	178,307	(173,932)	4,375	341,538
46	CONV / VISITORS BUREAU	388,480	-	276,171	331,710	(219,401)	112,309	388,480
50	DRAINAGE TAX FUND	-	-	-	-	-	-	-
60	CAPITAL DRAINAGE IMP	509,632	-	710,068	473,355	(673,791)	(200,436)	509,632
61	STORM WATER QUALITY	1,291,987	-	1,183,745	794,106	(685,864)	108,242	1,291,987
65	STREET TAX FUND	2,104,415	-	1,868,157	546,775	(310,517)	236,258	2,104,415
70	EMERGENCY OPER FUND	1,103,988	-	838,966	807,367	(542,345)	265,022	1,103,988
75	PUBLIC WORKS ADMIN	862,661	-	630,577	1,503,127	(1,271,043)	232,084	862,661
80	INTERSERVICE FUND	732,643	-	718,232	2,935,295	(2,920,884)	14,411	732,643
81	SURPLUS PROPERTY	595,644	(474,252)	119,209	50,942	(48,758)	2,184	121,392
115	ACTIVITY FUND	421,891	(1,091)	358,955	179,393	(117,548)	61,844	420,799
123	PARK & RECREATION	1,890,349	(150)	723,200	1,645,116	(478,117)	1,166,998	1,890,199
141	COMM. DEV. BLOCK GRANT	6,029	-	6,029	773,599	(773,599)	-	6,029
142	GRANTS/HOUSING ACTIVITIES	193,717	(385)	169,787	79,664	(56,119)	23,545	193,333
143	GRANT FUNDS	86,029	(26,029)	60,000	5,140,440	(5,140,440)	-	60,000

City of Midwest City  
Financial Summary by Fund  
for Period Ending June, 2022  
(Unaudited)

Fund Number	Fund Description	Assets	Liabilities	6/30/2021 Fund Balance	Revenues	Expenditures	Gain or (Loss)	Fund Balance
157	CAPITAL IMPROVEMENTS	3,046,637	-	2,538,212	1,021,774	(513,348)	508,425	3,046,637
172	CAP. WATER IMP-WALKER	2,126,130	-	1,703,191	454,147	(31,208)	422,940	2,126,130
178	CONST LOAN PAYMENT REV	3,855,492	(25,605)	3,428,570	703,801	(302,484)	401,317	3,829,887
184	SEWER BACKUP FUND	78,442	-	80,124	208	(1,890)	(1,682)	78,442
186	SEWER CONSTRUCTION	6,333,540	-	5,345,887	1,427,164	(439,511)	987,653	6,333,540
187	UTILITY SERVICES	570,085	(924)	465,084	1,174,349	(1,070,271)	104,078	569,162
188	CAP. SEWER IMP.-STROTH	1,492,855	-	746,433	779,490	(33,069)	746,422	1,492,855
189	UTILITIES CAPITAL OUTLAY	2,495,119	(124,392)	2,128,425	410,261	(167,958)	242,303	2,370,728
190	MWC SANITATION DEPARTMENT	5,697,494	-	4,703,029	7,901,433	(6,906,968)	994,465	5,697,494
191	MWC WATER DEPARTMENT	4,186,677	-	3,857,782	6,906,866	(6,577,972)	328,895	4,186,677
192	MWC SEWER DEPARTMENT	4,289,052	(311)	2,796,457	7,937,598	(6,445,313)	1,492,284	4,288,741
193	MWC UTILITIES AUTHORITY	1,012,225	-	951,918	61,125	(818)	60,307	1,012,225
194	DOWNTOWN REDEVELOPMENT	577,087	(5,045)	579,446	1,508	(8,912)	(7,404)	572,042
195	HOTEL/CONFERENCE CENTER	536,637	(1,129,793)	(249,597)	1,967,395	(2,310,955)	(343,560)	(593,157)
196	HOTEL 4% FF&E	672,152	(38,219)	601,751	5,374,928	(5,342,746)	32,182	633,934
197	JOHN CONRAD REGIONAL GOLF	239,061	(250,113)	176,484	459,107	(646,644)	(187,537)	(11,052)
201	URBAN RENEWAL AUTHORITY	48,711	-	21,797	98,806	(71,892)	26,914	48,711
202	RISK MANAGEMENT	1,105,449	(37)	1,322,592	930,809	(1,147,988)	(217,180)	1,105,412
204	WORKERS COMP	3,922,674	-	3,795,625	784,315	(657,266)	127,049	3,922,674
220	ANIMALS BEST FRIEND	78,729	-	66,529	23,868	(11,668)	12,200	78,729
225	HOTEL MOTEL FUND	-	-	-	586,334	(586,334)	-	-
230	CUSTOMER DEPOSITS	1,575,401	(1,575,401)	-	4,038	(4,038)	-	-
235	MUNICIPAL COURT	90,136	(90,136)	-	236	(236)	-	-
240	L & H BENEFITS	2,640,747	(46,949)	1,440,177	10,618,791	(9,465,171)	1,153,620	2,593,797
250	CAPITAL IMP REV BOND	4,590,498	(45,045,816)	(40,093,181)	16,074,675	(16,436,812)	(362,137)	(40,455,318)
269	2002 G.O. STREET BOND	281,459	-	316,717	782	(36,040)	(35,258)	281,459
270	2018 ELECTION G.O. BOND	13,223,918	(403,183)	28,243,801	286,330	(15,709,396)	(15,423,066)	12,820,735
271	2018 G.O. BONDS PROPRIETARY	1,912,874	(202,219)	7,103,148	14,562	(5,407,054)	(5,392,492)	1,710,655
272	2022 ISSUE G.O. BOND	5,580,752	-	-	5,705,417	(124,665)	5,580,752	5,580,752
310	DISASTER RELIEF	11,410,168	(185,123)	8,912,238	4,982,975	(2,670,168)	2,312,807	11,225,045
340	REVENUE BOND SINKING FUND	-	-	-	6,848,251	(6,848,251)	-	-
350	G. O. DEBT SERVICES	2,761,280	(14,576)	2,395,523	3,589,395	(3,238,214)	351,181	2,746,704
352	SOONER ROSE TIF	867,568	-	758,227	1,731,869	(1,622,528)	109,342	867,568
353	ECONOMIC DEV AUTHORITY	55,348,600	(50,481,783)	3,984,950	1,322,934	(441,068)	881,866	4,866,817
425-9010	MWC HOSP AUTH-COMP PRINCIPAL	103,102,390	(6,920)	125,576,655	(8,654,511)	(13,826,673)	(22,481,184)	103,095,471
425-9050	MWC HOSP AUTH-DISCRETIONARY	17,193,382	(5,948)	19,799,495	(1,481,793)	(1,130,268)	(2,612,061)	17,187,434
425-9060	MWC HOSP IN LIEU OF/ROR/MISC	10,081,715	-	9,244,883	1,309,988	(473,155)	836,833	10,081,716
425-9080	MWC HOSP AUTH GRANTS	135,671	-	152,847	633,082	(650,258)	(17,176)	135,671
	TOTAL	330,723,859	(100,293,878)	248,637,550	182,610,135	(200,817,701)	(18,207,567)	230,429,983



**Finance Department**  
100 N. Midwest Boulevard  
Midwest City, OK 73110  
tcromar@midwestcity.org  
Office: 405-739-1245  
www.midwestcityok.org

TO: Honorable Mayor and City Council

FROM: Tiatia Cromar, Finance Director

DATE: July 26, 2022

SUBJECT: Discussion and consideration for adoption, including any possible amendment of supplemental budget adjustments to the following funds for FY 2022-2023, increase: Grants Fund, revenue/Intergovernmental (88) \$1,229,182; expenditures/Transfers Out (88) \$1,229,182. Disaster Relief Fund, revenue/Transfers In (88) \$1,229,182. Dedicated Tax 2012 Fund, expenditures/Economic (87) \$13,980. Grants Fund, revenue/Intergovernmental (21) \$11,000; expenditures/Emergency Operations (21) \$11,000.

The first and second supplements are needed to budget FEMA reimbursement for October 2020 ice storm and transfer out of proceeds from Grants Fund to Disaster Relief Fund. The third supplement is needed to increase budget for EMBARK contract over original estimate. The fourth supplement is needed to budget receipt of EMPG-ARPA Water Pallet and Generator Grants from OK Dept. of Emergency Management.

*Tiatia Cromar*

Tiatia Cromar  
Finance Director



**SUPPLEMENTS**

**July 26, 2022**

Fund GRANTS (143)		BUDGET AMENDMENT FORM Fiscal Year 2022-2023			
Dept Number	Department Name	Estimated Revenue		Budget Appropriations	
		Increase	Decrease	Increase	Decrease
88	Intergovernmental	1,229,182		1,229,182	
88	Disaster Relief				
		<u>1,229,182</u>	<u>0</u>	<u>1,229,182</u>	<u>0</u>

**Explanation:**  
To budget FEMA reimbursement for October 2022 ice storm and transfer out to Disaster Relief Fund.

Fund DISASTER RELIEF (310)		BUDGET AMENDMENT FORM Fiscal Year 2022-2023			
Dept Number	Department Name	Estimated Revenue		Budget Appropriations	
		Increase	Decrease	Increase	Decrease
88	Transfers In	1,229,182			
		<u>1,229,182</u>	<u>0</u>	<u>0</u>	<u>0</u>

**Explanation:**  
To budget transfer in of FEMA reimbursement of October 2020 ice storm expenses from Grants Fund.

Fund DEDICATED TAX 2012 (065)		BUDGET AMENDMENT FORM Fiscal Year 2022-2023			
Dept Number	Department Name	Estimated Revenue		Budget Appropriations	
		Increase	Decrease	Increase	Decrease
87	Economic			13,980	
		<u>0</u>	<u>0</u>	<u>13,980</u>	<u>0</u>

**Explanation:**  
To increase budget for EMBARK contract. Funding to come from fund balance.

Fund GRANTS (143)		BUDGET AMENDMENT FORM Fiscal Year 2022-2023			
Dept Number	Department Name	Estimated Revenue		Budget Appropriations	
		Increase	Decrease	Increase	Decrease
21	Intergovernmental	11,000		11,000	
21	Emergency Operations				
		<u>11,000</u>	<u>0</u>	<u>11,000</u>	<u>0</u>

**Explanation:**  
To budget EMPG-ARPA Grants from the Oklahoma Dept. of Emergency Management.



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TO: Honorable Mayor and City Council

FROM: Tiatia Cromar, Finance Director

DATE: July 26, 2022

SUBJECT: Discussion and consideration for adoption, including any possible amendment of supplemental budget adjustments to the following funds for FY 2021-2022, increase: Street Light Fee Fund, expenditures/General Government (14) \$47,000. Grant Fund, revenues/Intergovernmental (88) \$27,037; expenditures/Transfers Out (88) \$27,037. Disaster Relief Fund, revenues/Transfers In (88) \$27,037. 29<sup>th</sup> & Douglas Property Fund, expenditures/Transfers Out (17) \$3,065.

The first supplement is needed to budget for the expenditures to end FY 21-22. The second and third supplements are needed to budget the revenue, transfer out and transfer in for the grant payment received towards Dec 2015 Ice Storm project 881602 and Crutcho Creek Sewer project 881601 in June 2022. The fourth supplement is needed to budget the transfer out of cash balance of Fund 017 to Fund 425 in order to close out Fund 017 for FY 21-22.

*Tiatia Cromar*

Tiatia Cromar  
Finance Director

## SUPPLEMENTS

**July 26, 2022**

Fund STREET LIGHT FEE (015)		BUDGET AMENDMENT FORM Fiscal Year 2021-2022			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
14	General Government			47,000	
		<u>0</u>	<u>0</u>	<u>47,000</u>	<u>0</u>
<b>Explanation:</b> This supplement is to budget for the expenditures to end FY 21-22. Funding to come from fund balance.					

Fund GRANT FUND (143)		BUDGET AMENDMENT FORM Fiscal Year 2021-2022			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
88	Intergovernmental	27,037			
88	Transfer Out			27,037	
		<u>27,037</u>	<u>0</u>	<u>27,037</u>	<u>0</u>
<b>Explanation:</b> This supplement is to budget the revenue and transfer out to Fund 310 for the payment received towards Dec 2015 Ice Storm proj 881602 and Crutcho Creek Sewer proj 881601 in June 2022.					

Fund DISASTER RELIEF (310)		BUDGET AMENDMENT FORM Fiscal Year 2021-2022			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
88	Transfers In	27,037			
		<u>27,037</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b>Explanation:</b> This supplement is to budget the transfer from Fund 143 for payment received towards Dec 2015 Ice Storm proj 881602 and Crutcho Creek Sewer proj 881601 in June 2022.					

Fund 29TH & DOUGLAS PROPERTY (017)		BUDGET AMENDMENT FORM Fiscal Year 2021-2022			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
17	Transfer Out			3,065	
		<u>0</u>	<u>0</u>	<u>3,065</u>	<u>0</u>
<b>Explanation:</b> This supplement is to budget the transfer out of cash balance of Fund 017 to Fund 425 in order to close out Fund 017 for FY 21-22.					



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TO: Honorable Mayor and City Council

FROM: Tiatia Cromar, Finance Director

DATE: July 26, 2022

SUBJECT: Discussion and consideration of passing and approving, including any possible amendment of a resolution for the City of Midwest City, Oklahoma to release unappropriated fund balances at the close of day June 30, 2022 to be made available for fiscal year 2022-2023; and amending the budgets for fiscal year 2022-2023 to include the released appropriations from the fiscal year 2021-2022 budgets as supplemental appropriations; and, effective July 1, 2022, renewing encumbrance commitments cancelled at the close of day June 30, 2022.

The Finance Department by policy has determined it to be in the best interest of the City and in its public welfare to expedite the availability of fund balances reserved for encumbered and unencumbered appropriations at the close of day June 30, 2022, rather than waiting until September 30, 2022. This process which is allowed by statute will provide for these amounts to be available for supplemental appropriation into fiscal year 2022-2023. It is the Finance Department's recommendation to lapse the encumbrances for fiscal year 2021-2022. The lapsed encumbrances are then to be renewed effective July 1, 2022 and funded through available fund balance.

*Tiatia Cromar*

Tiatia Cromar  
Finance Director

Attachment: Proposed Resolution

**RESOLUTION NO. 2022-\_\_\_\_\_**

**A RESOLUTION APPROVING FOR THE CITY OF MIDWEST CITY, OKLAHOMA TO RELEASE UNAPPROPRIATED FUND BALANCES AT THE CLOSE OF DAY JUNE 30, 2022 TO BE MADE AVAILABLE FOR FISCAL YEAR 2022-2023; AND AMENDING THE BUDGETS FOR FISCAL YEAR 2022-2023 TO INCLUDE THE RELEASED APPROPRIATIONS FROM THE FISCAL YEAR 2021-2022 BUDGETS AS SUPPLEMENTAL APPROPRIATIONS; AND, EFFECTIVE JULY 1, 2022, RENEWING ALL ENCUMBRANCE COMMITMENTS CANCELLED AT THE CLOSE OF DAY JUNE 30, 2022.**

**WHEREAS**, the City of Midwest City (the City) has adopted the provisions of the Oklahoma Municipal Budget Act (the Act), 11 O.S., Sections 17-201 through 17-216; and

**WHEREAS**, the City is also subject to the provisions of Oklahoma State Statutes, 62 O.S., Sections 310.4 and 310.5, providing for treatment of unencumbered appropriations remaining at the close of each fiscal year; and

**WHEREAS**, 62 O.S., Section 310.4 provides that all unencumbered balances of appropriations remaining at the close of day June 30 each year may remain as a credit for that fiscal year up to the close of September 30, next, provided that no new indebtedness may be incurred after June 30 chargeable to such remaining appropriation of the immediately preceding fiscal year; and

**WHEREAS**, it is the City's intent to effectively cancel all remaining encumbrance commitments outstanding at June 30, 2022 as payable from FY 2021-2022 appropriations, renew those same commitments effective July 1, 2022, and provide supplemental appropriations necessary for those renewed commitments to be charged against appropriations for the FY 2022-2023 fiscal year; and

**WHEREAS**, the City Council of the City of Midwest City has determined it in the best interests of the City and in its public welfare to expedite the availability of fund balances reserved for encumbered and unencumbered appropriations at the close of day June 30, 2022, rather than waiting until September 30, 2022, for these amounts to be available for supplemental appropriation into the current fiscal year;

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF MIDWEST CITY, OKLAHOMA:**

**SECTION 1.** All remaining encumbrance commitments outstanding at the close of day June 30, 2022, formerly lawfully charged against and payable from FY 2021-2022 appropriations, are hereby cancelled and renewed effective July 1, 2022, to be charged against and payable from additional FY 2022-2023 fiscal year appropriations to be provided through supplemental appropriation on July 1, 2022.

**SECTION 2.** Any remaining unexpended appropriations within each fund at the close of day June 30, 2022, are considered lapsed, no longer a credit for that fiscal year, and are released. Those released appropriations from FY 2021-2022 shall be and are hereby deemed supplemental appropriations for the 2022-2023 fiscal year effective July 1, 2022. The FY 2022-2023 budgets are hereby amended to reflect the inclusion of those supplemental appropriations.

General Fund (010):

Departments-Divisions:	
City Clerk (010-211)	\$ 62
Personnel Department (010-0310)	\$ 4,590
Community Development (010-0510)	\$ 62,230
Park & Recreation (010-0610)	\$ 18,321
Finance (010-0810)	\$ 22,069
Street (010-0910)	\$ 100,972
Animal Welfare (010-1010)	\$ 8,788
Municipal Court (010-1210)	\$ 1,232

Neighborhood Services (010-1510/30)	\$ 6,702
Information Technology (010-1610)	\$ 26,233
Emergency Management (010-1810)	\$ 935
Swimming Pools (010-1910)	\$ 11,471
Communications (010-2010)	\$ 53,584
Senior Center (010-5500)	\$ 42
Police Fund (020-6210):	\$ 100,819
Fire Fund (040-64/10-20):	\$ 106,000

***Special Revenue:***

General Government Sales Tax (009):	
City Manager (009-0110)	\$ 1,104
Community Development (009-0510)	\$ 58,003
Park & Recreation (009-0610)	\$ 13
Animal Welfare (009-0910)	\$ 79
General Government (009-1410)	\$ 61,790
Neighborhood Services (009-1510)	\$ 5,591
Information Technology (009-1610)	\$ 46,110
Swimming Pools (009-1910)	\$ 3,715
Communications (009-2010)	\$ 767
Street and Alley (013-0910)	\$ 66,709
General Government (014-1415)	\$ 16,006
Street Light Fee (015):	\$ 24,750
Reimbursed Projects (016):	
Animal Welfare (016-1010)	\$ 18,462
General Government (016-1410)	\$ 3,900
Neighborhood Services (016-1510)	\$ 406
Grants Management (016-3910)	\$ 470,664
Economic (016-8710)	\$ 35,772
Police State Seizures (030-6200)	\$ 20
Special Police Projects (031-6200)	\$ 96
Police Federal Projects (033-6200)	\$ 390
Police Lab Fee Fund (034-6200)	\$ 442
Police Jail (036-6230)	\$ 31,551
Police Impound Fees (037-6210)	\$ 1,710
Convention & Visitors Bureau (046):	
Visitors Bureau (046-0710)	\$ 38,923
Emergency Operations (070-2100)	\$ 47,187
Activity (115):	
MWC Parks (115-2315)	\$ 3,858
Recreation (115-7810/13/15)	\$ 38,584
Parks and Recreation (123):	
Park & Recreation (123-0610)	\$ 146,560
Communications (123-2010)	\$ 32,523
Community Dev Block Grant (141-3931)	\$ 127,712
Grants (143):	
Capital Improvements (143-5700)	\$ 350,000
Animals Best Friend (220)	\$ 39,521
Disaster Relief (310):	
Neighborhood Services (310-1510)	\$ 35,501
Disaster Relief (310-8890)	\$ 61

***Capital Project:***

Capital Outlay Reserve (011-1410)	\$ 4,378
Police Capitalization (021-6210)	\$ 659,626
Fire Capitalization (041-6410)	\$ 48,850
Street Tax (065):	
Street Department (065-0910)	\$ 102,462



MWC Parks (065-2310)	\$ 20,388
Streets (065-6600)	\$ 6,484
Economic (065-8710)	\$ 675
Capital Improvement (157-5700)	\$ 111,150
2002 G.O. Street Bond (269-6910)	\$ 203,268
2018 Election G.O. Bonds (270):	
Park & Rec (270-0610)	\$ 373,785
Street (270-0910)	\$ 2,377,660
General Government (270-1410)	\$ 1,170,171
Fire (270-6410)	\$ 206,320
29 <sup>th</sup> Street (270-9210)	\$ 1,263,521
2018 Election G.O. Bonds Proprietary (271):	
J.C. Regional Golf (271-4710)	\$ 361,600
Capital Water Improvements (271-4910)	\$ 1,083,275
2022 Issue G.O. Bond (272-6410)	\$ 24,875

***Internal Service:***

Public Works Administration (075-3010)	\$ 36,776
Fleet Maintenance (080-2510)	\$ 76,342
Surplus Property (081-2610)	\$ 1,024
Risk Management (202-2910)	\$ 980

PASSED AND APPROVED by the mayor and council of the City of Midwest City, Oklahoma, this 26th day of July, 2022.

CITY OF MIDWEST CITY, OKLAHOMA

\_\_\_\_\_  
MATT DUKES, MAYOR

ATTEST:

\_\_\_\_\_  
SARA HANCOCK, City Clerk

APPROVED as to form and legality this 26th day of July, 2022.

\_\_\_\_\_  
DONALD MAISCH, City Attorney



**Human Resources**  
100 N. Midwest Boulevard  
Midwest City, OK 73110  
office 405.739.1235

**Memorandum**

**TO:** Honorable Mayor and Council

**FROM:** Troy Bradley, Human Resources Director

**DATE:** July 26, 2022

**RE:** Discussion and consideration of adopting, including any possible amendment, the monthly report on the City of Midwest City Employees' Health Benefits Plan by the City Manager and action as deemed necessary by the Council to maintain the plan.

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This item is placed on the agenda at the request of the Council. Attached to this memo is information regarding the current financial condition of the City Employees' Health Benefits Plan for the month of June 2022, which is the twelfth (12) period of the FY 2021/2022.

Troy Bradley, Human Resources Director

<u>FISCAL YEAR 2021-2022</u>	<u>Jul-21</u>	<u>Aug-21</u>	<u>Sep-21</u>	<u>Oct-21</u>	<u>Nov-21</u>	<u>Dec-21</u>	<u>Jan-22</u>	<u>Feb-22</u>	<u>Mar-22</u>	<u>Apr-22</u>	<u>May-22</u>	<u>Jun-22</u>
<b>PLAN INCOME</b>												
Projected Budgeted (MTD)	910,012	910,012	910,012	910,012	910,012	910,012	910,012	910,012	910,012	910,012	910,012	910,012
Actual (MTD)	832,833	851,193	896,598	852,564	857,814	901,700	911,369	1,022,341	887,972	856,646	881,245	866,030
Projected Budgeted (YTD)	910,012	1,820,024	2,730,036	3,640,048	4,550,060	5,460,072	6,370,084	7,280,096	8,190,108	9,100,120	10,010,132	10,920,144
Actual (YTD)	832,833	1,684,026	2,580,624	3,433,188	4,291,002	5,192,702	6,104,071	7,126,412	8,014,384	8,871,030	9,752,275	10,618,305
<b>PLAN CLAIMS/ADMIN COSTS</b>	<u>Jul-21</u>	<u>Aug-21</u>	<u>Sep-21</u>	<u>Oct-21</u>	<u>Nov-21</u>	<u>Dec-21</u>	<u>Jan-22</u>	<u>Feb-22</u>	<u>Mar-22</u>	<u>Apr-22</u>	<u>May-22</u>	<u>Jun-22</u>
Projected Budgeted (MTD)	804,741	1,005,926	804,741	804,741	1,005,926	804,741	1,005,926	804,741	804,741	804,741	1,005,926	804,741
Actual (MTD)	710,070	876,960	831,545	803,008	769,847	1,031,306	744,765	730,685	676,548	674,589	897,321	718,526
Projected Budgeted (YTD)	804,741	1,810,667	2,615,408	3,420,149	4,426,075	5,230,816	6,236,742	7,041,483	7,846,224	8,650,965	9,656,891	10,461,632
Actual (YTD)	710,070	1,587,030	2,418,575	3,221,583	3,991,430	5,022,736	5,767,501	6,498,186	7,174,734	7,849,323	8,746,644	9,465,170
<b>EXCESS INCOME vs. EXPENDITURES</b>	<u>Jul-21</u>	<u>Aug-21</u>	<u>Sep-21</u>	<u>Oct-21</u>	<u>Nov-21</u>	<u>Dec-21</u>	<u>Jan-22</u>	<u>Feb-22</u>	<u>Mar-22</u>	<u>Apr-22</u>	<u>May-22</u>	<u>Jun-22</u>
Projected Budgeted (MTD)	105,271	-95,914	105,271	105,271	-95,914	105,271	-95,914	105,271	105,271	105,271	-95,914	105,271
Actual (MTD)	122,763	-25,767	65,053	49,556	87,967	-129,606	166,604	291,656	211,424	182,057	-16,076	147,504
Projected Budgeted (YTD)	105,271	9,357	114,628	219,899	123,985	229,256	133,342	238,613	343,884	449,155	353,241	458,512
Actual (YTD)	122,763	96,996	162,049	211,605	299,572	169,966	336,570	628,226	839,650	1,021,707	1,005,631	1,153,135
<b>FISCAL YEAR 2020-2021</b>	<u>Jul-20</u>	<u>Aug-20</u>	<u>Sep-20</u>	<u>Oct-20</u>	<u>Nov-20</u>	<u>Dec-20</u>	<u>Jan-21</u>	<u>Feb-21</u>	<u>Mar-21</u>	<u>Apr-21</u>	<u>May-21</u>	<u>Jun-21</u>
<b>PLAN INCOME</b>												
Projected Budgeted (MTD)	729,416	729,416	729,416	729,416	729,416	729,416	729,416	729,416	729,416	729,416	729,416	729,416
Actual (MTD)	662,819	704,904	753,466	689,432	1,065,534	727,062	722,415	729,187	750,261	791,934	845,640	833,316
Projected Budgeted (YTD)	729,416	1,458,832	2,188,248	2,917,664	3,647,080	4,376,496	5,105,912	5,835,328	6,564,744	7,294,160	8,023,576	8,752,992
Actual (YTD)	662,819	1,367,723	2,121,189	2,810,621	3,876,155	4,603,217	5,325,632	6,054,819	6,805,080	7,597,014	8,442,654	9,275,970
<b>PLAN CLAIMS/ADMIN COSTS</b>	<u>Jul-20</u>	<u>Aug-20</u>	<u>Sep-20</u>	<u>Oct-20</u>	<u>Nov-20</u>	<u>Dec-20</u>	<u>Jan-21</u>	<u>Feb-21</u>	<u>Mar-21</u>	<u>Apr-21</u>	<u>May-21</u>	<u>Jun-21</u>
Projected Budgeted (MTD)	691,492	864,366	691,492	691,492	864,366	691,492	691,492	691,492	864,366	691,492	864,366	691,492
Actual (MTD)	548,997	965,005	927,589	766,622	859,038	854,726	841,941	740,186	683,500	641,347	697,144	827,948
Projected Budgeted (YTD)	691,492	1,555,858	2,247,350	2,938,842	3,803,208	4,494,700	5,186,192	5,877,684	6,742,050	7,433,542	8,297,908	8,989,400
Actual (YTD)	548,997	1,514,002	2,441,591	3,208,213	4,067,251	4,921,977	5,763,918	6,504,104	7,187,604	7,828,951	8,526,095	9,354,043
<b>EXCESS INCOME vs. EXPENDITURES</b>	<u>Jul-20</u>	<u>Aug-20</u>	<u>Sep-20</u>	<u>Oct-20</u>	<u>Nov-20</u>	<u>Dec-20</u>	<u>Jan-21</u>	<u>Feb-21</u>	<u>Mar-21</u>	<u>Apr-21</u>	<u>May-21</u>	<u>Jun-21</u>
Projected Budgeted (MTD)	37,924	-134,950	37,924	37,924	-134,950	37,924	37,924	37,924	-134,950	37,924	-134,950	37,924
Actual (MTD)	113,822	-260,101	-174,123	-77,190	206,496	-127,664	-119,526	-10,999	66,761	150,587	148,496	5,368
Projected Budgeted (YTD)	37,924	-97,026	-59,102	-21,178	-156,128	-118,204	-80,280	-42,356	-177,306	-139,382	-274,332	-236,408
Actual (YTD)	113,822	-146,279	-320,402	-397,592	-191,096	-318,760	-438,286	-449,285	-382,524	-231,937	-83,441	-78,073

Please note that, beginning Nov-20, the Plan Income Actual amounts include estimated prescription rebates accrued per month, with Nov-20 reporting estimates for July-November 2020.

June 12/FY 2022: \$2,593,060  
 June 12/FY 2021: \$1,439,926  
 June 12/FY 2020: \$1,517,977  
 June 12/FY 2019: \$2,111,500

**\*\* HAD FIVE MONDAYS WITH REPORTED MEDICAL CLAIMS PAID\*\***



**City Manager**  
100 N. Midwest Boulevard  
Midwest City, OK 73110  
office 405.739.1204

**MEMORANDUM**

TO: Honorable Mayor and Council members

FROM: Robert Coleman, Director of Economic Development

DATE: July 26, 2022

SUBJECT: Discussion and consideration, including any possible amendments, of accepting the Urban Renewal Authority's Fiscal Year 2021-2022 Annual Report.

The URA received and approved the annual audit at its July 13, 2022 special meeting. Attached for your review and approval is a summary of the Authority's activities for the previous fiscal year.

Staff recommends approval.

A handwritten signature in black ink that reads "Robert Coleman".

---

Robert Coleman, Director of Economic Development

Attachment

**MIDWEST CITY URBAN RENEWAL AUTHORITY  
FINANCIAL INFORMATION**

**BALANCE SHEET**

As of and for the Year Ended June 30, 2022

**Assets**

Cash	\$ 48,693.36
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**Liabilities**

\$ -
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**Fund Balance**

\$ 48,693.36
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**MIDWEST CITY URBAN RENEWAL AUTHORITY**  
**FINANCIAL INFORMATION**

**Governmental Funds Statement of Changes in Fund Balances**

**As of and for the Year Ended June 30, 2022**

**Revenue:**

Sooner Town - Participation	\$ 94,006.00
Investment Interest	\$ 36.74
Transfer from Hospital Authority	\$ 4,745.00
<b>Total Revenues</b>	<b>\$ 98,787.74</b>

**Expenditures:**

Professional Services	\$ (71,891.70)
<b>Total Expenditures</b>	<b>\$ (71,891.70)</b>

**Revenue over (under) expenditures** \$ 26,896.04

**Net change in fund balance** \$ 26,896.04

**Fund balance - beginning of year** \$ 21,797.32

**Fund balance - ending of year** \$ 48,693.36



City of Midwest City

FUND 201 URBAN RENEWAL AUTHORITY									
ACCOUNT	ACCOUNT DESCRIPTION	***** ESTIMATED	CURRENT ACTUAL	***** %REV	***** ESTIMATED	YEAR-TO-DATE ACTUAL	***** %REV	ANNUAL ESTIMATE	UNREALIZED BALANCE
340	CHARGES FOR SERVICES								
341	GENERAL GOVERNMENT								
03 06	SOONER TWN IV- PARTICIPAT	34,429		.00	34,429	94,006.00	273	34,429	59,577.00-
341	** GENERAL GOVERNMENT	34,429		.00	34,429	94,006.00	273	34,429	59,577.00-
340	*** CHARGES FOR SERVICES	34,429		.00	34,429	94,006.00		34,429	59,577.00-
360	INTEREST REVENUE								
361	INTEREST								
41 10	INVESTMENT INTEREST	68		.00	739	36.74	5	739	702.26
361	** INTEREST	68		.00	739	36.74	5	739	702.26
360	*** INTEREST REVENUE	68		.00	739	36.74		739	702.26
390	TRANSERS IN								
391	OPERATING								
01 *	TRANSFERS IN	0		.00	0	.00		0	.00
21 11	HOSPITAL AUTHORITY (425)	1,581		.00	4,745	4,745.00	100	4,745	.00
391	** OPERATING	1,581		.00	4,745	4,745.00	100	4,745	.00
390	*** TRANSERS IN	1,581		.00	4,745	4,745.00		4,745	.00
FUND TOTAL URBAN RENEWAL AUTHORITY		36,078		.00	39,913	98,787.74		39,913	58,874.74-
GRAND TOTAL		36,078		.00	39,913	98,787.74		39,913	58,874.74-

REPORT SELECTIONS

Fiscal year . . . . . : 2022

Fund . . . . . : 201

All Departments

All Divisions

Suppress accounts with zero balances . . . . : Y

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FUND 201 URBAN RENEWAL AUTHORITY			DEPT/DIV 9310 URBAN RENEWAL/URBAN RENEWAL									
BA	ELE	OBJ	*****CURRENT*****			*****YEAR-TO-DATE*****				ANNUAL	UNENCUMB.	%
SUB	SUB	DESCRIPTION	BUDGET	ACTUAL	%EXP	BUDGET	ACTUAL	%EXP	ENCUMBR.	BUDGET	BALANCE	BDGT
46		ECONOMIC DEVELOPMENT										
466		URA										
	30	OTHER SERVICES AND CHARGE										
	30	44 ADMN/PROFESSIONAL SVCS	10080	.00	0	85168	71891.70	84	.00	85168	13276.30	84
	30	** OTHER SERVICES AND CHARGE	10080	.00	0	85168	71891.70	84	.00	85168	13276.30	84
466	**	** URA	10080	.00	0	85168	71891.70	84	.00	85168	13276.30	84
46	**	** ECONOMIC DEVELOPMENT	10080	.00	0	85168	71891.70	84	.00	85168	13276.30	84
DIV	9310	TOTAL *****										
		URBAN RENEWAL	10080	.00	0	85168	71891.70	84	.00	85168	13276.30	84
DEPT	93	TOTAL *****										
		URBAN RENEWAL	10080	.00	0	85168	71891.70	84	.00	85168	13276.30	84
FUND	201	TOTAL *****										
		URBAN RENEWAL AUTHORITY	10080	.00	0	85168	71891.70	84	.00	85168	13276.30	84
GRAND		TOTAL *****										
			10080	.00	0	85168	71891.70	84	.00	85168	13276.30	84

201 URBAN RENEWAL AUTHORITY

DEBITS

CREDITS

ASSETS

101.00-00 CASH / GROSS REVENUE ACCOUNT

48,693.36

TOTAL ASSETS

48,693.36

LIABILITIES

TOTAL LIABILITIES

=====  
.00

FUND EQUITY

FUND BALANCE

48,693.36

TOTAL FUND EQUITY

=====  
48,693.36

TOTAL LIABILITIES AND FUND EQUITY

48,693.36



**City Manager's Office**  
**Vaughn K. Sullivan,**  
**Assistant City Manager**  
[vsullivan@midwestcityok.org](mailto:vsullivan@midwestcityok.org)  
100 N. Midwest Blvd,  
Midwest City, Oklahoma 73110  
O: 405-739-1207 /Fax: 405-739-1208

MEMORANDUM

TO: Honorable Mayor and Council

FROM: Vaughn K. Sullivan, Assistant City Manager

DATE: July 26, 2022

SUBJECT: Discussion and consideration, including any possible amendment, of awarding the bid and entering into a Property Lease Agreement for Turn-key Concession Operations at Kiwanis Park with Tasty Snow in the amount of \$850.00 per month from March to October.

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On Tuesday, June 21, 2022, at 2:00 p.m. the City of Midwest City opened bids for Land Lease for Turn-key Concession Operations at Kiwanis Park. Tasty Snow submitted a bid meeting specifications for a monthly rental of \$850.00 per month from March to October.

Staff recommends approval.

---

Vaughn K. Sullivan  
Assistant City Manager

Enc. Bid Tabulation Sheet

**PROPERTY LEASE AGREEMENT**  
**between**  
**TASTY SNOW**  
**And**  
**THE MIDWEST CITY MUNICIPAL AUTHORITY**

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**THIS LEASE AGREEMENT** (hereinafter referred to as “**Lease**”) is entered into by and among The City of Midwest City, a municipal corporation (hereinafter referred to as “**City**”), and Tasty Snow, (hereinafter referred to as “**Lessee**”) (**City**, and **Lessee** being collectively referred to herein as the “**Parties**”) and is effective upon the date of execution by the last party hereto.

**WITNESSETH:**

**WHEREAS**, **City** owns, operates certain property within the corporate city limits for the **City**, as identified in **Attachment “A”** (hereinafter known as “**Premises**”); and

**WHEREAS**, the **Lessee** wishes to lease the property identified in **Attachment “A”** from the **City** for use as a turn-key concession operation; and

**WHEREAS**, **CITY** grants permission for use of their property which do not conflict with their primary purpose and uses; and

**WHEREAS**, the **Lessee** has contacted the **City** and requested use of the **Premises** for a use or uses that do not conflict with the **City’s** primary purposes and use; and

**NOW THEREFORE**, **CITY**, and **Lessee** agree as follows:

**1. PERMIT**

A. Subject to the conditions and limitations in this **Lease**, the **City** does hereby permit **Lessee** to enter and access the **Premises**. **Lessee** will be permitted to enter and access the **Premises** for the purpose of installing, operating and maintaining a turn-key concession operation, (herein after known as **Facilities**). The **Facilities** will include only such equipment, improvements, as specifically described on **Attachment “B” (Facility Specifications)**. Vehicle access by the **Lessee** and its contractors, agents and employees to and within the **Premises** will only be permitted on permanently created roads and paved driving surfaces. If the roads and/or paved driving surfaces becomes unavailable, the **Parties** agree to designate a mutually acceptable alternate access to the **Premises**.

B. This **Lease** is expressly limited to provide **Lessee** permission only to the extent **Lessee’s** use does not interfere with the use of the **Premises** by **City** and the **City’s** public trusts

**PROPERTY LEASE AGREEMENT**  
**between**  
**TASTY SNOW**  
**And**  
**THE CITY OF MIDWEST CITY**

---

of which the **City** is a beneficiary. This **Lease** is subject and subordinate to the rights of **City** to the use of the **Premises** which will be dominant over all rights of **Lessee**.

C. This **Lease** hereby closes and supersedes all previous agreements between the **Parties** as to the specific **Facilities** identified in this **Lease**.

D. The **Lessee** shall only provide those concession services as list in **Attachment “C”**, “Pricing and Size List of Items” to be sold.

**2. TERM**

Subject to the prompt and timely payment of Consideration as set forth in Paragraph 3 (B):

A. The initial term of the **Lease** is: for one year beginning on August 1, 2022 and ending at 11:59 p.m. (**City** – Central Standard Time) on June 30, 2023.

B. The **Parties** agree that at the end of the initial term, this **Lease** will be extended by five additional one year terms, unless either **Party**, in its sole discretion, provides written notice of its intent not to extend the **Lease** Term at least one hundred eighty (180) calendar days prior to the relevant extension date. If such notice is timely provided by either **Party**, the term will not be extended, the **Lease** will expire at the end of the term then in effect, and no additional extensions will be accomplished by way of this provision.

C. This **Lease** is also subject to termination for breach of this **Lease** and as set forth herein.

**3. CONSIDERATION**

A. Rent is payable each month the **Facilities** are in operation in the amount of \$850.00 due to the **City** by the **Lessee** on or before the first of each month. The monthly rent will increase upon each renewal by two and one-half percent (2.5%) each year. Subsequent monthly rental payments are due on or before the first of each month.

B. Provided, however, should the **City** terminate this **Lease** for any reason other than breach by **Lessee** prior to the expiration of the initial term of this **Lease** or any renewal term for

**PROPERTY LEASE AGREEMENT**  
**between**  
**TASTY SNOW**  
**And**  
**THE MIDWEST CITY MUNICIPAL AUTHORITY**

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which consideration has been prepaid, the **City** will reimburse the **Lessee** for a pro rata share of the prepaid consideration for the prepaid unexpired term.

**4. USE AND REPAIR OF ROADS AND PAVED AREAS**

**Lessee** agrees to use only the roads and paved areas as specified in **Attachment "A"**, or the mutually agreed upon alternative in the event the roads and paved areas are not available. Further **Lessee** agrees that it will immediately notify the **City** of any damage it causes to the roads or paved areas. **Lessee** shall immediately and appropriately barricade any portion of the road or paved areas damaged by **Lessee** pending repair, then **Lessee** shall promptly repair any damage to the roads and/or paved areas directed by the **City** at **Lessee's** own cost within ten (10) days of written notice from the **City**. During installation, operation, maintenance, replacement, or repair of **Facilities**, a portion of the road or paved areas must remain open to local traffic and emergency vehicles. Should the **Lessee** fail to timely repair such damage, the **City** may elect to repair the road or paved areas, and **Lessee** agrees to reimburse **City** for any cost and expense of such repairs, plus fifteen percent for administration and overhead, within sixty (60) days of written notice of said costs and expenses. Provided, the **City** is no way obligated to repair the road or paved areas. The **CITY** does not represent or warrant that the roads or paved areas are suitable for **Lessee's** use or that **City** will maintain the roads or paved areas for **Lessee's** use or any other purpose.

**5. MAINTENANCE OF FACILITIES**

**Lessee** must keep and maintain the **Facilities** located on the **Premises** in a safe condition and in good repair. In addition, **Lessee** must maintain throughout the terms of this **Lease** and must surrender upon the revocation, termination, expiration, or non-renewal of this **Lease** the **Premises** and in a clean and orderly condition. **Lessee** shall clean the **Facilities** daily using the trash receptacles provided by the **City**.

**6. REPLACEMENT OF FACILITIES/EQUIPMENT**

Subject to the provision of this paragraph and other paragraphs in the **Lease**, **Lessee** may replace initially installed **Facilities** with similar and comparable **Facilities**, provided said



**PROPERTY LEASE AGREEMENT**  
**between**  
**TASTY SNOW**  
**And**  
**THE MIDWEST CITY MUNICIPAL AUTHORITY**

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replacement **Facilities** do not interfere with **City's** use of the **Premises**. In the event **Lessee** deems it prudent or necessary to replace the **Facilities**, **Lessee** must notify the **City** in advance of said replacement(s), and the **City** shall determine whether such replacements constitute the need for an amendment to the **Lease**. If the **Facilities** replacements are permitted under the same or similar terms as this **Lease** the **City** may give written approval. Nothing in this paragraph authorizes the installation of additional **Facilities** by **Lessee**.

**7. ABANDONMENT/REMOVAL**

Upon termination, revocation, non-renewal, or expiration of this **Lease**, **Lessee** must, at its option: (1) remove the **Facilities** within ninety (90) calendar days; or (2) abandon any portion of the **Facilities** in place and secure all Utility Services. Notwithstanding any provision in this **Lease**, all **Facilities** timely installed by **Lessee** will remain the personal property of the **Lessee** during the terms of this **Lease**, regardless of whether any applicable law classifies such **Facilities** as fixtures. The **City** consents to **Lessee's** right to remove all or any portion of the **Facilities** from time to time during the terms of this **Lease** in **Lessee's** sole discretion and without the **City's** consent. In the event that **Lessee** elects to remove the **Facilities** upon the expiration, non-renewal or earlier revocation or termination of this **Lease**, **Lessee** will, within ninety (90) calendar days of the date of such expiration, non-renewal, revocation or termination of this **Lease**, remove **Lessee's** personal property without damaging the **Premises**, or any property belonging to the **City** or the existing permittees. The **City** will continue to provide **Lessee** with access to the **Premises** as set forth in this **Lease** to permit **Lessee** to remove **Lessee's** **Facilities** within such ninety (90) day period. Any personal property of the **Lessee** not removed within ninety (90) days will become the property of **City**, without cost or charge to **City**, to dispose of in any way that meets the needs and requirements of the **City**. Should the **City** decide to dispose of such **Facilities**, **Lessee** will be liable and will reimburse the **City** for any expense or cost in removal or disposal of **Lessee's** **Facilities** either abandoned or not removed within the aforementioned ninety (90) days.

**8. TERMINATION**

**PROPERTY LEASE AGREEMENT**  
**between**  
**TASTY SNOW**  
**And**  
**THE MIDWEST CITY MUNICIPAL AUTHORITY**

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This Lease will terminate at such time as: (1) the Lessee, of its own volition, ceases activities, or abandons use of said **Facilities** for a period of one (1) year; or (2) notice of non-renewal of the Lease is given by Lessee; or (3) Lessee fails to timely make any annual, and Lessee has not cured said monetary default within thirty (30) days of receipt of written notice from the City; or (4) a breach (subject to any applicable cure period, if any) or default occurs as defined in this Lease; or (5) City determines the Premises is necessary for purposes of the City. Should the CITY make a determination that the Premises is necessary for its purposes, this Lease is terminable by the City upon one hundred eighty (180) days written notice. In the event the CITY terminates this Lease upon one hundred eighty (180) days written notice upon a determination of need for the City's purposes, the CITY, will make a reasonable effort, if possible, to make available to Lessee an alternative existing location, if any reasonably practicable, to accommodate Lessee's needs for said Facilities. In addition to the foregoing and notwithstanding any provision contained in this Lease to the contrary, Lessee may, in Lessee's sole and absolute discretion and at any time and for any or no reason, terminate this Lease without further liability by delivering prior written notice to City; provided, however, that, in such event, Lessee will not be entitled to any refund or rebate of annual rental prepaid and must pay to City lump sum termination fee equal to the then current annual rent.

**9. WATER QUALITY**

Lessee's activities may not impact water quality.

**10. RESTORATION**

Upon the revocation, non-renewal, expiration, or termination of this Lease for any reason whatsoever, Lessee must restore the Premises to a condition equivalent to its original condition, reasonable wear and tear excepted.

**11. INSURANCE**

A. Lessee must provide and maintain at all times throughout the term of this Lease, and any renewal hereof, such *commercial general insurance with a limit of \$100,000 per occurrence for bodily injury and property damage and \$500,000 general aggregate* protecting

**PROPERTY LEASE AGREEMENT**  
**between**  
**TASTY SNOW**  
**And**  
**THE MIDWEST CITY MUNICIPAL AUTHORITY**

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the **City** from claims for bodily injury (*including death*) and or property damage arising out of or resulting from the **Lessee's**, and its employees, use and occupancy of the premises and the activities conducted thereon. The insurance coverage required in this paragraph must include the **City** as additional insureds as their interest may appear under this **Lease** under the policy or policies.

B. A certificate of insurance evidencing the coverage required herein shall be provided to the **City** within five (5) days of the execution of this **Lease**.

C. Lessee shall require any contractor or subcontractor to obtain and maintain substantially the same coverage as required of Lessee including the **City** as an additional insured as their interest may appear under this **Lease**.

D. The insurance requirements set forth herein must not be deemed to limit, affect, waive, or define any obligations of **Lessee** in any other paragraph of this **Lease** or any indemnification or insurance requirement in any other paragraph of this **Lease**. This paragraph must continue in full force and affect for any act, omission, incident or occurrence occurring or commencing during the term of this **Lease**. Further, the insurance coverage required by this paragraph will survive revocation, non-renewal, termination and expiration of this **Lease** for any occurrence or event occurring, initiated, or commencing prior to such revocation, non-renewal, termination and expiration or during the period in which **Lessee** is performing restoration or remediation of the **Premise** during which **Lessee** is removing or reclaiming its **Facilities**.

E. Provided, however, should **Lessee** or its officers, invitees, representatives, contractors, employees or agents carry any additional, different or other insurance or insurance coverage of any kind or nature, the provisions of this paragraph must not in any way limit, waive or inhibit the **City** from making a claim or recovering under such insurance or insurance coverage.

F. Notwithstanding any other provision to the contrary, upon termination or lapse of insurance coverage required hereunder, this **Lease** may be terminated. Termination of this **Lease** pursuant to this paragraph must take precedence and supersede any other paragraph establishing the term of this **Lease**, establishing a procedure for revocation or termination, or requiring notice and/or providing an opportunity to cure a breach.

**PROPERTY LEASE AGREEMENT**  
**between**  
**TASTY SNOW**  
**And**  
**THE MIDWEST CITY MUNICIPAL AUTHORITY**

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G. The insurance limits in this paragraph in no way act or will be deemed to define or limit the right of **City** to recover damages, expenses, losses or for personal injuries, death or property damage pursuant to applicable law or the indemnification provisions or under any other paragraph or provision in this **Lease**.

**12. INDEMNIFICATION**

**Lessee** agrees to indemnify, defend, and hold harmless the **City** from and against all liability for: (a) injuries or death to persons; (b) costs, losses, and expenses; (c) legal fees, legal expenses, and court costs; and (d) damages, loss to property, which are caused by **Lessee**, its officers, representatives, agents, contractors, and employees except to the extent such injuries, losses, damages and/or costs are caused by the negligence or willful misconduct of the indemnified party. **Lessee** must give the **City** prompt and timely notice of any claim or suit instituted which in any way, directly or indirectly, contingently or otherwise, affects or might affect the **City**, provided, however, such notice will not be a precondition to indemnification hereunder. The rights granted by this paragraph will not limit, restrict, or inhibit the rights of the **City** under any other paragraph, including but not limited to any insurance provision or requirement in this **Lease**.

**13. NOTICES**

A. Notices and other communications to the **City** pursuant to the provisions hereof will be sufficient if sent by first class mail, postage prepaid, return receipt required, or by a nationally recognized courier service, addressed to:

The City of Midwest City, City Clerk  
100 N. Midwest Boulevard  
Midwest City, OK 73110

respectively, and notices or other communications to the **Lessee** pursuant to the provisions hereof will be sufficient if by first class mail, postage prepaid, return receipt required, or by a nationally recognized courier service, addressed to:

David Massey

**PROPERTY LEASE AGREEMENT**  
**between**  
**TASTY SNOW**  
**And**  
**THE MIDWEST CITY MUNICIPAL AUTHORITY**

---

Tasty Snow

7101 E. Reno, Suite C

Midwest City, OK 73110

B. Any party hereto may change the address or addressee for the giving of notice to it by thirty (30) days prior written notice to the other parties hereto as provided herein. Unless otherwise specified in this **Lease**, notice will be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to this paragraph.

**14. ABIDES BY LAW**

The **Lessee** must abide by the conditions of this **Lease**, the ordinances of **CITY**, and all laws and regulations of the State of Oklahoma and the United States of America (“**Laws**”), applicable to **Lessee**’s activities and **Lessee**’s use of the **Facilities**. **Lessee** will be responsible for securing any license, permits and/or zoning which may be required prior to commencement of installation of the **Facilities**.

**15. LIMITATION**

The **Lease** consideration and annual rental fee provided herein does not include or limit any remuneration or reimbursement for any loss, expense, or damages, if any, which may be caused by **Lessee** or incurred by the **City** hereunder or under any insurance or indemnification provision herein.

**16. ASSIGNMENT AND SUBLEASE**

**Lessee** may not assign or sublease its interest under this **Lease** without the prior written consent of the **City**. Any assignment or sublease shall become effective upon receipt of a request signed by authorized and empowered officers/agents of the **Lessee** and sublessee and provision by the sublessee of a certificate of insurance evidencing the insurance required by this **Lease** and upon approval of such sublease by **City**. The **City** may, but not required, to execute a letter approving either the assignment or sublease as provided herein on behalf of **City**. Upon approval of such assignment or sublease, **Lessee** will not be relieved of future performance, liabilities, and obligations under this **Lease**. **City** shall be provided with a copy of each written

**PROPERTY LEASE AGREEMENT**  
**between**  
**TASTY SNOW**  
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sublease agreement, and all amendments thereto, entered into by **Lessee** within forty-five (45) days after the entering into of same.

**17. COMPLETE AGREEMENT**

This is the complete agreement between the parties and no additions, amendments, alterations, or changes in this **Lease** shall be effective unless reduced to writing and signed by all parties hereto. Additionally, no statements, discussions, or negotiations shall be deemed or interpreted to be included in this **Lease**, unless specifically and expressly provided herein.

**18. TIME OF ESSENCE**

For the purposes of this **Lease**, time shall be deemed to be of the essence.

**19. MULTIPLE ORIGINALS**

This **Lease** shall be executed in multiple counterparts, each of which shall be deemed an original.

**20. NONINTERFERENCE**

This **Lease** authorizes **Lessee** to use and occupy a portion of the **Premises** for the location of its **Facilities** only as provided herein. **Lessee's** activities and use may not in any manner permanently or temporarily interfere with existing or future **City** uses of the **Facilities**, **Premises**, and **City** rights-of-way and public properties.

**21. PROPERTY INTERESTS**

**Lessee** acknowledges and agrees that the **Premises** are first and foremost the property of **City**, and that the **Lessee** is not granted any property interest therein or by the terms of this **Lease**.

**22. ANTI-COLLUSION**

**Lessee** agrees that it has not been and shall not be a party to any collusion with any of their officials, trustees, or employees of **City** as to the terms or conditions of this **Lease**, and has not and will not exchange, give or donate money or other things of value for special

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consideration to any officials, trustees, or employees of the **City**, either directly or indirectly, in procuring and execution of this **Lease**.

**23. WARRANTY**

Issuance of this **Lease** does not constitute or contain any express or implied warranties of title, interest, or right to possession of the **Premises** nor the physical condition of any property subject to this **Lease**. **Lessee** shall be responsible for identifying other property interests, permits, users, and licenses, if any, and arranging whatever additional permissions as may be required. The **Lessee** accepts the **Premises** "as is".

**24. BREACH AND DEFAULT**

A. A breach of any provision of this **Lease** shall act as a breach of the entire **Lease** unless said breach is expressly waived in writing by all other parties hereto. Failure to enforce or timely pursue any breach shall not be deemed a waiver of that breach or any subsequent breach. No waiver of any breach by any party hereto of any terms, covenants, or conditions herein contained shall be deemed a waiver of any subsequent breach of the same, similar, or different nature.

B. Further, except as otherwise specifically and expressly provided and any other paragraph hereto, should any party hereto fail to perform, keep or observe any of the terms, covenants, or conditions herein contained, this **Lease** may be terminated by any party not in default thirty (30) days after receipt of written notice and opportunity to cure, less and except as such lesser time is provided in this **Lease**.

C. Should the **City** breach this **Lease**, **Lessee** may only recover that proportion of the prepaid annual rental for the unexpired term. **Lessee** may not collect or recover any other or additional damages, losses, or expenses.

**25. ENVIRONMENTAL**

A. **Lessee** shall not permit any chemical substance or hazardous material to be brought upon, kept, or used in or about the **Premises** by **Lessee**, its officers, representatives, agents, employees, contractors, or invitees to escape the **Premises**. **Lessee** shall notify the **City**

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**TASTY SNOW**  
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**THE MIDWEST CITY MUNICIPAL AUTHORITY**

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of the presence, even if temporary, of any chemical substance or hazardous material brought onto the **Premises** by **Lessee**, its officers, representatives, agents, employees, contractors, or invitees, except for storage, handling and use of reasonable quantities and types of such materials or substances used by **Lessee** in the ordinary course and the prudent conduct of **Lessee's** business, provided **Lessee** obtains the prior written approval of the **City** and provided that: (i) the storage, handling and use of such permitted hazardous substances must at all times conform to all governmental requirements and to applicable fire, safety and insurance requirements; (ii) the types and quantities of permitted hazardous substances must be reasonable and appropriate to the nature and size of **Lessee's** operations; (iii) no hazardous substance shall be spilled or disposed of on, in, under or around the **Premises** or otherwise discharged by **Lessee**. Provided, however, any such approval by the **City** will not waive, negate, diminish, or limit the responsibility of the **Lessee** for any contamination or to indemnify the **City**.

B. If **Lessee** breaches the obligations stated in the preceding paragraph, or if the presence of the chemical substance or hazardous material on the **Premises** brought onto such **Premises** by **Lessee** or its contractors, employees or agents results in contamination of the **Premise** or contamination of the water supply of **City**, or if contamination of the **Premises** or by the chemical substance or hazardous material otherwise occurs for which **Lessee** is legally liable, **Lessee** shall indemnify, defend and hold the **City** and their officers, trustees, representatives, contractors, agents and employees harmless from any and all injuries, deaths, property damage, claims, judgments, damages, penalties, fines, costs, liabilities, losses, diminution in value, damages for the loss or restriction on use, sums paid in settlement of claims, and attorneys', consultants' and expert fees (collectively, "Environmental Claims") which arise during or after any term of this **Lease** hereof as a result of such contamination.

C. This indemnification of the **City** by **Lessee** also includes, without limitation, costs and expenses incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work required by the **City** or any federal, state or local government agency or political subdivision because of any chemical substance or hazardous material present in the soil or ground water on or under the **Premises** caused by **Lessee**.

D. Without limiting the foregoing, if the presence of any chemical substance or



**PROPERTY LEASE AGREEMENT**  
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**THE MIDWEST CITY MUNICIPAL AUTHORITY**

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hazardous material brought onto the **Premises** by **Lessee**, its employees, agents or contractors results in any contamination of the **Premises**, or the water supply of the **City**, **Lessee** shall promptly take all actions at its sole expense as are necessary to return the **Premises** and the water supply of the **City** to the condition existing prior to the introduction of any such chemical substance or hazardous material. The foregoing indemnity shall survive the expiration or earlier termination of this **Lease**.

E. As used herein, the term “chemical substance” shall mean a substance obtained by a chemical process or used for producing a chemical effect, including but not limited to pesticides, herbicides and fertilizers, and the term “hazardous material” means any hazardous or toxic substance, material or waste, including but not limited to those substances, materials and wastes listed by the Environmental Protection Agency as hazardous substances, or such substances, materials and wastes that are or become regulated under any applicable local, state or federal law.

**26. INSPECTION**

**City** and its employees and agents shall have the right, but not the duty, to inspect **Lessee’s Facilities** and the **Premises** to determine whether **Lessee** is complying with the terms of this **Lease**.

**27. THIRD PARTY BENEFICIARIES**

All parties expressly agree that no third-party beneficiaries, expressly or implicitly, are intended to be or shall be created or acknowledged by this **Lease**. This **Lease** is solely for the benefit of the **Lessee** and **City**, and none of the provisions hereof are intended to benefit any third parties.

**28. VENUE AND CHOICE OF LAW**

All parties hereto expressly agree that the venue of any litigation relating to or involving this **Lease** and/or the rights, obligations, duties and covenants therein shall be in the appropriate court (state or federal) located in Oklahoma County, Oklahoma. All parties agree that this **Lease**

**PROPERTY LEASE AGREEMENT**  
**between**  
**TASTY SNOW**  
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shall be interpreted and enforced in accordance with Oklahoma law and all rights of the parties shall be determined in accordance with Oklahoma law.

**29. CASUALTY**

If any part of the **Premises** is damaged by casualty or Act of God, as to render the **Premises** unsuitable, in **Lessee's** sole determination, then **Lessee** may terminate this **Lease** by providing written notice to the **City**, as **Lessee's** only recourse as to the **City**, which termination will be effective as of the date of such casualty or other harm.

**30. EFFECTIVE DATE**

The Effective Date of this **Lease** is the date approved by the **City** as the last party hereto.

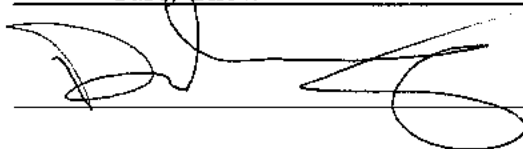
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**PROPERTY LEASE AGREEMENT**  
**between**  
**TASTY SNOW**  
**And**  
**THE CITY OF MIDWEST CITY**

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IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute and seal this Lease on the dates set forth below.

LESSEE:

Tasty Snow  
\_\_\_\_\_  
By: \_\_\_\_\_  
Name: David Massey  
Title: Owner

***[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BANK]***

**PROPERTY LEASE AGREEMENT**  
**between**  
**TASTY SNOW**  
**And**  
**THE CITY OF MIDWEST CITY**

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**APPROVED** by the Council and **SIGNED** by the Mayor of The City of Midwest City  
this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**THE CITY OF MIDWEST CITY**

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**MATTHEW D. DUKES, II, MAYOR**

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**SARA HANCOCK, CITY CLERK**

**REVIEWED** for form and legality.

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**DONALD D. MAISCH, CITY ATTORNEY**

KIWANIS PARK CONCESSION  
BID TAB

<u>VENDOR</u>	<u>BID AMOUNT</u>
Holly Owens	<u>No Bid</u>
Mike Queri	<u>No Bid</u>
Patrick Steelman	<u>No Bid</u>
Bob Bean	<u>No Bid</u>
Bronco's Tacos	<u>No Bid</u>
Caddy Snacks LLC	<u>No Bid</u>
Blake Pettis	<u>No Bid</u>
Ron Kolander	<u>No Bid</u>
Tasty Snow	<u>\$850.00 monthly payment*</u> * See Concession proposal for itemized cost list*

Your community is familiar with our business, products, and services. We are a shaved ice creation stand that has been a staple of the community in both parks( Kiwanis and Regional) for over 20 years. We have done numerous community events and sponsored numerous schools and activities throughout our time here in Midwest City . We are looking forward to continuing in a way that will benefit both parties and the community.

### **Proposal for Kiwanis Park**

We would like to propose a monthly rent of \$850.00 for this upcoming year for the months of March -October. Our hours of operation will be from 12:00 pm- 9:00 pm. Below is a list of menu items and prices that we will serve to attending guests of the park.

**Snow cones-** we have over 200 flavors to offer customers in various sizes ranging from \$3-\$7.

**Drinks-** we offer a variety of non-alcoholic drinks( water, sodas, Gatorade, energy drinks) \$1-\$5

**Candy-** we offer a variety of packaged candy (Snickers, Skittles, cotton candy, etc) \$3

### **We do not offer cooked or heated food items nor do we offer any alcoholic beverages.**

We employ numerous high school and college kids from our community every year. We make sure our staff shows respect for the park and their community by cleaning up every night and taking ownership of the property. We supply them with all the necessary equipment to make sure this happens.

We have all the other necessary utilities not provided by Midwest City in place needed to run the daily operations. We have had the same utility accounts for over 20 years.

Tasty Snow is a proud staple in this community and we are looking forward to continuing our great relationship. I have attached our current insurance and health licenses.



City Manager's Office  
Vaughn Sullivan,  
Assistant City Manager  
[vsullivan@midwestcityok.org](mailto:vsullivan@midwestcityok.org)  
100 N. Midwest Blvd,  
Midwest City, Oklahoma 73110  
O: 405-739-1207 /Fax: 405-739-1208

## MEMORANDUM

To: Honorable Mayor and Council

From: Vaughn K. Sullivan, Assistant City Manager

Date: July 26, 2022

Subject: Discussion and consideration, including any possible amendment of awarding a contract for construction management to Lippert Brother Construction, Inc. (LBI), associated with phase II additions to the Multi Athletic Complex (MAC) in the amount of 6% of actual construction costs for construction management services and a flat fee of \$5,000.00 for pre-construction services.

A solicitation for qualifications to construct phase II of the Multi Athletic Complex (MAC) went out by mail to multiple construction management firms on June 2, 2022. On June 10, 2022, staff received a single qualifications statement from Lippert Brothers Construction, Inc. (LBI). Considering LBI was awarded a contract for the MAC phase I construction, and staff has been very pleased with their performance, staff immediately began negotiating a guaranteed maximum price (GMP) construction management contract for phase II at the MAC.

Subsequently, staff has successfully negotiated a contract for a GMP construction management services contract with LBI, in the amount of 6% of actual construction costs for construction management services and a flat fee of \$5,000.00 for pre-construction services.

After subcontractor bids are opened and selection of subcontractors are made, a GMP amendment to this contract will be brought back for City Council ratification.

Phase II construction will include more parking, a maintenance facility, concession building and umpire changing rooms. A total of \$2,000,000.00 has been budgeted and appropriated in fund 123 for phase II.

Staff recommends approval.

Vaughn K. Sullivan  
Assistant City Manager

Enc. GMP Construction Management Services Contract

# AIA<sup>®</sup> Document A133<sup>™</sup> – 2019

## **Standard Form of Agreement Between Owner and Construction Manager as Constructor** where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2022  
(In words, indicate day, month, and year.)

BETWEEN the Owner:  
(Name, legal status, address, and other information)

City of Midwest City  
100 N. Midwest Blvd.  
Midwest City, OK 73110  
Telephone Number: 405-739-1207

and the Construction Manager:  
(Name, legal status, address, and other information)

Lippert Bros., Inc.  
P.O. Box 17450  
Oklahoma City, OK 73136  
Telephone Number: 405-478-3580  
Fax Number: 405-478-3301

for the following Project:  
(Name, location, and detailed description)

Midwest City Multipurpose Athletic Complex Phase 2  
9400 SE 29th Street  
Oklahoma City, OK 73130

The Architect:  
(Name, legal status, address, and other information)

Guernsey  
5555 N Grand Blvd.  
Oklahoma City, OK 73112  
Telephone Number: 405-416-8100

The Owner and Construction Manager agree as follows.

**ADDITIONS AND DELETIONS:**  
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201<sup>™</sup>–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

1



## TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 GENERAL PROVISIONS
- 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES
- 4 OWNER'S RESPONSIBILITIES
- 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
- 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES
- 7 COST OF THE WORK FOR CONSTRUCTION PHASE
- 8 DISCOUNTS, REBATES, AND REFUNDS
- 9 SUBCONTRACTS AND OTHER AGREEMENTS
- 10 ACCOUNTING RECORDS
- 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES
- 12 DISPUTE RESOLUTION
- 13 TERMINATION OR SUSPENSION
- 14 MISCELLANEOUS PROVISIONS
- 15 SCOPE OF THE AGREEMENT

### EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT

### EXHIBIT B INSURANCE AND BONDS

## ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:

*(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)*

The owner's program consists of additions to the Multipurpose Athletic Center to include parking expansion, concession facilities, a maintenance building and potentially the addition of three multipurpose athletic fields and associated amenities.

§ 1.1.2 The Project's physical characteristics:

*(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)*

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:

*(Provide total and, if known, a line item breakdown.)*

Two million dollars (\$2,000,000.00) which does not include the three additional multipurpose athletic fields and associated amenities.

**§ 1.1.4** The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

.2 Construction commencement date:

Date of Construction Commencement to be established following acceptance of Guaranteed Maximum Price Amendment, Owner's Notice to Proceed, and issuance of a Building Permit.

.3 Substantial Completion date or dates:

To be determined upon receipt of Complete Set of Plans & Specifications from Architect and development of Project schedule.

.4 Other milestone dates:

**§ 1.1.5** The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:

*(Identify any requirements for fast-track scheduling or phased construction.)*

**§ 1.1.6** The Owner's anticipated Sustainable Objective for the Project:

*(Identify and describe the Owner's Sustainable Objective for the Project, if any.)*

**§ 1.1.6.1** If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234–2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

**§ 1.1.7** Other Project information:

*(Identify special characteristics or needs of the Project not provided elsewhere.)*

**§ 1.1.8** The Owner identifies the following representative in accordance with Section 4.2:

*(List name, address, and other contact information.)*

Vaughn Sullivan  
100 N. Midwest Blvd.  
Midwest City, OK 73110  
Telephone Number: 405-739-1207  
Email Address: vsullivan@midwestcityok.org

Init.

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:  
(List name, address and other contact information.)

§ 1.1.10 The Owner shall retain the following consultants and contractors:  
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

.2 Civil Engineer:

Guernsey  
Darby Anderson  
5555 N Grand Blvd  
Oklahoma City, OK 73112  
Telephone Number: 405-416-8100

.3 Other, if any:

(List any other consultants retained by the Owner, such as a Project or Program Manager.)

§ 1.1.11 The Architect's representative:  
(List name, address, and other contact information.)

Steve Scovel  
5555 N Grand Blvd.  
Oklahoma City, OK 73112  
Telephone Number: 405-416-8100  
Email Address: steve.scovel@guernsey.us

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:  
(List name, address, and other contact information.)

Nick Bench  
P.O. Box 17450  
Oklahoma City, OK 73136  
Telephone Number: 405-478-3580  
Fax Number: 405-478-3301  
Email Address: nbench@lippertbros.com

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:  
(List any Owner-specific requirements to be included in the staffing plan.)

Subcontractor procurement to be made in accordance with Oklahoma State Statutes, Title 61.

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:  
(List any Owner-specific requirements for subcontractor procurement.)

Init.



**§ 1.1.15** Other Initial Information on which this Agreement is based:

**§ 1.2** The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

**§ 1.3** Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

**§ 1.4** The term of this agreement is from July 1, 2022 until June 30, 2023. This agreement may be extended by mutual consent of the parties, in writing, for an additional ten (10), one-year terms. The extensions may encompass all the additional phases (Phase III, IV, V, VI and VII) of the project, provided no terms in the original agreement are changed. If there are any changes to the original agreement, an amendment to the original agreement, in writing and signed by the parties, shall be executed. The amendment may encompass the additional phases (Phase III, IV, V, VI AND VII) of the project. The City of Midwest City shall not be obligated to construct any or all additional phases of the project.

**ARTICLE 2 GENERAL PROVISIONS**

**§ 2.1 The Contract Documents**

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

**§ 2.2 Relationship of the Parties**

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

**§ 2.3 General Conditions**

**§ 2.3.1** For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.



§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017, which document is incorporated herein by reference. The term “Contractor” as used in A201–2017 shall mean the Construction Manager.

### **ARTICLE 3 CONSTRUCTION MANAGER’S RESPONSIBILITIES**

The Construction Manager’s Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager’s Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

#### **§ 3.1 Preconstruction Phase**

##### **§ 3.1.1 Extent of Responsibility**

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner’s program, schedule and construction budget requirements, each in terms of the other.

##### **§ 3.1.3 Consultation**

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

##### **§ 3.1.4 Project Schedule**

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect’s review and the Owner’s acceptance. The Construction Manager shall obtain the Architect’s approval for the portion of the Project schedule relating to the performance of the Architect’s services. The Project schedule shall coordinate and integrate the Construction Manager’s services, the Architect’s services, other Owner consultants’ services, and the Owner’s responsibilities; and identify items that affect the Project’s timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.



### § 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

### § 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

### § 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

### § 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the

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Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

#### **§ 3.1.13 Compliance with Laws**

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

#### **§ 3.1.14 Other Preconstruction Services**

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

*(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)*

### **§ 3.2 Guaranteed Maximum Price Proposal**

**§ 3.2.1** At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

**§ 3.2.2** To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order.

**§ 3.2.3** The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

**§ 3.2.4** In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order.

**§ 3.2.5** The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

**§ 3.2.6** If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.



§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

### § 3.3 Construction Phase

#### § 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

#### § 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

#### § 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

#### § 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

#### § 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

## ARTICLE 4 OWNER'S RESPONSIBILITIES

### § 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria,



including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

**§ 4.1.2** Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

**§ 4.1.3** The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

**§ 4.1.4 Structural and Environmental Tests, Surveys and Reports.** During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

**§ 4.1.4.1** The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

**§ 4.1.4.2** The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

**§ 4.1.4.3** The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

**§ 4.1.5** During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

**§ 4.1.6** If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

#### **§ 4.2 Owner's Designated Representative**

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.



**§ 4.2.1 Legal Requirements.** The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

**§ 4.3 Architect**

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™-2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

**ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES**

**§ 5.1 Compensation**

**§ 5.1.1** For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

*(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)*

Preconstruction Services Fee will be five thousand dollars (\$5,000.00) and invoiced as Design Work progresses.

**§ 5.1.2** The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.

*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

**Individual or Position**

**Rate**

**§ 5.1.2.1** Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

**§ 5.1.3** If the Preconstruction Phase services covered by this Agreement have not been completed within five ( 5 ) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

**§ 5.2 Payments**

**§ 5.2.1** Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

**§ 5.2.2** Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid thirty ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

*(Insert rate of monthly or annual interest agreed upon.)*

Prime Rate established by the Wall Street Journal.

**ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES**

**§ 6.1 Contract Sum**

**§ 6.1.1** The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

**§ 6.1.2** The Construction Manager's Fee:

*(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)*

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Six percent (6%) of the cost of the Work

**§ 6.1.3** The method of adjustment of the Construction Manager's Fee for changes in the Work:

The Construction Manager's Fee for overhead and profit on additional Work added to the contract scope will remain six percent (6%) of the cost of Work. If the additional Work does not result in additional time being added and the time for substantial completion is extended by the additional work, then the Construction Manager and Owner's representative shall negotiate in good faith an additional amount to compensate Construction Manager for its General Requirements. In no event will the Construction Manager be entitled to General Requirements in excess of fifteen percent (15%) of the actual cost of the additional Work.

**§ 6.1.4** Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

Ten percent (10%) Overhead and ten percent (10%) Profit.

**§ 6.1.5** Rental rates for Construction Manager-owned equipment shall not exceed the current equipment rental rates established by the Association of Equipment Distributors (AED).

**§ 6.1.6** Liquidated damages, if any:  
*(Insert terms and conditions for liquidated damages, if any.)*

**§ 6.1.7** Other:  
*(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)*

Upon completion of the project, any unused contingency dollars will be credited back to the owner. Then, the project budget will be evaluated to determine if a project savings, excluding any unused contingency, was realized. If a savings is realized it will be shared as follows:  
Seventy percent (70%) savings to Owner / thirty percent (30%) savings to Construction Manager.

**§ 6.2 Guaranteed Maximum Price**

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

**§ 6.3 Changes in the Work**

**§ 6.3.1** The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

**§ 6.3.1.1** The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

**§ 6.3.2** Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

**§ 6.3.3** Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to “cost” and “fee,” and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

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§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms “cost” and “costs” as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term “fee” shall mean the Construction Manager’s Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager’s Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager’s Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

## ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

### § 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner’s prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

### § 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner’s prior approval, at off-site workshops.

§ 7.2.2 Wages or salaries of the Construction Manager’s supervisory and administrative personnel when stationed at the site and performing Work, with the Owner’s prior approval.

§ 7.2.2.1 Wages or salaries of the Construction Manager’s supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

*(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)*

§ 7.2.3 Wages and salaries of the Construction Manager’s supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

### § 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

### § 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.



**§ 7.4.2** Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

**§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items**

**§ 7.5.1** Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

**§ 7.5.2** Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item. Aggregate charges for non-powered hand tools having a cost of \$250.00 or less and miscellaneous equipment shall be billed at an amount equal to four percent (4%) of the Construction Manager's field labor cost.

**§ 7.5.3** Costs of removal of debris from the site of the Work and its proper and legal disposal.

**§ 7.5.4** Costs of the Construction Manager's site office, including general office equipment and supplies.

**§ 7.5.5** Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

**§ 7.6 Miscellaneous Costs**

**§ 7.6.1** Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

**§ 7.6.1.1** Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

**§ 7.6.1.2** Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.

**§ 7.6.2** Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

**§ 7.6.3** Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

**§ 7.6.4** Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201-2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

**§ 7.6.5** Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

**§ 7.6.5.1** The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the



Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201–2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager’s Fee or subject to the Guaranteed Maximum Price.

**§ 7.6.6** A fee of 0.10% of the cost of the Work shall be applied to the monthly invoices for the use of Construction Manager’s web based project management system by all project team members.

**§ 7.6.7** Costs of document reproductions and delivery charges.

**§ 7.6.8** Deposits lost for causes other than the Construction Manager’s negligence or failure to fulfill a specific responsibility in the Contract Documents.

**§ 7.6.9** Legal, mediation and arbitration costs, including attorneys’ fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner’s prior approval, which shall not be unreasonably withheld.

**§ 7.6.10** Expenses incurred in accordance with the Construction Manager’s standard written personnel policy for relocation and temporary living allowances of the Construction Manager’s personnel required for the Work, with the Owner’s prior approval.

**§ 7.6.11** That portion of the reasonable expenses of the Construction Manager’s supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

#### **§ 7.7 Other Costs and Emergencies**

**§ 7.7.1** Other costs incurred in the performance of the Work, with the Owner’s prior approval.

**§ 7.7.2** Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

**§ 7.7.3** Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

**§ 7.7.4** The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

#### **§ 7.8 Related Party Transactions**

**§ 7.8.1** For purposes of this Section 7.8, the term “related party” shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

**§ 7.8.2** If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work,

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equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

#### **§ 7.9 Costs Not To Be Reimbursed**

**§ 7.9.1** The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .9 Costs for services incurred during the Preconstruction Phase.

#### **ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS**

**§ 8.1** Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

**§ 8.2** Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

#### **ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS**

**§ 9.1** Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

**§ 9.1.1** When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.



§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

#### ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

#### ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

##### § 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the 5th day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 25th day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than twenty ( 20 ) days after the Architect receives the Application for Payment.

*(Federal, state or local laws may require payment within a certain period of time.)*

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.



§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.7 In accordance with AIA Document A201–2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 11.1.7.1 The amount of each progress payment shall first include:

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

#### § 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

*(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)*

Five percent (5%) of Subcontractor Billings and five percent (5%) of Construction Manager's Fee

§ 11.1.8.1.1 The following items are not subject to retainage:

*(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)*

Construction Manager's labor, materials and equipment cost.

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be as follows:

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User Notes:



*(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)*

Upon the Owner and Architect's acknowledgement of the Project reaching fifty percent (50%) completion, retainage shall be reduced to two and a half percent (2.5%) of Subcontractor Billings and Construction Manager's Fee (upon approval by Owner and Architect) and remain at two and a half percent (2.5%) until such time the Project has reached completion.

**§ 11.1.8.3** Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

*(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)*

**§ 11.1.9** If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of AIA Document A201–2017.

**§ 11.1.10** Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

**§ 11.1.11** The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

**§ 11.1.12** In taking action on the Construction Manager's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

## **§ 11.2 Final Payment**

**§ 11.2.1** Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

**§ 11.2.2** Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

**§ 11.2.2.1** If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

**§ 11.2.2.2** Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or



notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201–2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

**§ 11.2.2.3** If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

**§ 11.2.3** The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

**§ 11.2.4** If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

### **§ 11.3 Interest**

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

*(Insert rate of interest agreed upon, if any.)*

Prime Rate established by the Wall Street Journal

## **ARTICLE 12 DISPUTE RESOLUTION**

### **§ 12.1 Initial Decision Maker**

**§ 12.1.1** Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

**§ 12.1.2** The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.

*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*

### **§ 12.2 Binding Dispute Resolution**

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

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(Check the appropriate box.)

Arbitration pursuant to Article 15 of AIA Document A201–2017

Litigation in a court of competent jurisdiction

Other: (Specify)

Mediation Prior to Litigation

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

#### ARTICLE 13 TERMINATION OR SUSPENSION

##### § 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- 1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- 2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- 3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders

Init.



and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

**§ 13.1.6.1** If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

## **§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment**

### **§ 13.2.1 Termination**

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

### **§ 13.2.2 Termination by the Owner for Cause**

**§ 13.2.2.1** If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager’s Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager’s Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

**§ 13.2.2.2** The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

### **§ 13.2.3 Termination by the Owner for Convenience**

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee as follows:

*(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner’s convenience.)*

## **§ 13.3 Suspension**

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017, except that the term “profit” shall be understood to mean the Construction Manager’s Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

## **ARTICLE 14 MISCELLANEOUS PROVISIONS**

**§ 14.1** Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.



**§ 14.2 Successors and Assigns**

**§ 14.2.1** The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

**§ 14.2.2** The Owner may, without consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner’s rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

**§ 14.3 Insurance and Bonds**

**§ 14.3.1 Preconstruction Phase**

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

**§ 14.3.1.1** Commercial General Liability with policy limits of not less than one million dollars (\$ 1,000,000.00 ) for each occurrence and two million dollars (\$ 2,000,000.00 ) in the aggregate for bodily injury and property damage.

**§ 14.3.1.2** Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than one million dollars (\$ 1,000,000.00 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

**§ 14.3.1.3** The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

**§ 14.3.1.4** Workers’ Compensation at statutory limits and Employers Liability with policy limits not less than one million dollars (\$ 1,000,000.00 ) each accident, one million dollars (\$ 1,000,000.00 ) each employee, and one million dollars (\$ 1,000,000.00 ) policy limit.

**§ 14.3.1.5** Professional Liability covering negligent acts, errors and omissions in the performance of professional services, to be provided by the Architect/Engineer of Record.

**§ 14.3.1.6 Other Insurance**

*(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)*

Coverage	Limits
Builders's Risk	Contract Value

**§ 14.3.1.7** Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager’s negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner’s insurance policies and shall apply to both ongoing and completed operations.

**§ 14.3.1.8** The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

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**§ 14.3.2 Construction Phase**

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

**§ 14.3.2.1** The Construction Manager shall provide bonds as set forth in AIA Document A133™–2019 Exhibit B, and elsewhere in the Contract Documents.

**§ 14.4** Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

*(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)*

**§ 14.5 Other provisions:**

Architect to provide electronic files in PDF, Revit, and AutoCad format as requested by Construction Manager's or Subcontractors at no cost. Updated files to be provided during the course of construction to facilitate distribution of any drawing changes to the construction team.

**ARTICLE 15 SCOPE OF THE AGREEMENT**

**§ 15.1** This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

**§ 15.2** The following documents comprise the Agreement:

- .1 AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A133™–2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed
- .3 AIA Document A133™–2019, Exhibit B, Insurance and Bonds
- .4 AIA Document A201™–2017, General Conditions of the Contract for Construction
- .5 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:  
*(Insert the date of the E203-2013 incorporated into this Agreement.)*

.6 Other Exhibits:

*(Paragraph Deleted)*

Drawings, specifications, and addenda (to be determined upon completion by Architect).

[ ] AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:

*(Insert the date of the E234-2019 incorporated into this Agreement.)*

[ ] Supplementary and other Conditions of the Contract:

Init.



Document	Title	Date	Pages
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.7 Other documents, if any, listed below:

*(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager’s bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)*

This Agreement is entered into as of the day and year first written above.

\_\_\_\_\_  
**OWNER** *(Signature)*

Vaughn Sullivan, Assistant City Manager  
*(Printed name and title)*

\_\_\_\_\_  
**CONSTRUCTION MANAGER** *(Signature)*

T. M. Lippert, President  
*(Printed name and title)*

Init.



# **Additions and Deletions Report for** **AIA<sup>®</sup> Document A133<sup>™</sup> – 2019**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:40:21 ET on 07/13/2022.

## **PAGE 1**

**AGREEMENT** made as of the      day of                      in the year 2022.

...

City of Midwest City  
100 N. Midwest Blvd.  
Midwest City, OK 73110  
Telephone Number: 405-739-1207

...

Lippert Bros., Inc.  
P.O. Box 17450  
Oklahoma City, OK 73136  
Telephone Number: 405-478-3580  
Fax Number: 405-478-3301

...

Midwest City Multipurpose Athletic Complex Phase 2  
9400 SE 29th Street  
Oklahoma City, OK 73130

...

Guernsey  
5555 N Grand Blvd.  
Oklahoma City, OK 73112  
Telephone Number: 405-416-8100

## **PAGE 2**

The owner's program consists of additions to the Multipurpose Athletic Center to include parking expansion, concession facilities, a maintenance building and potentially the addition of three multipurpose athletic fields and associated amenities.

## **PAGE 3**

Two million dollars (\$2,000,000.00) which does not include the three additional multipurpose athletic fields and associated amenities.

...

Date of Construction Commencement to be established following acceptance of Guaranteed Maximum Price Amendment, Owner's Notice to Proceed, and issuance of a Building Permit.

...

To be determined upon receipt of Complete Set of Plans & Specifications from Architect and development of Project schedule.

...

Vaughn Sullivan  
100 N. Midwest Blvd.  
Midwest City, OK 73110  
Telephone Number: 405-739-1207  
Email Address: vsullivan@midwestcityok.org

**PAGE 4**

Guernsey

...

Darby Anderson

...

5555 N Grand Blvd

...

Oklahoma City, OK 73112

...

Telephone Number: 405-416-8100

...

Steve Scovel  
5555 N Grand Blvd.  
Oklahoma City, OK 73112  
Telephone Number: 405-416-8100  
Email Address: steve.scovel@guernsey.us

...

Nick Bench  
P.O. Box 17450  
Oklahoma City, OK 73136  
Telephone Number: 405-478-3580  
Fax Number: 405-478-3301  
Email Address: nbench@lippertbros.com

...

Subcontractor procurement to be made in accordance with Oklahoma State Statutes, Title 61.

**PAGE 5**

§ 1.4 The term of this agreement is from July 1, 2022 until June 30, 2023. This agreement may be extended by mutual consent of the parties, in writing, for an additional ten (10), one-year terms. The extensions may encompass all the additional phases (Phase III, IV, V, VI and VII) of the project, provided no terms in the original agreement are changed. If there are any changes to the original agreement, an amendment to the original agreement, in writing and signed by the parties, shall be executed. The amendment may encompass the additional phases (Phase III, IV, V, VI AND VII) of the project. The City of Midwest City shall not be obligated to construct any or all additional phases of the project.

**PAGE 11**

Preconstruction Services Fee will be five thousand dollars (\$5,000.00) and invoiced as Design Work progresses.

...

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within five ( 5 ) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

...

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid thirty ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

...

% Prime Rate established by the Wall Street Journal.

**PAGE 12**

Six percent (6%) of the cost of the Work

...

The Construction Manager's Fee for overhead and profit on additional Work added to the contract scope will remain six percent (6%) of the cost of Work. If the additional Work does not result in additional time being added and the time for substantial completion is extended by the additional work, then the Construction Manager and Owner's representative shall negotiate in good faith an additional amount to compensate Construction Manager for its General Requirements. In no event will the Construction Manager be entitled to General Requirements in excess of fifteen percent (15%) of the actual cost of the additional Work.

...

Ten percent (10%) Overhead and ten percent (10%) Profit.

...



§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed ~~percent (—%) of the standard rental rate paid at the place of the Project.~~ the current equipment rental rates established by the Association of Equipment Distributors (AED).

...

Upon completion of the project, any unused contingency dollars will be credited back to the owner. Then, the project budget will be evaluated to determine if a project savings, excluding any unused contingency, was realized. If a savings is realized it will be shared as follows:  
Seventy percent (70%) savings to Owner / thirty percent (30%) savings to Construction Manager.

PAGE 14

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item. Aggregate charges for non-powered hand tools having a cost of \$250.00 or less and miscellaneous equipment shall be billed at an amount equal to four percent (4%) of the Construction Manager's field labor cost.

PAGE 15

~~§ 7.6.6 Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval.~~ A fee of 0.10% of the cost of the Work shall be applied to the monthly invoices for the use of Construction Manager's web based project management system by all project team members.

PAGE 17

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the 5<sup>th</sup> day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the 25<sup>th</sup> day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than twenty ( 20 ) days after the Architect receives the Application for Payment.

PAGE 18

Five percent (5%) of Subcontractor Billings and five percent (5%) of Construction Manager's Fee

...

Construction Manager's labor, materials and equipment cost.

PAGE 19

Upon the Owner and Architect's acknowledgement of the Project reaching fifty percent (50%) completion, retainage shall be reduced to two and a half percent (2.5%) of Subcontractor Billings and Construction Manager's Fee (upon approval by Owner and Architect) and remain at two and a half percent (2.5%) until such time the Project has reached completion.

PAGE 20

%Prime Rate established by the Wall Street Journal

PAGE 21

Litigation in a court of competent jurisdiction

...

Other: *(Specify)*

...

Mediation Prior to Litigation

PAGE 23

§ 14.3.1.1 Commercial General Liability with policy limits of not less than one million dollars (\$ 1,000,000.00 ) for each occurrence and two million dollars (\$ 2,000,000.00 ) in the aggregate for bodily injury and property damage.

...

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than one million dollars (\$ 1,000,000.00 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

...

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than one million dollars (\$ 1,000,000.00 ) each accident, one million dollars (\$ 1,000,000.00 ) each employee, and one million dollars (\$ 1,000,000.00 ) policy limit.

...

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, ~~with policy limits of not less than (\$ ) per claim and (\$ ) in the aggregate to be provided by the Architect/Engineer of Record.~~

...

Builders's Risk

Contract Value

PAGE 24

Architect to provide electronic files in PDF, Revit, and AutoCad format as requested by Construction Manager's or Subcontractors at no cost. Updated files to be provided during the course of construction to facilitate distribution of any drawing changes to the construction team.

...

*(Check all boxes that apply.)*

...

Drawings, specifications, and addenda (to be determined upon completion by Architect).

Vaughn Sullivan, Assistant City Manager

T. M. Lippert, President

## **Certification of Document's Authenticity**

*AIA® Document D401™ – 2003*

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 16:40:21 ET on 07/13/2022 under Order No. 2114289800 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A133™ - 2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

---

*(Signed)*

---

*(Title)*

---

*(Dated)*





**Grants Management**  
100 N. Midwest Boulevard  
Midwest City, OK 73110  
**405.739.1216**

TO: Honorable Mayor and City Council

FROM: Terri L. Craft, Grants Manager

DATE: July 26, 2022

RE: Discussion and consideration for adoption, including any possible amendment, of a Memorandum of Understanding for 2022-23 in the amount of \$75,000 with the Boys and Girls Clubs of Oklahoma County Inc. for the operation of a club site at Country Estates Elementary School, located at 1609 Felix Place in Midwest City.

The attached agreement between Midwest City and the Boys and Girls Clubs of Oklahoma County Inc. provides for a club site at Country Estates Elementary School, for the 2022-23 school year. The program will operate after school until 6:00 p.m. and implement a summer program. The city's contribution represents approximately a third of the program's operational costs during a typical year.

The Country Estates site represents the fourth year for a Boys and Girls Club in the Mid-Del School District and the first year for Country Estates, after five years at Telstar Elementary School. Approximately 100 Midwest City youth will enjoy homework/tutoring, computer time, art, life skills, STEM activities, structured physical activities and healthy snacks. The after effects of the COVID pandemic on families and education have also necessitated an increase in their tutoring and support services, to meet learning gap and mental health needs. The cost to participating youth is a \$10 annual membership fee.

The program will be moving to Country Estates Elementary after three years at Steed Elementary, which will no longer be an operating school, due to consolidation. Staff recommends approval.

A handwritten signature in cursive script that reads "Terri L. Craft". The signature is written in black ink and is positioned above a horizontal line.

Terri L. Craft  
Grants Manager



**Memorandum of Understanding  
Between  
City of Midwest City  
and  
Boys and Girls Clubs of Oklahoma County, Inc.**

This Memorandum of Understanding (MOU) is made this 26th day of July, 2022, by and between the City of Midwest City (City), 100 N. Midwest Blvd., Midwest City, OK 73110 and the Boys and Girls Clubs of Oklahoma County, Inc., (BGCOKC), P.O. Box 18701, Oklahoma City, Oklahoma 73154, collectively referred to as “the parties.”

The purpose of this MOU is to express and acknowledge the mutual understanding of the parties hereto and the City's decision to provide local funding totaling not more the seventy-five thousand dollars (\$75,000) to continue the investment in the community's youth through the provision of after school and summer program services by the Boys & Girls Club site located at Country Estate Elementary School, 1609 Felix Place, Midwest City, Oklahoma. This MOU shall be effective from July 1, 2022 through June 30, 2023 and may be renewed for successive one-year periods upon concurrence of both parties and availability of funding. The parties agree to the following terms and conditions as partners:

**BOYS & GIRLS CLUBS OF OKLAHOMA COUNTY AGREES TO:**

- Identify, solicit, recruit and train adequate staff for the Country Estates Boys & Girls Club site, subjecting all employees to background check and drug testing
- Provide and manage programmatic activities including but not limited to development of policies, procedures and services consistent with the Boys & Girls Clubs of America (BGCA) approved programs
- Provide, as needed, support services designed to assist club members and their families in times of crisis and additional on-site programming to meet immediate needs
- Execute a MOU with the Mid Del Public School District to detail coordination and partnership in the operation and associated programming of the Country Estates Boys & Girls Club site for the 2022-23 school year
- Provide capacity enrollment utilizing current operational and safety standards adopted by the Oklahoma Department of Human Services, the CDC, and the Oklahoma Department of Health, while insuring a safe, healthy and enriching environment for youth to grow, develop and pursue personal and academic achievement
- Provide staff to support enrollment goal of (100) Midwest City youth
- Provide evidence of general liability insurance coverage
- Keep city staff informed of club programming, accomplishments and special events
- Prepare a year-end report on club impact and results

CITY OF MIDWEST CITY AGREES TO:

- Upon submittal of a copy of the approved MOU with the Mid Del Public School District and submittal of BGCOKC invoice, pay \$37,500 after execution of this MOU; and the remaining \$37,500 paid upon invoice submittal no earlier than January 1, 2023
- Assist in seeking compatible programs and resources to enhance the Boys and Girls Club Program in Midwest City
- Assist in publicity efforts, community outreach, and volunteer recruitment

In witness whereof, the parties hereto have caused this MOU to be executed this 26th day of July, 2022.

BOYS & GIRLS CLUBS OF  
OKLAHOMA COUNTY, INC.

CITY OF MIDWEST CITY

BY: *Teena Belcik*  
Teena Belcik, President & CEO

BY: \_\_\_\_\_  
Matthew D. Dukes, II, Mayor

ATTEST:

\_\_\_\_\_  
CITY CLERK, Sara Hancock

APPROVED as to form and legality this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
CITY ATTORNEY, Donald Maisch



**Grants Management**  
 100 N. Midwest Boulevard  
 Midwest City, OK 73110  
**405.739.1216**

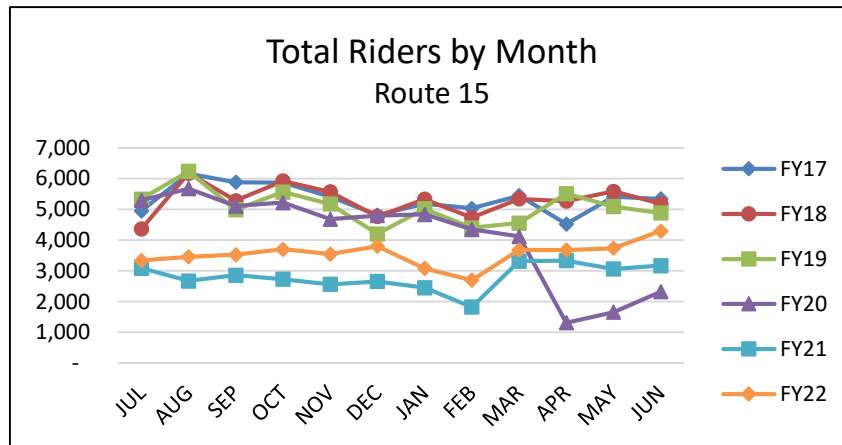
TO: Honorable Mayor and City Council

FROM: Terri L. Craft, Grants Manager

DATE: July 26, 2022

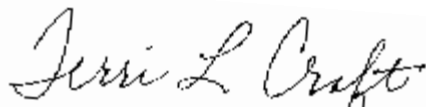
RE: Discussion and consideration of adoption, including any possible amendment of, a contract for FY 22-23 in the amount of \$203,980 with Central Oklahoma Transportation and Parking Authority (COTPA) for the provision of EMBARK Route 15 bus service in Midwest City.

The attached contract reflects an approximate 10% increase over the contract executed in FY21-22, which had an increase of 8% over FY20-21. Bus service is provided every hour and 20 minutes from approximately 6:00 A.M. to 7:00 P.M. Monday through Friday along the 10-mile route through Midwest City. Ridership numbers have increased and at year end are getting closer to pre-pandemic levels.



In addition to fixed route service, the contract provides access to EMBARK Plus, a curb to curb para-transit service for persons with disabilities, within 3/4 of a mile from Route 15.

EMBARK’s Route 19 also provides limited service to Midwest City with transfer points along N.E. 10<sup>th</sup> Street to and from Route 15. Staff recommends approval.

  
 Terri L. Craft, Grants Manager



**AGREEMENT FOR TRANSIT SERVICE**

**BETWEEN**

**Central Oklahoma Transportation and Parking Authority  
(EMBARK)**

**AND**

**City of Midwest City**

**July 1, 2022 – June 30, 2023**



## **AGREEMENT FOR TRANSIT SERVICE**

This Agreement made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between the Central Oklahoma Transportation and Parking Authority, hereinafter referred to as COTPA, and the City of Midwest City.

### **WITNESSETH:**

**WHEREAS**, there exists a need for public mass transportation services between the City of Midwest City and the City of Oklahoma City; and

**WHEREAS**, there exists a need for public mass transportation services within the City of Midwest City; and

**WHEREAS**, COTPA has been designated the public mass transportation provider for the Oklahoma City metropolitan area and operates under the name EMBARK; and

**WHEREAS**, the City of Midwest City desires to establish public mass transportation within the City of Midwest City; and

**WHEREAS**, the City of Midwest City and COTPA are desirous of entering into an Agreement for the provision and funding of said service.

**NOW, THEREFORE**, in consideration of this mutual agreement and conditions herein described, the parties hereto agree as follows:

**1. DESCRIPTION OF SERVICE**

COTPA shall provide the following:

- a. The level of transit service within Midwest City and between Oklahoma City and Midwest City as shown on the attached schedule (Attachment A) and consistent with the transit policies of the COTPA Board of Trustees;
- b. Regular Zone One paratransit service in accordance with provisions of the COTPA 504/ADA Implementation Plan approved by the COTPA Board of Trustees, with Zone One defined as being the area within three-fourths of a mile of the route;
- c. Telephone information service about transit services relative to Route 15 and other COTPA services;
- d. Bus stop signs and poles at all designated stops, which comply with City of Midwest City ordinances;
- e. Publicly owned bus benches and shelters, in the number and locations enabled by existing COTPA, Midwest City and/or other budgets, which also comply with City of Midwest City ordinances for which maintenance agreements have been approved;

- f. Written notice, 30 days in advance, of all changes in service to a. through e. above;
- g. Service shall not be provided on certain national holidays.

2. **COST OF SERVICE**

The City of Midwest City agrees to pay the following:

For Route 15 bus service, the cost for the agreement period will be \$203,980 annually, to be paid \$16,998.33 per month for twelve months in FY23.

3. **METHOD OF PAYMENT**

COTPA shall provide an invoice to the City of Midwest City on a monthly basis. Upon receipt and acceptance of this invoice, the City of Midwest City shall process said claim in the usual and customary manner and shall forward to COTPA a check in the amount stated on the invoice submitted by COTPA. Such payment shall not be necessarily delayed and shall be forwarded to COTPA not later than forty-five (45) days after receipt of said invoice.

4. **TERM OF AGREEMENT**

The term of this Agreement shall be considered to commence on the 1<sup>st</sup> day of July 2022, and shall continue until the 30<sup>th</sup> day of June 2023.

5. **EXPIRATION OR TERMINATION**

- a. The City of Midwest City may terminate this Agreement by giving COTPA at least thirty (30) days written notice of their intention to terminate.
- b. COTPA may terminate this Agreement by giving the City of Midwest City at least thirty (30) days written notice of their intention to terminate.

6. **EXCUSABLE DEFAULT**

COTPA shall not be held in default of this Agreement if it is prevented from performing hereunder by conditions entirely beyond its control, such as, but not limited to, acts of God, strikes, war, insufficient allocation of diesel fuel or other emergencies including the existing road conditions making performance impossible, illegal or unsafe.

7. **INTEGRATION**

It is understood and agreed that this Agreement contains all the covenants, stipulations and provisions agreed upon by the parties hereto and neither party is or shall be bound by any statement or representation not in conformity herewith. This Agreement may not be modified except in writing signed by both parties hereto.

8. **LAW CONTROLLING**

It is the understanding of the parties that this Agreement shall be governed by the laws of the State of Oklahoma and by the laws of the United States applicable in whole or in part to mass transportation systems. It is further understood and agreed that any such applicable law shall be deemed to be part of this Agreement, binding on parties hereto as if such law were set out fully herein.

9. **LIABILITY**



The parties mutually recognize that each party is a governmental entity subject to the provisions of their respective Governmental Tort Claims Act (51 O.S. § 151 et seq.). The parties hereby mutually agree that each is and may be held severally liable for any and all claims, demands, and suits in law or equity, of any nature whatsoever, paying for damages or otherwise, arising from any negligent act or omission of any of their respective employees, agents or officers which may occur during the prosecution or performance of this Agreement to the extent provided in the Governmental Tort Claims Act, without waiving any of the party's defenses, exemption or sovereignty. Each party agrees to severally bear all costs of investigation and defense of claims arising under the Governmental Tort Claims Act and any judgments which may be rendered in such cause to the limits provided by law. Nothing in this section shall be interpreted or construed to waive any legal defense which may be available to a party or any exemption, limitation or exception which may be provided by the Governmental Tort Claims Act.

10. **FORCE MAJEURE**

COTPA shall not be responsible or liable for failure or delay in the performance of its obligations during such period of time that the aforesaid delivery or acceptance is rendered commercially impracticable, illegal, or impossible which arise out of or caused by, directly or indirectly, forces beyond its control; such as, strikes, or acts of war or terrorism, or civil disturbances, or fire, or Acts of God, such as natural disasters, or other such emergency beyond the parties' control. However, the COTPA must utilize all commercially reasonable efforts, which are consistent with accepted practices in its industry, to resume the performance of its obligations, as soon as practicable under the circumstances listed above. Provided, however, to the extent that the COTPA has any commercially reasonable alternative method of performing this Agreement/Contract, the COTPA shall not be freed of any performance of its obligations hereunder by this clause, even though the goods intended for this Agreement/Contract were destroyed or their delivery delayed because of an event described above.

**IN WITNESS WHEREOF**, this Agreement for Transit Service was approved and executed by the Trustees of the Central Oklahoma Transportation and Parking Authority this \_\_\_\_ day of \_\_\_\_\_, 2022.

**CENTRAL OKLAHOMA  
TRANSPORTATION AND PARKING  
AUTHORITY**

Seal:  
**ATTEST:**

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
CHAIRMAN

**REVIEWED** for form and legality.

\_\_\_\_\_  
Assistant Municipal Counselor



---

**IN WITNESS WHEREOF**, this Agreement for Transit Service was approved and executed by the City of Midwest City this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**THE CITY OF MIDWEST CITY**

\_\_\_\_\_  
Mayor

Seal:

**ATTEST:**

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

Reviewed as to form and legality by the Municipal Counselor of the City of Midwest City.

\_\_\_\_\_  
City of Midwest City

## ANTI-COLLUSION AFFIDAVIT

The following affidavit is submitted on behalf of the City of Midwest City as a part of this Agreement: The undersigned of lawful age, being first duly sworn on oath, says:

1. The undersigned is the duly authorized agent of the City of Midwest City submitting the Agreement which is attached to this statement, for the purpose of certifying the facts pertaining to the existence of collusion between the City of Midwest City and Central Oklahoma Transportation and Parking Authority (COTPA) Trust officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the letting of any Agreement pursuant to the Agreement to which this statement is attached; and
2. The undersigned is fully aware of the facts and circumstances surrounding the making of the Agreement to which this statement is attached and has been personally and directly involved in the proceedings leading to the submission of such Agreement; and
3. Neither the City of Midwest City nor anyone subject to the City of Midwest City's direction or control has been a party:
  - a. to any collusion in restraint of freedom of competition by agreement to enter into agreement at a fixed price or to refrain from bidding;
  - b. to any collusion with any COTPA Trust official, agent or employee as to quantity, quality or price in the prospective Agreement, or as to any other terms of such prospective Agreement; nor
  - c. in any discussion between the City of Midwest City and any COTPA Trust official, agent or employee concerning exchange of money or other thing(s) of value for special consideration in the letting of an Agreement.

***This Agreement will not be considered unless this form has been fully completed and signed by the City of Midwest City's Authorized Agent and notarized, dated and completed by a Notary Public.***

\_\_\_\_\_  
Signature of Midwest City's Authorized Agent

\_\_\_\_\_  
Name and Title

This instrument was subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2022, by the City of Midwest City's Authorized Agent.

STATE OF \_\_\_\_\_ )

SS.

COUNTY OF \_\_\_\_\_ )

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Commission No.

My commission expires: \_\_\_\_\_

**HORARIO DE RUTAS**

# 015

## Midwest City

By way of I-40, Air Depot, Douglas, Midwest Blvd, Reno

**Serving:**  
 Transit Center  
 I-40/Sooner  
 Rose State  
 MWC Library  
 Regional Park  
 Regional Hospital

Every 80 mins  
Monday-Friday

**EMBARK**  
embarkok.com

**FARES** Tarifas

To help maintain a timely schedule, please have fare ready before boarding.  
 Para ayudar a mantener un horario a tiempo, por favor tenga lista la tarifa antes de subir.

	Regular Adult	Reduced Fare	Children 6 & Under
<b>Local Fare</b> Ruta local	\$1.75	\$0.75	Free
<b>Express Fare</b> Ruta exprés	\$3.00	\$1.50	-
<b>\$21 Value Card</b> Tarjeta valué de \$21	\$21	-	-
<b>All-Day Unlimited</b> Todo día ilimitado	\$4	\$2	-
<b>7-Day Unlimited</b> 7-días ilimitado	\$14	\$7	-
<b>30-Day Unlimited</b> 30-días ilimitado	\$50	\$25	-

**Reduced Fare:** ages 60+, persons with disabilities, medicare cardholders and children ages 7-17.  
**Tarifa Reducida:** mayores de 60 años, personas con discapacidades, miembros de medicare, y niños con edades entre 7 y 17 años.

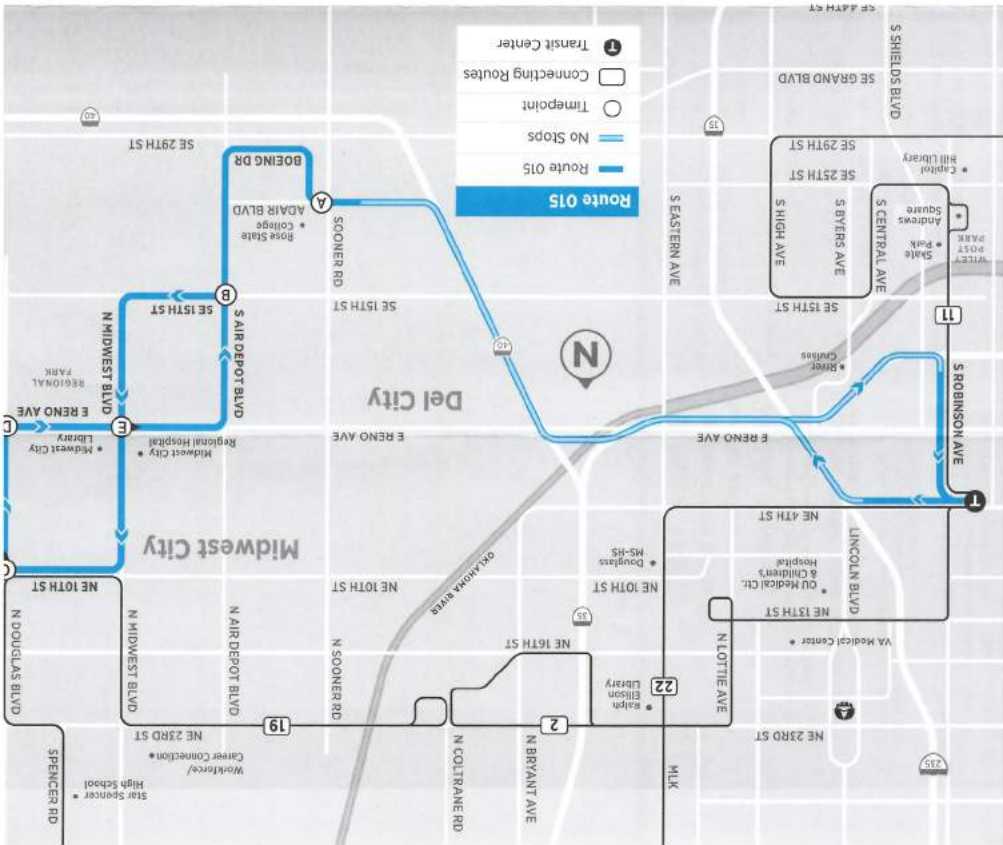
**CONNECT WITH US**

Everything you need to know about EMBARK can be found at [embarkok.com](http://embarkok.com) or you can talk to us directly using any of the following options:  
 Todo lo que necesitas saber sobre el EMBARK puede encontrarse en [embarkok.com](http://embarkok.com), o puedes hablar directamente con nosotros a través de cualquiera de las siguientes opciones:

☎ **405-235-RIDE (7433)** TDD 297-2602  
 ✉ [embarkok@okc.gov](mailto:embarkok@okc.gov)

Si desea obtener la información en otro idioma, llame al 235-7433.  
 Nếu quý vị có cabin thông tin bằng ngôn ngữ khác, xin liên lạc 235-7433.  
 如您需要其他語言版本的信息，請致電 235-7433。

Effective: 4/2014





Route 015				Monday - Friday / Lunes a Viernes				
Midwest City to Downtown				Downtown to Midwest City				
(D)	N Douglas Blvd & Reno ID# 122	(E)	Reno & Midwest Blvd ID# 123	(B)	Air Depot & SE 15 ID# 169	(A)	Rose State College ID# 173	
(T)	Transit Center - Bay H ID# 126	(A)	Rose State College ID# 127	(B)	SE 15 & Air Depot ID# 128	(C)	NE 10 & Douglas ID# 2919	
(D)	N Douglas Blvd & Reno ID# 122							
5:55	5:58	6:01	6:08	5:20	5:36	5:41	5:52	5:55
7:05	7:08	7:11	7:18	6:25	6:46	6:51	7:02	7:05
8:20	8:23	8:26	8:34	7:35	8:01	8:06	8:17	8:20
9:40	9:43	9:46	9:54	8:55	9:21	9:26	9:37	9:40
11:00	11:03	11:06	11:14	10:15	10:41	10:46	10:57	11:00
12:20	12:23	12:26	12:34	11:35	12:01	12:06	12:17	12:20
1:40	1:43	1:46	1:54	12:55	1:21	1:26	1:37	1:40
3:00	3:03	3:06	3:14	2:15	2:41	2:46	2:57	3:00
4:20	4:23	4:26	4:34	3:35	4:01	4:06	4:17	4:20
				4:55	5:21	5:26	5:37	5:40
				5:50	6:11	6:16	6:27	6:30
5:40	5:43	5:46	5:54	6:30	6:56	7:01	7:12	7:15
6:30	6:33	6:36	6:44	7:05				
7:15	7:18	7:21	7:29	7:50				

**How to Read This Schedule**

- Days of operation, route number and direction of travel are located in the header of the timetable.
  - Major stops, or time points and arrival times are listed in columns.
- Cómo leer este horario**
- Los días de atención, el número de ruta y la dirección del viaje se encuentran en el encabezado del horario.
  - Las paradas principales o los puntos horarios y las horas de llegada se indican en las columnas.

**MYRIC**  
Get dep text or c

**Anytime**  
Conozca las t líneas. En cual

**Text '015'**  
Envíe de ru parac

**Log**  
Inicie identi



Emergency Management  
100 N. Midwest Blvd.  
Midwest City, OK 73110  
405.739.1386

To: Honorable Mayor and Council

From: Debra Wagner, Emergency Manager

Date: July 26, 2022

Subject: Discussion and consideration, including any amendment thereto, of accepting a State and Local Assistance Performance Grant from and entering into an Agreement for the Sub-Grant of the Emergency Management Performance Grant American Rescue Plan Act (EMPG-ARPA) with the State of Oklahoma Department of Emergency Management and Homeland Security (OEMHS) in the amount of \$1,000 effective February 8, 2022 for the acquisition of a pallet of water designated for emergency use.

This sub-grant will provide funding up to \$1,000.00 to purchase one (1) pallet of water, to be stored by the City, and utilized during incident and emergency response.

Staff recommends approval.

A handwritten signature in black ink that reads "Debra Wagner". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Debra Wagner  
Emergency Manager



**PREPAREDNESS  
RESPONSE  
RECOVERY  
MITIGATION**

February 8, 2022

Attention: Emergency Manager

The Oklahoma Department of Emergency Management and Homeland Security (ODEMHS) has approved the notice of intent for Midwest City, City of an Emergency Management Performance Grant American Rescue Plan ACT (EMPG-ARPA) in the amount of \$1,000 (Federal Share) for a Water Pallet. There is no local cost share required to complete this grant making the total cost \$1,000.

This grant has a period of performance of January 1, 2022, through September 30, 2022. All purchases must be made during the period of performance. This grant must be closed by December 31, 2022.

Attached to this cover letter is the grant application, which must be completed and returned to ODEMHS via OKEMGrants. Once this is completed, ODEMHS will issue an official award letter.

Should you have questions, please email [grants@oem.ok.gov](mailto:grants@oem.ok.gov).

Bonnie McKelvey  
Grants Program Manager

# Oklahoma FY21 Water Grant Special Project Agreement

## Agreement

The agreement is entered into by and between The State of Oklahoma Department of Emergency Management and Homeland Security (ODEMHS), and **the City of Midwest City**, hereafter referred as the "Subrecipient." The Oklahoma Department of Emergency Management and Homeland Security shall pay the Subrecipient for required works performed under the EMPG Special Project application for the **ODEMHS Water Grant** and this contractual agreement the sum of up to **\$1,000** dollars in **agreement with the following terms and conditions:**

## Article 1. Purpose

The purpose of this agreement is to provide a portion of the funds awarded to the State of Oklahoma under the Federal Emergency Management Agency (FEMA) Emergency Management Performance Grant (EMPG) American Rescue Plan (ARPA) Program. This project is associated with the Subrecipient as a special project and encourages the development of a comprehensive emergency preparedness system for all hazards for the State and local governments, as defined by the FEMA Fiscal Year 2021 EMPG Notice of Funding Opportunity (NOFO). ODEMHS Special Projects are designed to encourage local activities that fill gaps and needs in State, Regional, and Local levels of emergency preparedness and readiness.

**The Water Grant Opportunity is designed to help local jurisdictions build Resiliency Capabilities and to ensure the jurisdiction can sustain initial response operations for up to 72 hours.**

## Article 2. Eligibility Criteria

To be eligible for an Emergency Management Performance Grant (EMPG) Special Project, a local Subrecipient must meet the following eligibility requirements:

1. The Subrecipient must have a current existing Emergency Management Program. Refer to **Article 3: Scope of Work** for additional information on this requirement.
2. All applicants must submit a Notice of Intent to the ODEMHS Grants Management Division no later than December 17<sup>th</sup>, 2021.
3. The Subrecipient must have their Emergency Management Program and Director listed within the ODEMHS Emergency Manager Directory no later than November 1, 2021.
4. The funding allocated by the State to the Subrecipient must be utilized to complete the Scope of Work prior to the end of the Period of Performance.
5. A facility or location must be designated as the Subrecipient's Emergency Operations Center (EOC) with the capacity to coordinate response efforts and resource capabilities in the event of an incident
6. Maintain a 24-hour point of contact who will promptly report to the State Emergency Operations Center (SEOC) Duty Officer at 1-800-800-2481, all significant events happening within the jurisdiction, per State Statute, Title 63-683.11. E.





## Additional Requirements

### 2. Event Reporting

Pursuant to Oklahoma Statute Title 63-683.11. E 63, all significant events within the Subrecipient's jurisdiction resulting in a threat to life, safety, or public health, and adverse impact on the local economy, or stress placed on local and / or regional resources must be reported to the Oklahoma Department of Emergency Management and Homeland Security (ODEMHS).

#### Measurement Methods / Required Documentation:

- a. Create and maintain updates via WebEOC Local Boards and / or through contacting the State Emergency Operations Center (SEOC) Duty Officer (See **Article 2.6: Eligibility Criteria**).

## Article 4. Authorized Representatives

The Agency Director of the Oklahoma Department of Emergency Management and Homeland Security and the Subrecipient's Director of Emergency Management shall be the authorized representatives to complete work and negotiate changes to this agreement. On a form provided by ODEMHS, the Subrecipient will identify a Director of Emergency Management, an alternate point-of-contact (such as a deputy director), and the Subrecipient's official mailing address. The Director of Emergency Management for the Subrecipient will serve as the official point-of-contact (POC), responsible for reporting on, or responding to inquiries regarding the six (6) phases of emergency management (mitigation, preparedness, response, recovery, prevention, and protection) to include incident reporting (see **Article 3.2: Scope of Work – Event Reporting**).

## Article 5. Funding Guidelines

EMPG Special Project funds can only be used for the purposes set forth in this contract. All EMPG Special Project fund expenditures must be accounted for and follow this funding guidance. Grant funds may not be used for matching funds for Federal grants, cooperative agreements, lobbying or intervention in Federal regulatory or adjudicatory proceedings. Additionally, EMPG Special Project funds may not be used to sue the Federal government or any other government entity. It is the Oklahoma Department of Emergency Management and Homeland Security's (ODEMHS) intent to supplement (NOT supplant) city, county and tribal Emergency Management program funds. This can only be achieved by the commitment and compliance of EMPG Subrecipients.





## Article 9. Time of Completion

The Subrecipient shall complete all work from January 1, 2022 through March 31, 2022. A time extension may be approved through a written request and approval from the ODEMHS Grants Management Division.

## Article 10. General Provisions

1. All work shall be completed in a professional manner and in compliance with all applicable laws.
2. To the extent required by law, individuals duly licensed and authorized by law to do so shall perform all work.
3. The Subrecipient warrants that it is adequately insured for injury to its employees and others incurring loss or injury as a result of the acts of the Subrecipients or its employees or agents.
4. The Subrecipient agrees that neither it nor its employees or agents are covered under insurance paid for by the State of Oklahoma and are not authorized to obligate the State of Oklahoma, its employees or agents.
5. The Standard Assurances for Federal Funds submitted by the Subrecipient, as part of their application package, are hereby referenced and incorporated into this agreement.

## Article 11. Amendments

Any alterations or deviations to this agreement shall be executed only upon written agreement of both parties, and if there is a change to the agreement award for such alteration or deviation, it shall be noted.

## Article 13. Award Reduction

If the Subrecipient fails to complete or adhere to the financial or performance based Special Project requirements, the award amount is subject to a reduction.

## Article 14. Suspension of Special Project / Debarment from Future Awards

If the Subrecipient fails to complete the agreed scope of work, they may be barred from participation in the Special Project program for the following Federal Fiscal Year. Subrecipient will maintain active status in SAM.gov.



## State of Oklahoma Designation of Subrecipient Agent

Subrecipient Information			
Name of Subrecipient:	City of Midwest City		
Physical Address:	100 N. Midwest Blvd., Midwest City, OK 73110		
Mailing Address (if different from above):			
Employer's Identification (EIN):	73-6027530	FIPS#:	109-48350-00
Duns #:	790400980		

Subrecipient Emergency Management Director (Primary Contact)			
Name:	Debra Wagner	Agency:	Midwest City Emergency Management
Physical Address:	100 N. Midwest Blvd. Midwest City, OK 73110		
Office #:	405-739-1386	Cell#:	405-887-0102
Email:	dwagner@midwestcityok.org		

Subrecipient Emergency Management Alternate (Secondary Contact)			
Name:	Terri Craft	Agency:	Midwest City Grants
Physical Address:	100 N. Midwest Blvd. Midwest City, OK 73110		
Office #:	405-739-1217	Cell#:	
Email:	tcraft@midwestcityok.org		

Certification			
<p>The above Primary and Secondary contacts are hereby authorized as the Subrecipient's point of contact (POC) for the purpose of reporting disaster and emergencies and the extent associated with them to Oklahoma Department Emergency Management (OEM). The above designated point of contacts is further authorized to take such action, prepare required documentation, and attend meetings (i.e., applicant briefing or kick off meetings) as may be required on behalf of the Subrecipient. Until contrary notice is given to the Oklahoma Department of Emergency Management.</p>			
Governing Body:	<i>[Signature]</i> Mayor		
Certifying Official:	<i>Sara Janesch</i>		
Title:	City Clerk		
Office #		Cell#	
Email:			



## Delegation of Authority

(Optional)

By means of this document, I, Matthew Dukes III, hereafter known as "the Delegating Official," delegate the authority herein described to Debra Wagner, hereafter known as "the Delegate," on the following terms and conditions:

1. The Delegate may request reimbursement(s) under the Emergency Management Performance Grant contractual agreement for an amount not to exceed the award amount within the period of performance.
2. This delegation remains effective for the duration of the FY 2021 Emergency Management Performance Grant unless revoked in writing by the Delegating Official.
3. The authority delegated is not subject to sub-delegation without the prior and express written consent of the Delegating Official.



**Signature, Delegating Official**

Matthew Dukes III, Mayor

**Name and Title**

3/4/22

**Date**



**Signature, Delegate**

Debra Wagner, Emergency Manager

**Name and Title**

02/24/2022

**Date**





FEDERAL EMERGENCY MANAGEMENT AGENCY  
SUMMARY SHEET FOR ASSURANCES AND CERTIFICATIONS

O.M.B. No. 3067-0206  
Expires February 28, 2007

FOR  
FY 2021 2022  
DW

CA FOR (Name of Applicant)  
MIDWEST CITY

This summary sheet includes Assurances and Certifications that must be read, signed, and submitted as a part of the Application for Federal Assistance.

An applicant must check each item that they are certifying to:

- Part I  FEMA Form 20-16A, Assurances-Nonconstruction Programs
- Part II  FEMA Form 20-16B, Assurances-Construction Programs
- Part III  FEMA Form 20-16C, Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements
- Part IV  SF LLL, Disclosure of Lobbying Activities (If applicable)

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the identified attached assurances and certifications.

Debra Wagner

Emergency Manager

Typed Name of Authorized Representative

Title



2/24/2022

Signature of Authorized Representative

Date Signed

NOTE: By signing the certification regarding debarment, suspension, and other responsibility matters for primary covered transaction, the applicant agrees that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by FEMA entering into this transaction.

The applicant further agrees by submitting this application that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the FEMA Regional Office entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. (Refer to 44 CFR Part 17.)

Paperwork Burden Disclosure Notice

"Public reporting burden for this form is estimated to average 1.7 hours per response. Burden means the time, effort and financial resources expended by persons to generate, maintain, retain, disclose, or to provide information to us. You may send comments regarding the burden estimate or any aspect of the form, including suggestions for reducing the burden to: Information Collections Management, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, Paperwork Reduction Project (3067-0206). You are not required to respond to this collection of information unless a valid OMB control number appears in the upper right corner of this form. Please do not send your completed form to the above address.

FEMA Form 20-16, FEB 01





FEDERAL EMERGENCY MANAGEMENT AGENCY  
ASSURANCES-NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have any questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. Section 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration) 5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. Sections 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. Sections 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290-dd-3 and 290-ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Acts of 1968 (42 U.S.C. Section 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or Federally assisted programs. These requirements apply to all interest in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with provisions of the Hatch Act (5 U.S.C. Sections 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. Sections 276a to 276a-7), the Copeland Act (40 U.S.C. Section 276c and 18 U.S.C. Sections 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. Sections 327-333), regarding labor standards for federally assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

FEMA Form 20-16A, JUN 94



11. Will comply with environmental standards which are prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance project consistency with the approved State manager program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. Section 1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. Section 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. Section 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. Section 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.
19. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act (29 U.S.C. 201), as they apply to employees of institutions of higher education, hospitals, and other non-profit organizations.

(ACK)





**FEDERAL EMERGENCY MANAGEMENT AGENCY  
 CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND  
 OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS**

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature on this form provides for compliance with certification requirements under 44 CFR Part 18, "New Restrictions on Lobbying; and 28 CFR Part 17, "Government-wide Debarment and suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Federal Emergency Management Agency (FEMA) determines to award the covered transaction, grant, or cooperative agreement.

**1. LOBBYING**

A. As required by section 1352, Title 31 of the U.S. Code, and implemented at 44 CFR Part 18, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 44 CFR Part 18, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any other funds than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or an employee of Congress, or employee of a member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontract(s) and that all subrecipients shall certify and disclose accordingly.

Standard Form LLL, "Disclosure of Lobbying Activities" attached. (This form must be attached to certification if nonappropriated funds are to be used to influence activities.)

**2. DEBARMENT, SUSPENSION, AND OTHER  
 RESPONSIBILITY MATTERS  
 (DIRECT RECIPIENT)**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 44 CFR Part 67, for prospective participants in primary covered transactions, as defined at 44 CFR Part 17, Section 17.510-A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, and declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by drug abuse violations occurring in the workplace; any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civilian judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or perform a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attached an explanation to this application.

**3. DRUG-FREE WORKPLACE  
 (GRANTEES OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 44 CFR Part 17, Subpart F, for grantees, as defined at 44 CFR Part 17, Sections 17.615 and 17.620:

A. The applicant certifies that it will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug free awareness program to inform employees about:

- (1) The dangers of drug abuse in the workplace;
- (2) The grantee's policy of maintaining a drug-free workplace;
- (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
- (4) The penalties that may be imposed upon employees for



(c) Making it a requirement that each employee to be engaged in the performance of the grant to be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employee in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to the applicable FEMA awarding office, i.e., regional office or FEMA office.

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(g) Making a good faith effort to continue to maintain a drug free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

8. the grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, City, County, State, Zip code)

100 N. Midwest Blvd.

Midwest City, OK 73110

Check  if there are workplaces on file that are not identified here.

Section 17.630 of the regulations provide that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for FEMA funding. States and State agencies may elect to use a Statewide certification.

FEMA Form 20-16C (BACK)





**Elected Officials / City Manager / Tribal Officials Signature Page**

By signing below, we are applying for the ODEMHS FY 21 Emergency Management Performance Program Training/Conference Attendance Reimbursement Grant Special Project and are affirming our commitment to fulfill the application requirements listed within this agreement.

**Approved By:**

\_\_\_\_\_  
County Commissioner, District 1

  
\_\_\_\_\_  
City Mayor or Manager


\_\_\_\_\_  
County Commissioner, District 2

\_\_\_\_\_  
Tribal Official

\_\_\_\_\_  
County Commissioner, District 3

  
\_\_\_\_\_  
Emergency Management Director

**Witnessed By:**

Name:   
\_\_\_\_\_  
City / County/ Tribal Clerk /Treasurer

Date: 3/4/22





Emergency Management  
100 N. Midwest Blvd.  
Midwest City, OK 73110  
405.739.1386

To: Honorable Mayor and Council

From: Debra Wagner, Emergency Manager

Date: July 26, 2022

Subject: Discussion and consideration, including any amendment thereto, of accepting a State and Local Assistance Performance Grant from and entering into an Agreement for the Sub-Grant of Emergency Management Performance Grant American Rescue Plan Act (EMPG-ARPA) with the State of Oklahoma Department of Emergency Management and Homeland Security (OEMHS) in the amount of \$10,000 effective February 8, 2022 for the acquisition of a generator.

This sub-grant provides funding, up to \$10,000, with a local match requirement for the purchase of a generator or otherwise approved heavy equipment. This grant is designed to help the subrecipient sustain initial response operations for up to 72 hours. The subrecipient is responsible for the purchase, maintenance, usage, and storage of equipment purchased with this grant.

The local cost share required to complete this grant is 50% of the total project cost of \$20,000.

Staff recommends approval.

A handwritten signature in black ink that reads "Debra Wagner".

Debra Wagner  
Emergency Manager



**PREPAREDNESS  
RESPONSE  
RECOVERY  
MITIGATION**

February 8, 2022

Attention: Emergency Manager

The Oklahoma Department of Emergency Management and Homeland Security (ODEMHS) has approved the notice of intent for Midwest City, City of regarding the Emergency Management Performance Grant - American Rescue Plan ACT (EMPG-ARPA) in the amount of **\$10,000** (Federal Share) for the acquisition of a Generator. The **local cost share** required to complete this grant is **50%** of the total project cost of \$20,000.

This grant has a period of performance of January 1, 2022, through September 30, 2022. All purchases must be made during the period of performance. This grant must be closed by December 31, 2022.

Attached to this cover letter is the grant application, which must be completed and returned to ODEMHS via OKEMGrants. Once this is completed, ODEMHS will issue an official award letter.

Should you have questions, please email [grants@oem.ok.gov](mailto:grants@oem.ok.gov).

Bonnie McKelvey  
Grants Program Manager

7. Maintain a current Emergency Operations Plan (EOP) to be updated and / or reviewed annually, per State Statute, Title 63-683.11. D.

### Article 3: Scope of Work

Advancing the Whole Community approach reinforces the concept that it is the community's responsibility to take necessary and appropriate actions to protect people and property from the consequences of local emergencies and disasters. Communities are challenged to develop collective local abilities to withstand the potential impacts of these events, respond quickly, and recover in a way that sustains and improves the community's overall well-being. Achieving this collective capability calls for innovative approaches in a community-wide effort. The efforts of the Oklahoma Department of Emergency Management and Homeland Security (ODEMHS) are to assist and support a local Subrecipient's Emergency Management Program with the capabilities to prevent, protect against, respond to, and recover both natural and man-made disasters. This includes enhancing the local Subrecipient's Emergency Management Program's existing practices, programs, institutions, and organizations.

As a Special project, the following items must be completed within the Period of Performance time frame:

#### Special Project

##### **1. Portable Generator or otherwise approved Heavy Equipment**

To assist local jurisdictions with building Resiliency Capabilities, this grant is designed to help the subrecipient to sustain initial response operations for up to 72 hours.

The Subrecipient is responsible for the purchase, maintenance, usage, and storage of equipment purchased with this grant.

##### Measurement Methods / Required Documentation:

- a. Must purchase a new portable generator no later than September 30, 2022
  - i. Provide proof of purchase including but not limited to \$0 balance invoice, Purchase Orders, receipts, etc.
    1. A Light Tower or Water Pump is eligible to request in place of a portable generator if requested through the NOI
- b. Equipment purchased must stay on the jurisdictional inventory for three (3) years from the date of inventory log through September 30, 2025
- c. The jurisdiction is responsible for the purchase, maintenance, usage, and storage costs associated with the
  - i. Provide proof of purchase including but not limited to \$0 balance invoice, Purchase Orders, receipts, etc.





## Additional Requirements

### 2. *Event Reporting*

Pursuant to Oklahoma Statute Title 63-683.11. E 63, all significant events within the Subrecipient's jurisdiction resulting in a threat to life, safety, or public health, and adverse impact on the local economy, or stress placed on local and / or regional resources must be reported to the Oklahoma Department of Emergency Management and Homeland Security (ODEMHS).

#### Measurement Methods / Required Documentation:

1. Create and maintain updates via WebEOC Local Boards and / or through contacting the State Emergency Operations Center (SEOC) Duty Officer (See **Article 2.6: Eligibility Criteria**).

## Article 4. Authorized Representatives

The Agency Director of the Oklahoma Department of Emergency Management and Homeland Security and the Subrecipient's Director of Emergency Management shall be the authorized representatives to complete work and negotiate changes to this agreement. On a form provided by ODEMHS, the Subrecipient will identify a Director of Emergency Management, an alternate point-of-contact (such as a deputy director), and the Subrecipient's official mailing address. The Director of Emergency Management for the Subrecipient will serve as the official point-of-contact (POC), responsible for reporting on, or responding to inquiries regarding the six (6) phases of emergency management (mitigation, preparedness, response, recovery, prevention, and protection) to include incident reporting (see **Article 3.2: Scope of Work – Event Reporting**).

## Article 5. Funding Guidelines

EMPG Special Project funds can only be used for the purposes set forth in this contract. All EMPG Special Project fund expenditures must be accounted for and follow this funding guidance. Grant funds may not be used for matching funds for Federal grants, cooperative agreements, lobbying or intervention in Federal regulatory or adjudicatory proceedings. Additionally, EMPG Special Project funds may not be used to sue the Federal government or any other government entity. It is the Oklahoma Department of Emergency Management and Homeland Security's (ODEMHS) intent to supplement (NOT supplant) city, county, and tribal Emergency Management program funds. This can only be achieved by the commitment and compliance of EMPG Subrecipients.

#### **Authorized Expenditures:**

1. **Equipment**
3. This grant funding is only permitted to purchase one (1) portable generator, light tower, or water pump, for the Subrecipient jurisdiction, per **Article 3.1: Scope of Work – Portable Generator or otherwise approved Heavy Equipment**
  - . In accordance with 2 CFR 200.310, 200.313, and 200.316 allowable equipment categories for the EMPG FY21 program are listed on the web-based version of the Authorized Equipment List (AEL) <https://www.fema.gov/authorized-equipment-list>. Unless otherwise stated, equipment must meet all mandatory, regulatory and/or FEMA



Any payment requests received on or prior to the 10th day of any month will be processed the same month. Any payment requests submitted after the 10th day of any month will be processed the same month or the following month.

## Article 8. Overmatch Funds

The Subrecipient agrees that ODEMHS may use the excess of its match / Overmatch to meet its own match requirements. The Subrecipient may request to retain a portion of its Overmatch by written request and written approval by ODEMHS. The Subrecipient agrees to follow Code of Federal Regulations (2 CFR) and the FY2021 Emergency Management Preparedness Grant Notice of Funding Opportunity (NOFO) guidelines. The jurisdiction further agrees that overmatch funds provided to ODEMHS cannot be used to match any other Federal Funds.

## Article 9. Time of Completion

The Subrecipient shall complete all work from January 1, 2022 through September 30, 2022. A time extension may be approved through a written request and approval from the ODEMHS Grants Management Division.

## Article 10. General Provisions

1. All work shall be completed in a professional manner and in compliance with all applicable laws.
2. To the extent required by law, individuals duly licensed and authorized by law to do so shall perform all work.
3. The Subrecipient warrants that it is adequately insured for injury to its employees and others incurring loss or injury as a result of the acts of the Subrecipients or its employees or agents.
4. The Subrecipient agrees that neither it nor its employees or agents are covered under insurance paid for by the State of Oklahoma and are not authorized to obligate the State of Oklahoma, its employees or agents.
5. The Standard Assurances for Federal Funds submitted by the Subrecipient, as part of their application package, are hereby referenced and incorporated into this agreement.

## Article 11. Amendments

Any alterations or deviations to this agreement shall be executed only upon written agreement of both parties, and if there is a change to the agreement award for such alteration or deviation, it shall be noted.





## State of Oklahoma Designation of Subrecipient Agent

Subrecipient Information			
Name of Subrecipient:	City of Midwest City		
Physical Address:	100 N. Midwest Blvd., Midwest City, OK 73110		
Mailing Address (if different from above):			
Employer's Identification (EIN):	73-6027530	FIPS#:	109-48350-00
Duns #:	790400980		

Subrecipient Emergency Management Director (Primary Contact)			
Name:	Debra Wagner	Agency:	Midwest City Emergency Management
Physical Address:	100 N. Midwest Blvd. Midwest City, OK 73110		
Office #:	405-739-1386	Cell#:	405-887-0102
Email:	dwagner@midwestcityok.org		

Subrecipient Emergency Management Alternate (Secondary Contact)			
Name:	Terri Craft	Agency:	Midwest City Grants
Physical Address:	100 N. Midwest Blvd. Midwest City, OK 73110		
Office #:	405-739-1217	Cell#:	
Email:	tcraft@midwestcityok.org		

Certification			
<p>The above Primary and Secondary contacts are hereby authorized as the Subrecipient's point of contact (POC) for the purpose of reporting disaster and emergencies and the extent associated with them to Oklahoma Department Emergency Management (OEM). The above designated point of contacts is further authorized to take such action, prepare required documentation, and attend meetings (i.e., applicant briefing or kick off meetings) as may be required on behalf of the Subrecipient. Until contrary notice is given to the Oklahoma Department of Emergency Management.</p>			
Governing Body:	<i>Mayor</i>		
Certifying Official:	<i>Sara Hancock</i>		
Title:	<i>City Clerk</i>		
Office #		Cell#	
Email:			



## Delegation of Authority

(Optional)

By means of this document, I, Matthew Dukes III, hereafter known as "the Delegating Official," delegate the authority herein described to Debra Wagner, hereafter known as "the Delegate," on the following terms and conditions:

1. The Delegate may request reimbursement(s) under the Emergency Management Performance Grant contractual agreement for an amount not to exceed the award amount within the period of performance.
2. This delegation remains effective for the duration of the FY 2021 Emergency Management Performance Grant unless revoked in writing by the Delegating Official.
3. The authority delegated is not subject to sub-delegation without the prior and express written consent of the Delegating Official.



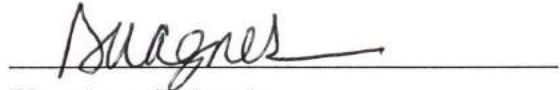
**Signature, Delegating Official**

Matthew Dukes III, Mayor

**Name and Title**

3/4/22

**Date**



**Signature, Delegate**

Debra Wagner, Emergency Manager

**Name and Title**

02/24/2022

**Date**





FEDERAL EMERGENCY MANAGEMENT AGENCY  
SUMMARY SHEET FOR ASSURANCES AND CERTIFICATIONS

O.M.B. No. 3067-0206  
Expires February 28, 2007

FOR  
FY 2021  
DW 2022

CA FOR (Name of Applicant)  
MIDWEST CITY

This summary sheet includes Assurances and Certifications that must be read, signed, and submitted as a part of the Application for Federal Assistance.

An applicant must check each item that they are certifying to:

- Part I  FEMA Form 20-16A, Assurances-Nonconstruction Programs
- Part II  FEMA Form 20-16B, Assurances-Construction Programs
- Part III  FEMA Form 20-16C, Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements
- Part IV  SF LLL, Disclosure of Lobbying Activities (If applicable)

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the identified attached assurances and certifications.

Debra Wagner

Emergency Manager

Typed Name of Authorized Representative

Title



2/24/2022

Signature of Authorized Representative

Date Signed

NOTE: By signing the certification regarding debarment, suspension, and other responsibility matters for primary covered transaction, the applicant agrees that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by FEMA entering into this transaction.

The applicant further agrees by submitting this application that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the FEMA Regional Office entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. (Refer to 44 CFR Part 17.)

Paperwork Burden Disclosure Notice

"Public reporting burden for this form is estimated to average 1.7 hours per response. Burden means the time, effort and financial resources expended by persons to generate, maintain, retain, disclose, or to provide information to us. You may send comments regarding the burden estimate or any aspect of the form, including suggestions for reducing the burden to: Information Collections Management, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, Paperwork Reduction Project (3067-0206). You are not required to respond to this collection of information unless a valid OMB control number appears in the upper right corner of this form. Please do not send your completed form to the above address.

FEMA Form 20-16, FEB 01



FEDERAL EMERGENCY MANAGEMENT AGENCY  
ASSURANCES-NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have any questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. Section 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration) 5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. Sections 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. Sections 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290-dd-3 and 290-ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Acts of 1968 (42 U.S.C. Section 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or Federally assisted programs. These requirements apply to all interest in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with provisions of the Hatch Act (5 U.S.C. Sections 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. Sections 276a to 276a-7), the Copeland Act (40 U.S.C. Section 276c and 18 U.S.C. Sections 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. Sections 327-333), regarding labor standards for federally assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.





11. Will comply with environmental standards which are prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetland floodplains in accordance with EO 11990; (d) evaluation of flood hazards in project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. Section 1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. Section 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. Section 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. Section 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.
19. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act (29 U.S.C. 201), as they apply to employees of institutions of higher education, hospitals, and other non-profit organizations.



(ACK)

**FEDERAL EMERGENCY MANAGEMENT AGENCY  
 CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND  
 OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS**

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature on this form provides for compliance with certification requirements under 44 CFR Part 18, "New Restrictions on Lobbying; and 28 CFR Part 17, "Government-wide Debarment and suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Federal Emergency Management Agency (FEMA) determines to award the covered transaction, grant, or cooperative agreement.

**1. LOBBYING**

A. As required by section 1352, Title 31 of the U.S. Code, and implemented at 44 CFR Part 18, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 44 CFR Part 18, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any other funds than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or an employee of Congress, or employee of a member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontract(s) and that all subrecipients shall certify and disclose accordingly.

Standard Form LLL, "Disclosure of Lobbying Activities" attached. (This form must be attached to certification if nonappropriated funds are to be used to influence activities.)

**2. DEBARMENT, SUSPENSION, AND OTHER  
 RESPONSIBILITY MATTERS  
 (DIRECT RECIPIENT)**

As required by Executive Order 12549, Debarment and Suspension, and implemented at 44 CFR Part 67, for prospective participants in primary covered transactions, as defined at 44 CFR Part 17, Section 17.510-A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by drug abuse violations occurring in the workplace; any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civilian judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or perform a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attached an explanation to this application.

**3. DRUG-FREE WORKPLACE  
 (GRANTEES OTHER THAN INDIVIDUALS)**

As required by the Drug-Free Workplace Act of 1988, and implemented at 44 CFR Part 17, Subpart F, for grantees, as defined at 44 CFR Part 17, Sections 17.615 and 17.620:

A. The applicant certifies that it will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug free awareness program to inform employees about:

- (1) The dangers of drug abuse in the workplace;
- (2) The grantee's policy of maintaining a drug-free workplace;
- (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
- (4) The penalties that may be imposed upon employees for





(c) Making it a requirement that each employee to be engaged in the performance of the grant to be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employee in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to the applicable FEMA awarding office, i.e., regional office or FEMA office.

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(g) Making a good faith effort to continue to maintain a drug free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

8. the grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, City, County, State, Zip code)

100 N. Midwest Blvd.

Midwest City, OK 73110

Check  if there are workplaces on file that are not identified here.

Section 17.630 of the regulations provide that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for FEMA funding. States and State agencies may elect to use a Statewide certification.

FEMA Form 20-16C (BACK)




**Elected Officials / City Manager / Tribal Officials Signature Page**

By signing below, we are applying for the ODEMHS FY 21 Emergency Management Performance Program Training/Conference Attendance Reimbursement Grant Special Project and are affirming our commitment to fulfill the application requirements listed within this agreement.

Approved By:

\_\_\_\_\_  
County Commissioner, District 1

  
\_\_\_\_\_  
City Mayor or Manager

\_\_\_\_\_  
County Commissioner, District 2

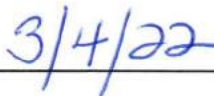
\_\_\_\_\_  
Tribal Official

\_\_\_\_\_  
County Commissioner, District 3

  
\_\_\_\_\_  
Emergency Management Director

Witnessed By:

Name:   
\_\_\_\_\_  
City / County/ Tribal Clerk /Treasurer

Date:   
\_\_\_\_\_





**Engineering and  
Construction Services**  
100 N Midwest Boulevard  
Midwest City, OK 73110  
Office 405.739.1220

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TO : Honorable Mayor and Council

FROM : Brandon Bundy, P.E., Director

DATE : July 26, 2022

SUBJECT : Discussion and consideration for adoption, including any possible amendment of change order #7 amending the contract with Shiloh Enterprises, Inc. to construct the WP Bill Atkinson Park in an increase of \$2,459.47 and add 6 days of time.

---

The attached change order is for the construction of the WP Bill Atkinson Park. This change order is a culmination of various field changes.

COR #30 – Add 14 Bollards: \$15,794.47, 6 days. Staff requested removable bollards to be installed at the parking areas immediately adjacent to the hanger structure. In the plans, there was nothing between the parking stall and building face; creating a situation where the building could be hit by a parking vehicle.

COR #31 – Omit Puckleball Court: (\$10,200.00), 0 days. The landscape architect had planned for a puckleball court in the playground area. Puckleball is a game from Europe that doesn't necessarily have a following in Oklahoma. In its place, staff will later program the space with another game.

COR #32 – Omit filling station: (\$3,135.00), 0 days. Requested by staff to eliminate the water fountain from the park area. There were issues with the design of the fountain and to do a proper fountain would have cost an unreasonable amount to the City. Instead, if omitted, it is in a state that a fountain can be added at a later date.

This will increase the original contract by \$2,459.47, bringing the new contract amount to \$5,243,275.96. The additional 6 delay days will bring the new contract length to 468 total days (8/21/2022 contracted end date).

The funding for this project is appropriated in project #9219G1.

---

Brandon Bundy, P.E.,  
Director of Engineering and Construction Services

Attachment

# Change Order 007

**Project:**  
WP Bill Atkinson Park  
301 E Mid-America Blvd  
Midwest City, OK 73110

**Owner:**  
City of Midwest City  
100 N Midwest Blvd  
Midwest City, OK 73110

**Contractor:**  
Shiloh Enterprises, Inc.  
5720 N. Industrial Blvd.  
Edmond, OK 73034

**Contract Information:**  
General Construction  
effective 04/20/2021

**Change Order: 007**  
Date: 07/26/2022

## The Contract is Changed as Follows:

COR 30	Add 14 Bollards	\$15,794.47	6 Days
COR 31	Omit Puckleball Court	(\$10,200.00)	0 Days
COR 32	Omit Filling Station	(\$3,135.00)	0 Days
<b>Total</b>		<b>\$2,459.47</b>	<b>6 Days</b>

The original contract:	<u>\$5,198,000.00</u>	365 Days
The net change by previously authorized Change Orders	<u>\$45,275.96</u>	97 Days
The Contract Sum prior to this Change Order was	<u>\$5,243,275.96</u>	462 Days
The Contract Sum will be increased by this Change Order in the amount of	<u>\$2,459.47</u>	6 Days

**The new Contract Sum including this Change Order will be \$5,245,735.43 468 Days**

Note: This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE CONTRACTOR AND OWNER.

Shiloh Enterprises, Inc.  
CONTRACTOR

City of Midwest City  
OWNER

  
\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
SIGNATURE

Steve Preston, President  
\_\_\_\_\_  
PRINTED NAME AND TITLE

\_\_\_\_\_  
PRINTED NAME AND TITLE

7-14-2022  
\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE





GENERAL CONSTRUCTION  
MANAGEMENT

5720 N. I-35 Industrial Blvd.  
Edmond, Ok. 73034

405-341-5500 Phone

405-341-7106 Fax

6/28/2022

**WP Bill Atkinson Park**  
**COR 30-Add 14 removable bollards**

	<b>ADD</b>	<b>DEDUCT</b>
Bollards-Material	\$8,758.61	
Installation	\$5,600.00	

**Note: This work will add 6 days to the contract time.**

Subtotal	<u>\$14,358.61</u>
OH&P 10%	\$1,435.86
<b>Total</b>	<u><b>\$15,794.47</b></u>

# 1-800-BOLLARDS

**The Bollard Experts**

10 Hughes, Suite A105, Irvine, CA 92618-1911  
t. (800) 265-5273 f. (949) 528-6012

# QUOTE

**Number** AAAQ14700

**Date** Jun 24, 2022

### Sold To

**Shiloh Enterprises Inc.**  
Steve Preston  
5720 Industrial Blvd.  
Edmond, OK 73034

**Phone** (405) 613-4943  
**Fax**

### Ship To

**Shiloh Enterprises Inc.**  
Steve Preston  
5720 Industrial Blvd.  
Edmond, OK 73034

**Phone**  
**Fax**

Here is the quote you requested.

Salesperson	P.O. Number	Ship Via	Terms
Jonah Hill SELF			

Line	Qty	Description	Unit Price	Ext. Price
1	14	Removable Padlock Stainless Steel 4" Schedule 40 Type: 304 Polished to #4 Finish Cap:Dome Length: 48" Up: 36" Down: 12"	\$374.97	\$5,249.58
2	14	4" Embedment sleeve Depth 12"	\$215.00	\$3,010.00

<b>SubTotal</b>	\$8,259.58
<b>Tax</b>	\$0.00
<b>Shipping</b>	\$499.03
<b>Total</b>	<b>\$8,758.61</b>

SEE ATTACHED CONDITIONS OF SALE

Please proceed according to this sales proposal.

PO #: \_\_\_\_\_ Print Name: \_\_\_\_\_

Credit Card Type: Visa / Mastercard / Amex Exp. Date: \_\_\_\_\_ CCV Code: \_\_\_\_\_

Credit Card #: \_\_\_\_\_ Payment Amount: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Resale License/Tax Exempt Number: \_\_\_\_\_

(Please attach resale license or tax exempt form)



GENERAL CONSTRUCTION  
MANAGEMENT  
5720 N. I-35 Industrial Blvd.  
Edmond, Ok. 73034

405-341-5500 Phone  
405-341-7106 Fax

6/28/2022

**WP Bill Atkinson Park**  
**COR 31-Omit Puckleball Goals & Striping**

**ADD      DEDUCT**

Bid Day Budget (\$10,200.00)

**Note: This work will add 0 days to the contract time.**

Subtotal (\$10,200.00)

**Total Deduct** **(\$10,200.00)**



GENERAL CONSTRUCTION  
MANAGEMENT  
5720 N. I-35 Industrial Blvd.  
Edmond, Ok. 73034

405-341-5500 Phone  
405-341-7106 Fax

7/12/2022

**WP Bill Atkinson Park  
COR 32-Omit Filing Station, Includes Valve and  
Meter Box for Future Addition**

**ADD      DEDUCT**

Michalski Plumbing-Filing Station (\$3,135.00)

**Note: This work will add 0 days to the contract time.**

Subtotal (\$3,135.00)

**Total Deduct** **(\$3,135.00)**



# Michalski Plumbing Co. LLC

1235 Sovereign Row Suite C8  
Oklahoma City, Oklahoma 73108  
(405) 779-9575

## CHANGE ORDER

Date: July,6,2022

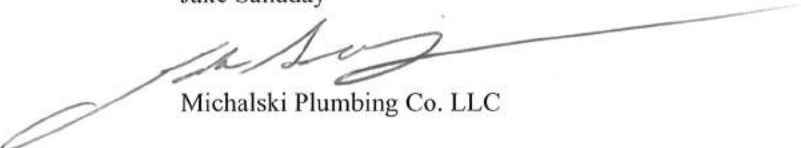
PROJECT: W.P. BILL ATKINSON PARK

The deletion of the water filling station in base bid change order will result in a credit of **\$ 3,135.00.**

The addition of a meter box and valve to terminate the existing water line serving the fill station in base bid will result an additional cost of **\$ 1,680.00.**

Thank You,

Jake Salladay



Michalski Plumbing Co. LLC



**Engineering and  
Construction Services**  
100 N Midwest Boulevard  
Midwest City, OK 73110  
Office 405.739.1220

---

TO : Honorable Mayor and Council

FROM : Brandon Bundy, P.E., Director

DATE : July 26, 2022

SUBJECT : Discussion and consideration for adoption, including any possible amendment of change order #01 amending the contract with Downey Contracting, LLC to construct the Midwest City Council Chambers COVID and ADA retrofit in an increase of \$3,500 and with no time added.


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The attached change order is for the construction of the Midwest City Council Chambers COVID and ADA retrofit. This change order is related to a field change found during demolition.

RFI #1 – Change construction of wall covering: \$3,500, 0 days. This item related to the acoustical tiles that were on the wall towards the front of the chamber (the wall that had the large projector screen). During demolition, the contractor found that some of the acoustical tiles were damaged and misaligned. The plans called for a wall covering to be placed over the existing but with the current configuration, the end result will not be ideal. Contractor proposed removing the acoustical tiles, repair the substrate, and place the wall covering directly onto substrate.

This will increase the original contract by \$3,500, bringing the new contract amount to \$671,500. No time will be added so the contract end date will remain (9/13/2022 contracted end date).

The funding for this project is appropriated in project #052206, #052207, #052209, #0522A1



---

Brandon Bundy, P.E.,  
Director of Engineering and Construction Services

Attachment

# Change Order 01

**Project:**  
Midwest City Council Chambers COVID  
and ADA retrofit

**Owner:**  
City of Midwest  
City

**Contractor:**  
Downey Contracting, LLC

100 N Midwest Blvd, Midwest City, OK 73110

3217 NE 63<sup>rd</sup> St, OKC, OK  
73121

**Contract Information:**  
General Construction effective 06/30/2022

**Change Order: 01**  
Date: 07/26/22

**The Contract is Changed as Follows:**

RFI #1	Change construction of wall covering	\$3,500	0 Days
<b>Total</b>		<b>\$3,500</b>	<b>0 Days</b>

The original contract:	<u>\$668,000</u>	75 Days
The net change by previously authorized Change Orders	<u>\$0</u>	0 Days
The Contract Sum prior to this Change Order was	<u>\$668,000</u>	0 Days
The Contract Sum will be increased by this Change Order in the amount of	<u>\$3,500</u>	0 Days
<b>The new Contract Sum including this Change Order will be</b>	<b><u>\$671,500</u></b>	<b>75 Days</b>

Note: This Change Order does not include adjustments to the Contract Sum or Guaranteed Maximum Price, or the Contract Time, that have been authorized by Construction Change Directive until the cost and time have been agreed upon by both Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE CONTRACTOR AND OWNER.

Downey Contracting,  
LLC

505 Architects LLC

City of Midwest City

CONTRACTOR

ARCHITECT

OWNER

  
SIGNATURE

  
SIGNATURE

\_\_\_\_\_  
SIGNATURE

  
PRINTED NAME AND  
TITLE

William Brian Thomas, AIA, LEED AP;  
Principal  
\_\_\_\_\_  
PRINTED NAME AND  
TITLE

\_\_\_\_\_  
PRINTED NAME AND  
TITLE

# DOWNEY CONTRACTING, LLC

3217 NE 63<sup>RD</sup>, OKLAHOMA CITY, OK 73121, phone: 405.478.5277, fax 405.478.5269

## REQUEST FOR INFORMATION (RFI)

**RE:** Midwest City Council Chambers Covid & ADA  
Retrofit

**DATE:** July 6, 2022

**RFI NO:** 1

**TO:** 505 Architects LLC

**FROM:** Downey Contracting LLC  
3217 NE 63<sup>rd</sup>  
Oklahoma City, OK 73121

**ATTN:** Brian Thomas

**Area:**  
**Drawings:** A121 & A202  
**Specifications:**

### QUESTION:

Our wallcovering contractor is concerned about overlaying the existing 10" x 10" acoustic tile with wallcovering due to the unevenness of the tile. I had our superintendent remove a tile and there appears to be gypsum board backing, which would be a better substrate. Please advise.

Response Needed By 7/15/22

Contractor Signature David Shaw

### REPLY:

Carefully remove existing 10" x 10" acoustic tile to the existing gypsum board substrate. Provide minor patching and repairing of existing substrate to provide an acceptable finish for the installation of the specified wall covering at a cost of \$3,500.00 and no additional time (per email dated 7/7/2022). A Change Order will be prepared and submitted to the Council for consideration and approval.

Date of Response: 07/11/2022  
Brian Thomas, AIA, RID, LEED AP

Signature: 





City Clerk  
100 N. Midwest Blvd  
Midwest City, OK 73110  
office 405.739.1240

### Memorandum

TO: Honorable Mayor and Council

FROM: Sara Hancock, City Clerk

DATE: July 26, 2022

SUBJECT: Discussion and consideration of adoption, including any possible amendment, of renewing the utility bill production agreement with DataProse, LLC contract, with modifications for Fiscal Year 22-23.

DataProse, LLC, has agreed to renew the present contract with modification for FY 22-23. The original contract prices have remained the same for the past seven (7) years. Unfortunately, due to material cost increases, DataProse is requesting a cost increase for the Bill Package to go from \$0.082 to \$0.089. No other service item cost will be affected.

Staff has been pleased with the services provided by DataProse.

Action is at the discretion of the Council.

A handwritten signature in black ink that reads "Sara Hancock".

Sara Hancock, City Clerk

Attachment

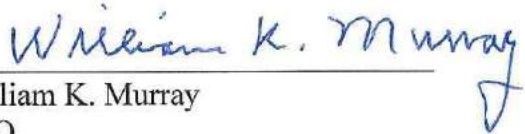
**FIRST AMENDMENT TO AGREEMENT  
FOR A PRODUCTION AGREEMENT  
BETWEEN DATAPROSE, LLC  
AND  
CITY OF MIDWEST CITY**

Pursuant to Article 13 of the Agreement between DataProse, LLC and the City of Midwest City, the following amendment is hereby agreed to between the parties:

The following is hereby added to Article 3 of the Production Agreement:

The term for this Agreement is for one year, commencing on August 1, 2022 and ending on July 1, 2023. This Agreement may be extended by mutual agreement of the parties, in writing, for an additional ten (10) one-year terms.

The terms in the Exhibit A attached hereto shall modify the original contract. All other terms and conditions contained in the original contract shall remain in full force and effect.

  
\_\_\_\_\_  
William K. Murray  
CEO  
Date: 7/8/2022

**For City of Midwest City:**

\_\_\_\_\_  
Tim Lyon,  
City Manager

Date: \_\_\_\_\_

\_\_\_\_\_  
Sara Hancock, City Clerk

Approved as to form and legality:

\_\_\_\_\_  
Donald D. Maisch, City Attorney



City Clerk  
100 N. Midwest Blvd  
Midwest City, OK 73110  
office 405.739.1240

June 28, 2022

Dataprose  
Attn: COO  
1122 W Bethel Rd  
Coppell, TX 75019

Dataprose Production Agreement dated 8/12/14

It is time to re-new the city of Midwest City's contracts for FY 22/23 that will begin on July 1, 2022. As you will recall, we have the option to renew our contracts in the event that no changes or modifications are required by either party. In the area provided below, please indicate whether you agree to re-new our current contract under its present terms and conditions or whether the current contract should be re-bid. Depending upon your answer we will follow with the appropriate documentation.

Thank you for your assistance with this matter.

Sara Hancock  
City Clerk

\_\_\_\_\_ Yes, we agree to continue the present contract without modification.

\_\_\_\_\_ No, we are not able to continue the present contract without modification.

\_\_\_\_\_X\_\_\_\_\_ Yes, we agree to continue the present contract with modification.

Sign: William K. Murray Title: CEO Date: 6/28/2022

This Production Agreement ("Agreement") is made and entered into by and between DataProse LLC, a Texas limited liability company ("DataProse"), and the City of Midwest City, organized under the laws of Oklahoma ("Client"). The effective date of this Agreement is the date last signed below ("Effective Date"). In consideration of the mutual promises and benefits contained herein, the parties hereby agree as follows:

**ARTICLE 1 SCOPE OF PRODUCTION AGREEMENT.** DataProse agrees to provide to Client goods and/or services as described in Schedule 1.0 (the "Goods and Services"). During the term of this Agreement, the Client agrees to furnish data and documentation for, and DataProse agrees to produce a minimum monthly quantity of 20,000 statements ("Minimum Commitment"), based upon the rates and terms provided herein. In the event that the Client does not fulfill the Minimum Commitment, then Client shall pay to DataProse a minimum processing fee ("Minimum Processing Fee") in an amount that shall be calculated based upon the Minimum Commitment and the rates and terms provided herein.

**ARTICLE 2 COMPENSATION.** In full and complete compensation for all Goods and Services provided by DataProse hereunder, Client agrees to pay DataProse according to rates set forth in Schedule 1.0. DataProse will provide an invoice to Client after each production run consisting of the fees, as outlined in Schedule 1.0 and postage used. Invoices are due upon receipt and will be considered past due if not paid within 30 days. A monthly late charge will be assessed on invoices not paid within thirty (30) days. The late payment charge will be the lesser of (i) 1-1/2% per month, and (ii) the applicable maximum lawful rate of interest, applied to the invoice amount unpaid (30) thirty days after billing to Client. The prices charged by DataProse to Client for the Goods and Services listed in Schedule 1.0 will not be increased for a period of twelve (12) months from the Effective Date of this Agreement ("Pricing Period"). All DataProse prices are subject to increase following this initial Pricing Period or any subsequent Pricing Period, upon written notice to Client. The rate of any price increase shall not exceed the amount of the consumer price index at the completion of any Pricing Period. The notice of any price increase to Client will be made in writing at least 60 days before the end of the term to allow the Client time to request an appropriation of funds. In the event Client cancels the Agreement as allowed under the provisions of this Agreement, then payment for all Goods and Services delivered and/or rendered between the cancellation notification date and the effective date of the cancellation shall be due concurrently upon delivery and/or rendering of such Goods and Services. The compensation payable to DataProse under this Agreement is subject to appropriation of funds; the completion date of Client's appropriation cycle is June 30 each year.

**ARTICLE 3 TERM.** The initial term of this Agreement shall commence as of the Effective Date, and shall continue for a period of not less than three (3) years, ending on the third anniversary of the initial production run, unless terminated earlier in accordance with provisions found elsewhere in this Agreement. This Agreement shall renew itself for successive one (1) year terms unless written notice of cancellation is received by one party from the other at the end of the initial term or at the end of any succeeding one (1) year renewal term(s) by sending written notice of non-renewal to the other party no earlier than one hundred fifty (150), and no later than forty-five (45), days before the expiration of the then current term.

**ARTICLE 4 POSTAGE.** Client must maintain a postage escrow account in connection with this Agreement. Client shall deposit in advance with DataProse the initial sum specified on Schedule 2.0 as the postage escrow. The amount required to be maintained in escrow with DataProse may be changed by DataProse on a periodic basis due to changes in Client's volume, postage usage, postal rates or payment history. Client will be notified in writing and in advance if the postage escrow amount is changed. Upon termination of this Agreement, DataProse shall return the remaining, unused postage escrow amount to Client after payment for all Goods and Services and postage has been paid by Client. If this Agreement is terminated due to default of Client, DataProse may apply any of Client's funds it holds against any sum owed by Client to DataProse upon termination of this Agreement. If Client fails to maintain the postage escrow account at the required levels, or if Client fails to maintain current status of all invoices as described in article 2, or fails to notify DataProse that funds have been appropriated to meet Client's obligations under this agreement, DataProse may immediately suspend its performance under this agreement and will hold Client's materials until the required postage escrow amount is received.

**ARTICLE 5 TERMINATION.** Client or DataProse may terminate this Agreement for an event of default committed by the other party and defined below if such default remains uncured (30) thirty days after written notice of the default from the party declaring the default has been received by the other party in accordance with Article 15.

- (1) Failure of Client to pay for all Goods and Services when due in accordance with the terms of this Agreement. In addition to other remedies provided by this Agreement and pursuant to law, DataProse has the right to withhold production and mailing of any further production cycles until Client's account is brought current.
- (2) Any other breach by Client or DataProse of a term or condition of this Agreement.
- (3) Non-Appropriation of funds.

If DataProse terminates this Agreement due to Client's default or the Client terminates this Agreement within the first year for any reason other than those specified in Article 3 or this Article 5, Client agrees that it shall reimburse DataProse for the actual cost it incurred in setting up the various documents and reports pertaining specifically to providing Client with the Goods and Services. Any monthly invoices that are unpaid by the Client at the time of such termination and any client-approved statement materials held in DataProse inventory shall be paid in full.

**ARTICLE 6 FORCE MAJEURE.** Neither party shall be responsible for delays or failures in performance resulting from acts or occurrences beyond the reasonable control of such party, including, without limitation: fire, explosion, power failure, flood, earthquake or other act of God; war, revolution, civil commotion, terrorism, or acts of public enemies; any law, order, regulation, ordinance, or requirement of any government or legal body or any representative of any such government or legal body; or labor unrest, including without limitation, strikes, slowdowns, picketing or boycotts. In such event, the party affected shall be excused from such performance (other than any obligation to pay money) on a day-to-day basis to the extent of such interference (and the other party shall likewise be excused from performance of its obligations on a day-to-day basis to the extent such party's obligations relate to the performance so interfered with).

**ARTICLE 7 CONFIDENTIALITY.** Each party agrees that any and all data, reports and documentation supplied by the disclosing party or its affiliates or third parties on disclosing party's behalf, which are confidential shall be, subject only to the disclosure required for the performance of receiving party's obligations hereunder, held in strict confidence and shall not be disclosed or otherwise disseminated by receiving party without the consent of disclosing party, except as required by applicable law, regulation or legal proceeding.

**ARTICLE 8 INDEMNIFICATION.** Client agrees to indemnify and hold DataProse and its affiliates, and their respective officers, directors, employees, consultants, partners, shareholders, members and contractors harmless for any and all claims, actions, damages, costs (including, without limitation, attorneys' fees), injuries or liabilities from any person, firm, or entity whatsoever that may arise in connection with (a) the data, reports or other documentation supplied by Client in connection with this Agreement or the Goods and Services or (b) Client's gross negligence or willful misconduct.

**ARTICLE 9 WARRANTIES.** DataProse shall provide all Goods and Services in a good and first class workmanlike manner in accordance with the terms specifically set forth in Schedule 1.0. The parties hereto agree that this Agreement is only for the Goods and Services. This warranty constitutes the only warranty with respect to the Goods and Services to be provided to Client and is in lieu of all other warranties, written or oral, statutory, express or implied, including, without limitation, the warranties of merchantability and the warranty of fitness for particular purpose. Except and expressly set forth in this Section 10, DATAPROSE EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES WITH REGARD TO THE GOODS AND SERVICES, AND SUCH GOODS AND SERVICES WILL BE DELIVERED AND PERFORMED "AS IS" AND "WITH ALL FAULTS".

**ARTICLE 10 LIMITATION OF LIABILITY.** The liability of DataProse with respect to any failure to provide the Goods and Services as required under this Agreement shall in each case be limited to the compensation paid to DataProse for the defective Goods and Services. DataProse IS NOT LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFIT OR INCOME, even if DataProse has been advised of the possibility of such loss or damage. This provision will not be affected by DataProse's failure to correct any defect or replace any defective work product to Client's satisfaction. Client has accepted this restriction on its right to recover consequential damages as a part of its bargain with DataProse. Client acknowledges what DataProse charges for its Goods and Services would be higher if DataProse were required to bear responsibility for Client's damages.

**ARTICLE 11 GOVERNING LAW.** This Agreement shall be governed by and construed, interpreted and enforced in accordance with the laws of the state of Oklahoma to the exclusion of its conflict of laws provision.

Client:  DataProse: 



ARTICLE 12 **SEVERABILITY.** If a court holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected.

ARTICLE 13 **WAIVER; MODIFICATION OF AGREEMENT.** No waiver, amendment or modification of any of the terms of this Agreement shall be valid unless in writing and signed by authorized representatives of both parties hereto. Failure by either party to enforce any rights under this Agreement shall not be construed as a waiver of such rights, nor shall a waiver by either party in one or more instances be construed as constituting a continuing waiver or as a waiver in other instances.

ARTICLE 14 **NOTICE.** All notices must be in writing and if not personally delivered, be sent by facsimile, first class mail, nationally recognized overnight delivery service or by electronic mail. Mailed notices will be effective on the third day after mailing. Notice by personal delivery or delivery service will be effective when delivered. When sent by facsimile or electronic mail, notice will be effective on the day the transmission is received by the recipient provided that (a) a duplicate copy of the notice is promptly given by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Either party may change the address to which notices are to be sent by giving notice of such a change to the other party. Addresses for purpose of giving notice are as follows:

If to DataProse:

DataProse  
1122 W. Bethel Road  
Coppell, TX 75019  
Attention: COO

If to Client:

City of Midwest City  
100 N. Midwest Blvd.  
Midwest City, OK 73110  
Attention: City Clerk

ARTICLE 15 **ENTIRE AGREEMENT.** This Agreement and its exhibits constitute the final, complete, and exclusive statement of the terms of the Agreement between the parties pertaining to the production of goods and services for Client by DataProse, and supersede all prior and contemporaneous understandings or agreements of the parties. No party has been induced to enter into this Agreement by, nor is any party relying on, any representation or warranty outside those expressly set forth in this Agreement.

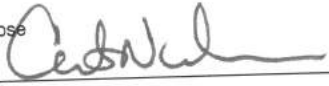
ARTICLE 16 **ATTORNEY FEES.** In the event of any claim, dispute or controversy arising out of or relating to this Agreement, including an action for declaratory relief, the prevailing party in such action or proceeding shall be entitled to recover its court costs and reasonable out-of-pocket expenses not limited to taxable costs, including but not limited to phone calls, photocopies, expert witness, travel, etc., and reasonable attorney fees to be fixed by the court. Such recovery shall include court costs, out-of-pocket expenses and attorney fees on appeal, if any.

ARTICLE 17 **INTER-LOCAL AGREEMENT** – Inter-local contracts in Oklahoma are authorized by the Oklahoma Inter-local Cooperation Act, State of Oklahoma Statutes, Title 74 State Government, Chapter 31, Section 74-1004. Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state, and jointly with any other state or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by this act upon the public agency.

ARTICLE 18 **SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto, provided that, neither party shall not be permitted to assign its rights or obligations under this Agreement without the express written consent of the other party. Any such assignment in violation of the foregoing sentence shall be null and void.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed to be effective as of the Effective Date

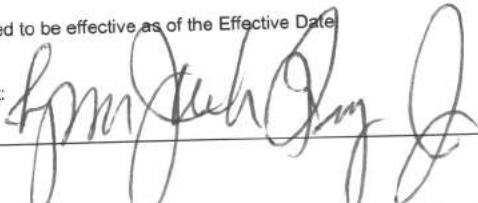
DataProse

By: 

COO

Date: 8/13/14

Client:

By: 

Title:

Mayor

Date:

8-12-14

### Schedule 1.0 – Fees for Goods & Services

<b>Bill Package</b> (Includes: data processing & simplex, laser imaging, 8.5x11 white paper, preprinted 2 colors front/1 color back, perforated at 3.5" from bottom, #10 window OE, 8 5/8 single window RE, folding, inserting, presorting and delivery to USPS)	\$0.082	Per Bill or Notice
Search & ViewBill (includes 12 months storage)	\$0.015	Per Bill
NCOALink – Automated address update service (optional)	\$0.50	Per Address Correction
Search & ViewBill Transmission Fee (CD or FTP – Shipping will be charged separately)	\$100.00	Per Month
Additional Impressions B&W	\$0.03	Per Impression
Additional Impressions 2 color/ Up to Full color	\$0.05	Per Impression
Single color overlay (red, green, etc.) – if applicable	\$0.01	Per Impression
Bill Suppression (data processing only – Group Y & Z)	0.05	Per Bill
Oversize Surcharge (8-99 page bills – Group C)	\$0.20	Per Bill
Oversize Surcharge (100+ page bills – Group D & E)	\$4.00	Per Bill
Additional Inserts (Inserting fee / above and beyond what is included in the Bill Package)	\$0.015	Per Insert
Offline Folding (As requested)	\$0.005	Per Piece
Basic Set up Fee (Standard Format and Reports)	N/C	One Time
Technical Services (including additional set-up beyond standard, formatting or custom reports, conditional logic & insert/forms composition)	\$125.00	Per Hour
Freight, Courier & Air Delivery	Cost	Per Request
Minimum Daily Processing/Production Fee	\$75.00	Per Day
Postage (1 oz.)	0.381	Per Bill

### Schedule 2.0 – Postage Escrow

Postage Escrow (Based on two (2) months estimated volume –42,000 statements x \$0.381)	\$16,002	(2 months @ .381)
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### Schedule 3.0 – Performance Guarantee

If the City's approved data file is received by DataProse by 11:00 AM CST, we guarantee same day delivery to the US Postal Service. For all processing DataProse will deliver Client's bills and notices within an average of 24 hours from the applicable Determination Date (defined below). Such average time period will be determined by measuring the number of elapsed business days between each respective Determination Date and the date which 95% or more of the Client's bills were mailed for consecutive three (3) month period or a minimum of six (6) production cycles

#### Schedule 3.1 – Determination Date

The "Determination Date" is the date which data is received via electronic transmission if prior to 12:00 PM (Noon), Central Time. If data is received after 12:00 PM (Noon), Central Time, the Determination Date is the business day immediately following the date data is received. If data is received on a non-business day (weekend or national holiday) the Determination Date will be the next consecutive business day.

#### Schedule 3.2 – Approval and/or Business Rule Exception

If an Approval has been required by Client and defined in the business rules for each production run, then the Determination Date will be set by the date and time of the Approval instead of the receipt of data as defined above. As to any production run, the Performance Guarantee will not apply if Client has not provided all data and documentation necessary (as dictated by required business rules) to permit DataProse to produce the bills in a timely manner, or if Client fails to approve or report required changes to DATAPROSE in order to complete the work in a timely manner.

Client:  DataProse: 

**Schedule 4.0 – Glossary of Terms**

Impression	Laser Imaging of one side of one piece of paper. Each physical piece of paper can contain two (2) impressions.
USPS	United States Postal Service
Laser Imaging	The process where the application of dry toner (ink) is electro statically applied and bonded to a piece of paper.
Simplex	Laser Imaging of one (1) side of a piece of paper only.
Duplex	Laser Imaging of both (2) sides of a piece of paper.
OE	Outer Envelope – This envelope is used as the carrier mechanism for all information contained in a package to be mailed.
RE	Reply Envelope – This envelope is usually utilized by a customer to return information/payment requested by on organization.
Presorting	The act of organizing mail according to the rules and regulations defined by the USPS in order to achieve lower postage rates and increase deliverability of mail.
Business Day	Any day in which the USPS as well as the U.S. Federal Reserve are open for business.
U.S. federal holiday	All Holidays as defined by the U.S. Federal Reserve.
24x7	24 hours a day, 7 days a week.
Additional Inserts	Any item requested to be placed into the mail container above and beyond (a) the bill and (b) the RE.
Container	One complete piece of mail packaged into one OE.
Electronic Transmission	The act of sending data via DataProse online utility, FTP or Modem
Bill	Data and other information pertaining to one (1) account number and usually in reference to one customer
Group	The term used by DataProse to define how bills are gathered & produced in order to maximize production capabilities. These groups are defined as follows: Group A – 1 ounce bills Group B – 2 ounce bills Group C – 8-99 page bills Group D – 100-499 page bills Group E – 500+ page bills Group I – International bills Group P – Pull bills (Pulled and returned to PM [What is "PM"?for further action]) Group X – Hold bills (combined and sent back to Client) Group Y – Online only bills (Suppress from print only) Group Z – Suppress all
Suppress or Suppression	The act of excluding records or bills (based on Client defined criteria) that have been received in the input data stream received from the Client

Client:  DataProse: 

**8.0 Invitation for Sealed Bids**

CITY OF MIDWEST CITY  
100 N. MIDWEST BLVD  
MIDWEST CITY, OK 73110

Write legibly in ink or use typewriter. Please see instructions on next page.

Published in:  
Midwest City Beacon

Date Advertised:  
July 18, 2014

Utility Bill – Forms, Printing and Mailing Services

Note: A bid bond is not required for this agreement.

Bids must be in the Office of the City Clerk by: July 29, 2014, no later than 10:00 A.M.  
IMPORTANT: Bid envelope must indicate bid item enclosed and date of bid opening.

Description	Quantity	Unit Price	Total
Forms:			
#10 Envelope	1		Included
#8 5/8 Envelope	1		Included
Letter Size Bill (min 20# paper)	1		Included
All-In Base Container Price		<b><u>\$0.082</u></b>	
Printing for additional sheet up to B&W	1	\$0.03	XXXXXXXX
Printing for additional sheet up to 1 color	1	\$0.03	XXXXXXXX
Printing for additional sheet up to 2 color	1	\$0.05	XXXXXXXX
Printing for additional sheet up to full color	1	\$0.05	XXXXXXXX
Printing, folding services	1	Inc.	Included
<b><u>**Base container only**</u></b>			
Postage (include delivery to post office)	1	\$0.381	Included
<b><u>**Actual postage will apply**</u></b>			
Total per mailed piece based on data	1	\$0.463	

**\*\*All pricing is based on 8.5 x 11 sheet, standard stock\*\***



### Supplemental Pricing Requested

**1.3.20** Return mail must be returned to the Selected Provider's location and a report detailing the items returned must be provided to the City on no less than a once a week basis.

Return Mail Solution -           – 0-200 pieces of returned mail - \$50  
  – 201-400 pieces of returned mail - \$100  
  – 500+ pieces returned mail - \$250

#### Plus any applicable shipping/freight.

**1.3.22** The Selected Service Provider must be able to provide production and IMB mail tracking capability to the City. These services must be available through an online portal with twenty-four (24) hour and seven (7) day a week access.

"DP/MailTrace": As a full-service IMB provider with the USPS, DataProse can provide all clients with the ability to trace all outbound as well as incoming mail via the USPS. Outbound mail is tracked from the point of delivery to the point at which every piece of mail is put out for local delivery at its destination. This tracking is performed by retaining all scanning information as it is performed by the USPS and retained by DataProse.

DP/MailTrace pricing           – Annual license fee - \$1500  
  – Monthly service fee - \$100

Location of primary facility – 1122 W. Bethel Rd. Coppell, Texas 75019

Location of secondary facility in case of disaster – 2001 Cabot Place, Oxnard, CA 93030

THE CITY OF MIDWEST CITY IS EXEMPT FROM PAYMENT OF OKLAHOMA SALES TAX AND FEDERAL EXCISE TAX.

I have examined the specifications and agree, provided I am awarded a contract within thirty (30) days from the date fixed for opening bids, to provide the above described items for the sum shown, in accordance with the terms set out in "Agreement by Bidder."

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DATED THIS

28th DAY OF July, 2014.

FOR THE FIRM DataProse \_\_\_\_\_ BY

*W. K. Minnaway*

ADDRESS: 1122 W. Bethel Rd. Coppell, Texas 75019 TITLE C.E.O.

Accepted by the City Council this 12<sup>th</sup> day of August, 2014.

*Rhonda Atkins*  
City Clerk

*Tom Jack Day*  
Mayor

Approved as to form this 12<sup>th</sup> day of August, 2014.

*Katherine Baller*  
City Attorney

**8.0 Invitation for Sealed Bids**

CITY OF MIDWEST CITY  
100 N. MIDWEST BLVD  
MIDWEST CITY, OK 73110

Write legibly in ink or use typewriter. Please see instructions on next page.

Published in:  
Midwest City Beacon

Date Advertised:  
July 18, 2014

Utility Bill – Forms, Printing and Mailing Services

Note: A bid bond is not required for this agreement.

Bids must be in the Office of the City Clerk by: July 29, 2014, no later than 10:00 A.M.  
IMPORTANT: Bid envelope must indicate bid item enclosed and date of bid opening.

Description	Quantity	Unit Price	Total
Forms:			
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All-In Base Container Price		<b><u>\$0.082</u></b>	
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*Rhonda Alketo*  
City Clerk

*Tom Jack Lynch*  
Mayor

Approved as to form this 12<sup>th</sup> day of August, 2014.

*Syatherine Ballew*  
City Attorney

This Production Agreement ("Agreement") is made and entered into by and between DataProse LLC, a Texas limited liability company ("DataProse"), and the City of Midwest City, organized under the laws of Oklahoma ("Client"). The effective date of this Agreement is the date last signed below ("Effective Date"). In consideration of the mutual promises and benefits contained herein, the parties hereby agree as follows:

**ARTICLE 1 SCOPE OF PRODUCTION AGREEMENT.** DataProse agrees to provide to Client goods and/or services as described in Schedule 1.0 (the "Goods and Services"). During the term of this Agreement, the Client agrees to furnish data and documentation for, and DataProse agrees to produce a minimum monthly quantity of 20,000 statements ("Minimum Commitment"), based upon the rates and terms provided herein. In the event that the Client does not fulfill the Minimum Commitment, then Client shall pay to DataProse a minimum processing fee ("Minimum Processing Fee") in an amount that shall be calculated based upon the Minimum Commitment and the rates and terms provided herein.

**ARTICLE 2 COMPENSATION.** In full and complete compensation for all Goods and Services provided by DataProse hereunder, Client agrees to pay DataProse according to rates set forth in Schedule 1.0. DataProse will provide an invoice to Client after each production run consisting of the fees, as outlined in Schedule 1.0 and postage used. Invoices are due upon receipt and will be considered past due if not paid within 30 days. A monthly late charge will be assessed on invoices not paid within thirty (30) days. The late payment charge will be the lesser of (i) 1-1/2% per month, and (ii) the applicable maximum lawful rate of interest, applied to the invoice amount unpaid (30) thirty days after billing to Client. The prices charged by DataProse to Client for the Goods and Services listed in Schedule 1.0 will not be increased for a period of twelve (12) months from the Effective Date of this Agreement ("Pricing Period"). All DataProse prices are subject to increase following this initial Pricing Period or any subsequent Pricing Period, upon written notice to Client. The rate of any price increase shall not exceed the amount of the consumer price index at the completion of any Pricing Period. The notice of any price increase to Client will be made in writing at least 60 days before the end of the term to allow the Client time to request an appropriation of funds. In the event Client cancels the Agreement as allowed under the provisions of this Agreement, then payment for all Goods and Services delivered and/or rendered between the cancellation notification date and the effective date of the cancellation shall be due concurrently upon delivery and/or rendering of such Goods and Services. The compensation payable to DataProse under this Agreement is subject to appropriation of funds; the completion date of Client's appropriation cycle is June 30 each year.

**ARTICLE 3 TERM.** The initial term of this Agreement shall commence as of the Effective Date, and shall continue for a period of not less than three (3) years, ending on the third anniversary of the initial production run, unless terminated earlier in accordance with provisions found elsewhere in this Agreement. This Agreement shall renew itself for successive one (1) year terms unless written notice of cancellation is received by one party from the other at the end of the initial term or at the end of any succeeding one (1) year renewal term(s) by sending written notice of non-renewal to the other party no earlier than one hundred fifty (150), and no later than forty-five (45), days before the expiration of the then current term.

**ARTICLE 4 POSTAGE.** Client must maintain a postage escrow account in connection with this Agreement. Client shall deposit in advance with DataProse the initial sum specified on Schedule 2.0 as the postage escrow. The amount required to be maintained in escrow with DataProse may be changed by DataProse on a periodic basis due to changes in Client's volume, postage usage, postal rates or payment history. Client will be notified in writing and in advance if the postage escrow amount is changed. Upon termination of this Agreement, DataProse shall return the remaining, unused postage escrow amount to Client after payment for all Goods and Services and postage has been paid by Client. If this Agreement is terminated due to default of Client, DataProse may apply any of Client's funds it holds against any sum owed by Client to DataProse upon termination of this Agreement. If Client fails to maintain the postage escrow account at the required levels, or if Client fails to maintain current status of all invoices as described in article 2, or fails to notify DataProse that funds have been appropriated to meet Client's obligations under this agreement, DataProse may immediately suspend its performance under this agreement and will hold Client's materials until the required postage escrow amount is received.

**ARTICLE 5 TERMINATION.** Client or DataProse may terminate this Agreement for an event of default committed by the other party and defined below if such default remains uncured (30) thirty days after written notice of the default from the party declaring the default has been received by the other party in accordance with Article 15.

- (1) Failure of Client to pay for all Goods and Services when due in accordance with the terms of this Agreement. In addition to other remedies provided by this Agreement and pursuant to law, DataProse has the right to withhold production and mailing of any further production cycles until Client's account is brought current.
- (2) Any other breach by Client or DataProse of a term or condition of this Agreement.
- (3) Non-Appropriation of funds.

If DataProse terminates this Agreement due to Client's default or the Client terminates this Agreement within the first year for any reason other than those specified in Article 3 or this Article 6, Client agrees that it shall reimburse DataProse for the actual cost it incurred in setting up the various documents and reports pertaining specifically to providing Client with the Goods and Services. Any monthly invoices that are unpaid by the Client at the time of such termination and any client-approved statement materials held in DataProse inventory shall be paid in full.

**ARTICLE 6 FORCE MAJEURE.** Neither party shall be responsible for delays or failures in performance resulting from acts or occurrences beyond the reasonable control of such party, including, without limitation: fire, explosion, power failure, flood, earthquake or other act of God; war, revolution, civil commotion, terrorism, or acts of public enemies; any law, order, regulation, ordinance, or requirement of any government or legal body or any representative of any such government or legal body; or labor unrest, including without limitation, strikes, slowdowns, picketing or boycotts. In such event, the party affected shall be excused from such performance (other than any obligation to pay money) on a day-to-day basis to the extent of such interference (and the other party shall likewise be excused from performance of its obligations on a day-to-day basis to the extent such party's obligations relate to the performance so interfered with).

**ARTICLE 7 CONFIDENTIALITY.** Each party agrees that any and all data, reports and documentation supplied by the disclosing party or its affiliates or third parties on disclosing party's behalf, which are confidential shall be, subject only to the disclosure required for the performance of receiving party's obligations hereunder, held in strict confidence and shall not be disclosed or otherwise disseminated by receiving party without the consent of disclosing party, except as required by applicable law, regulation or legal proceeding.

**ARTICLE 8 INDEMNIFICATION.** Client agrees to indemnify and hold DataProse and its affiliates, and their respective officers, directors, employees, consultants, partners, shareholders, members and contractors harmless for any and all claims, actions, damages, costs (including, without limitation, attorneys' fees), injuries or liabilities from any person, firm, or entity whatsoever that may arise in connection with (a) the data, reports or other documentation supplied by Client in connection with this Agreement or the Goods and Services or (b) Client's gross negligence or willful misconduct.

**ARTICLE 9 WARRANTIES.** DataProse shall provide all Goods and Services in a good and first class workmanlike manner in accordance with the terms specifically set forth in Schedule 1.0. The parties hereto agree that this Agreement is only for the Goods and Services. This warranty constitutes the only warranty with respect to the Goods and Services to be provided to Client and is in lieu of all other warranties, written or oral, statutory, express or implied, including, without limitation, the warranties of merchantability and the warranty of fitness for particular purpose. Except and expressly set forth in this Section 10, DATAPROSE EXPRESSLY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES WITH REGARD TO THE GOODS AND SERVICES, AND SUCH GOODS AND SERVICES WILL BE DELIVERED AND PERFORMED "AS IS" AND "WITH ALL FAULTS".

**ARTICLE 10 LIMITATION OF LIABILITY.** The liability of DataProse with respect to any failure to provide the Goods and Services as required under this Agreement shall in each case be limited to the compensation paid to DataProse for the defective Goods and Services. DataProse IS NOT LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFIT OR INCOME, even if DataProse has been advised of the possibility of such loss or damage. This provision will not be affected by DataProse's failure to correct any defect or replace any defective work product to Client's satisfaction. Client has accepted this restriction on its right to recover consequential damages as a part of its bargain with DataProse. Client acknowledges what DataProse charges for its Goods and Services would be higher if DataProse were required to bear responsibility for Client's damages.

**ARTICLE 11 GOVERNING LAW.** This Agreement shall be governed by and construed, interpreted and enforced in accordance with the laws of the state of Oklahoma to the exclusion of its conflict of laws provision.

Client:  DataProse: 



ARTICLE 12 **SEVERABILITY.** If a court holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected.

ARTICLE 13 **WAIVER; MODIFICATION OF AGREEMENT.** No waiver, amendment or modification of any of the terms of this Agreement shall be valid unless in writing and signed by authorized representatives of both parties hereto. Failure by either party to enforce any rights under this Agreement shall not be construed as a waiver of such rights, nor shall a waiver by either party in one or more instances be construed as constituting a continuing waiver or as a waiver in other instances.

ARTICLE 14 **NOTICE.** All notices must be in writing and if not personally delivered, be sent by facsimile, first class mail, nationally recognized overnight delivery service or by electronic mail. Mailed notices will be effective on the third day after mailing. Notice by personal delivery or delivery service will be effective when delivered. When sent by facsimile or electronic mail, notice will be effective on the day the transmission is received by the recipient provided that (a) a duplicate copy of the notice is promptly given by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Either party may change the address to which notices are to be sent by giving notice of such a change to the other party. Addresses for purpose of giving notice are as follows:

If to DataProse:

DataProse  
1122 W. Bethel Road  
Coppell, TX 75019  
Attention: COO

If to Client:

City of Midwest City  
100 N. Midwest Blvd.  
Midwest City, OK 73110  
Attention: City Clerk

ARTICLE 15 **ENTIRE AGREEMENT.** This Agreement and its exhibits constitute the final, complete, and exclusive statement of the terms of the Agreement between the parties pertaining to the production of goods and services for Client by DataProse, and supersede all prior and contemporaneous understandings or agreements of the parties. No party has been induced to enter into this Agreement by, nor is any party relying on, any representation or warranty outside those expressly set forth in this Agreement.

ARTICLE 16 **ATTORNEY FEES.** In the event of any claim, dispute or controversy arising out of or relating to this Agreement, including an action for declaratory relief, the prevailing party in such action or proceeding shall be entitled to recover its court costs and reasonable out-of-pocket expenses not limited to taxable costs, including but not limited to phone calls, photocopies, expert witness, travel, etc., and reasonable attorney fees to be fixed by the court. Such recovery shall include court costs, out-of-pocket expenses and attorney fees on appeal, if any.

ARTICLE 17 **INTER-LOCAL AGREEMENT** – Inter-local contracts in Oklahoma are authorized by the Oklahoma Inter-local Cooperation Act, State of Oklahoma Statutes, Title 74 State Government, Chapter 31, Section 74-1004. Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state, and jointly with any other state or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by this act upon the public agency.

ARTICLE 18 **SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto, provided that, neither party shall not be permitted to assign its rights or obligations under this Agreement without the express written consent of the other party. Any such assignment in violation of the foregoing sentence shall be null and void.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed to be effective as of the Effective Date

DataProse

By:   
COO

Date: 8/13/14

Client:

By: 

Title: Mayor Date: 8-12-14

### Schedule 1.0 – Fees for Goods & Services

<b>Bill Package</b> (Includes: data processing & simplex, laser imaging, 8.5x11 white paper, preprinted 2 colors front/1 color back, perforated at 3.5" from bottom, #10 window OE, 8 5/8 single window RE, folding, inserting, presorting and delivery to USPS)	\$0.082	Per Bill or Notice
Search & ViewBill (includes 12 months storage)	\$0.015	Per Bill
NCOALink – Automated address update service (optional)	\$0.50	Per Address Correction
Search & ViewBill Transmission Fee (CD or FTP – Shipping will be charged separately)	\$100.00	Per Month
Additional Impressions B&W	\$0.03	Per Impression
Additional Impressions 2 color/ Up to Full color	\$0.05	Per Impression
Single color overlay (red, green, etc.) – if applicable	\$0.01	Per Impression
Bill Suppression (data processing only – Group Y & Z)	0.05	Per Bill
Oversize Surcharge (8-99 page bills – Group C)	\$0.20	Per Bill
Oversize Surcharge (100+ page bills – Group D & E)	\$4.00	Per Bill
Additional Inserts (Inserting fee / above and beyond what is included in the Bill Package)	\$0.015	Per Insert
Offline Folding (As requested)	\$0.005	Per Piece
Basic Set up Fee (Standard Format and Reports)	N/C	One Time
Technical Services (including additional set-up beyond standard, formatting or custom reports, conditional logic & insert/forms composition)	\$125.00	Per Hour
Freight, Courier & Air Delivery	Cost	Per Request
Minimum Daily Processing/Production Fee	\$75.00	Per Day
Postage (1 oz.)	0.381	Per Bill

### Schedule 2.0 – Postage Escrow

Postage Escrow (Based on two (2) months estimated volume –42,000 statements x \$0.381)	\$16,002	(2 months @ .381)
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### Schedule 3.0 – Performance Guarantee

If the City's approved data file is received by DataProse by 11:00 AM CST, we guarantee same day delivery to the US Postal Service. For all processing DataProse will deliver Client's bills and notices within an average of 24 hours from the applicable Determination Date (defined below). Such average time period will be determined by measuring the number of elapsed business days between each respective Determination Date and the date which 95% or more of the Client's bills were mailed for consecutive three (3) month period or a minimum of six (6) production cycles

#### Schedule 3.1 – Determination Date

The "Determination Date" is the date which data is received via electronic transmission if prior to 12:00 PM (Noon), Central Time. If data is received after 12:00 PM (Noon), Central Time, the Determination Date is the business day immediately following the date data is received. If data is received on a non-business day (weekend or national holiday) the Determination Date will be the next consecutive business day.

#### Schedule 3.2 – Approval and/or Business Rule Exception

If an Approval has been required by Client and defined in the business rules for each production run, then the Determination Date will be set by the date and time of the Approval instead of the receipt of data as defined above. As to any production run, the Performance Guarantee will not apply if Client has not provided all data and documentation necessary (as dictated by required business rules) to permit DataProse to produce the bills in a timely manner, or if Client fails to approve or report required changes to DATAPROSE in order to complete the work in a timely manner.



### Schedule 4.0 – Glossary of Terms

Impression	Laser Imaging of one side of one piece of paper. Each physical piece of paper can contain two (2) impressions.
USPS	United States Postal Service
Laser Imaging	The process where the application of dry toner (ink) is electro statically applied and bonded to a piece of paper.
Simplex	Laser Imaging of one (1) side of a piece of paper only.
Duplex	Laser Imaging of both (2) sides of a piece of paper.
OE	Outer Envelope – This envelope is used as the carrier mechanism for all information contained in a package to be mailed.
RE	Reply Envelope – This envelope is usually utilized by a customer to return information/payment requested by an organization.
Presorting	The act of organizing mail according to the rules and regulations defined by the USPS in order to achieve lower postage rates and increase deliverability of mail.
Business Day	Any day in which the USPS as well as the U.S. Federal Reserve are open for business.
U.S. federal holiday	All Holidays as defined by the U.S. Federal Reserve.
24x7	24 hours a day, 7 days a week.
Additional Inserts	Any item requested to be placed into the mail container above and beyond (a) the bill and (b) the RE.
Container	One complete piece of mail packaged into one OE.
Electronic Transmission	The act of sending data via DataProse online utility, FTP or Modem
Bill	Data and other information pertaining to one (1) account number and usually in reference to one customer
Group	The term used by DataProse to define how bills are gathered & produced in order to maximize production capabilities. These groups are defined as follows: Group A – 1 ounce bills Group B – 2 ounce bills Group C – 8-99 page bills Group D – 100-499 page bills Group E – 500+ page bills Group I – International bills Group P – Pull bills (Pulled and returned to PM [What is "PM"?for further action]) Group X – Hold bills (combined and sent back to Client) Group Y – Online only bills (Suppress from print only) Group Z – Suppress all
Suppress or Suppression	The act of excluding records or bills (based on Client defined criteria) that have been received in the input data stream received from the Client

**8.0 Invitation for Sealed Bids**

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100 N. MIDWEST BLVD  
MIDWEST CITY, OK 73110

Write legibly in ink or use typewriter. Please see instructions on next page.

Published in:  
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Date Advertised:  
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City Clerk

*Tom Jack Lynch*  
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*Syatherine Baller*  
City Attorney



**City Manager**  
100 N. Midwest Boulevard  
Midwest City, OK 73110  
Office: 405.739.1201  
Fax: 405-739-1208  
[www.midwestcityok.org](http://www.midwestcityok.org)

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: Tim Lyon, City Manager


DATE: July 26, 2022

SUBJECT: Discussion and consideration, including any amendment, of reappointing Dave Herbert and Russell Smith to the Midwest City Urban Renewal Authority for an additional three-year term to end on July 22, 2025.

---

Both Dave and Russell's terms on the Urban Renewal Authority are expiring and they have both agreed to serve another term, if re-appointed.

As you may recall, the Urban Renewal Authority terms are for three years and are Mayor appointed and Council approved. The current members of the Authority are Sherry Beard – 07-25-23; Jack Fry – 07-25-23; Dave Herbert – 07-26-22, Wade Moore – 07-27-24, and Russell Smith – 07-26-22.

  
\_\_\_\_\_  
Tim L. Lyon, City Manager





**Engineering and  
Construction Services**  
100 N Midwest Boulevard  
Midwest City, OK 73110  
Office 405.739.1220

---

TO : Honorable Mayor and Council

FROM : Brandon Bundy, P.E., Director

DATE : July 26, 2022

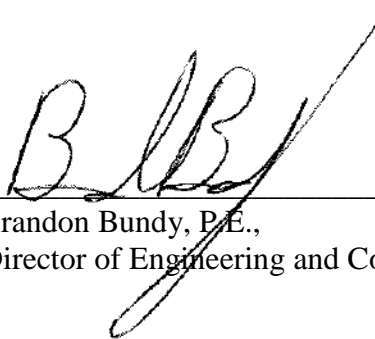
SUBJECT : Discussion and consideration, including any possible amendment of declaring various items of City property as surplus property and authorizing their disposal through sealed bid, public auction, or by other means as necessary.

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The Department of Engineering and Construction Services requests to declare the listed items of City property surplus and authorize their disposal through sealed bid, public auction, or by other means as necessary.

- Multiple Theater chairs from the City Council Chambers
- 2- 6' Folding Tables
- 2- Baby strollers
- 10 - Chairs
- 1- 3'x3' Table
- 1 ½ packages - Blueline paper 20 lb. 15 s15
- 2 packages - Triangle A & E 24 X 36
- 3 packages – Blueline paper 2016 30 X 35
- 1 package – Blueline paper 20 lb. 30 X 42
- 1 package – smaller size
- 5 – office chairs

If declared surplus, these items will be placed on the websites for disposal through sealed bid, public auction, or by other means as necessary.



---

Brandon Bundy, P.E.,  
Director of Engineering and Construction Services



DISCUSSION ITEMS





**Economic Development Department**

100 N. Midwest Boulevard

Midwest City, OK 73110

Office: (405) 739-1218

[rcoleman@MidwestCityOK.org](mailto:rcoleman@MidwestCityOK.org)

[www.midwestcityok.org](http://www.midwestcityok.org)

**MEMORANDUM**

To: Honorable Mayor and Midwest City Council

From: Robert Coleman, Director of Economic Development

Date: July 26, 2022

Subject: Public Hearing, discussion, presentation and to provide information and answer questions, pursuant to Title 62, Section 859 of the Oklahoma Statutes regarding the establishment of "Increment District Number Three, City of Midwest City, Oklahoma" in consideration of MTG Property Holdings, LLC and Centrillum Proteins, LLC request for development financing assistance in constructing a ± 55,000 square foot food processing plan near 7210 NE 36<sup>th</sup> Street; and in consideration of Global Turbine Systems request for economic development finance assistance to develop a maintenance, repair and jet turbine overhaul facility near 7450 NE 23<sup>rd</sup> Street. (Presentation By Dan McMahan, Representing the City of Midwest City)

---

City Council, at its December 14, 2021 meeting, approved Resolution 2021-48 authorizing the creation of the Local Development Act Review Committee ("Committee.") The resolution empowered the Committee to explore the possibility of creating a Tax Increment Finance district in hopes of finding a revenue source to pay part of our participation in the development of the Centrillum and Global Turbine System projects in Ward 5.

Committee members from taxing entities were formally appointed via Resolution 2022-01 at the January 25, 2022, City Council meeting. The Local Development Act Review Committee ("LDARC") met for the first time on March 10, 2022, to appoint three public-at-large members, which included local residents Hiawatha Bouldin, Jason Constable and Wade Moore.

Mr. Dan McMahan and Staff met with the LDARC on once in April and twice in May, which eventually led to the approvals needed to move forward.

This is the first of two hearings required by law before action can be taken on any legislation enacting the district.

Staff recommends conducting the public hearing as required.

Respectfully,

---

Robert Coleman, Director of Economic Development

Attachments: Ordinance  
O.S. 62 § 859

**O.S. Title 62, Chapter 9, Section 859**

A. Before the adoption of a project plan or subsequent amendments thereto, the governing body must hold two public hearings. The primary purpose of the first hearing will be to provide information and to answer questions; provided, such information shall include, but not be limited to, an analysis of potential positive or negative impacts which may result from the adoption of a project plan. A representative of the city, town or county shall present the city, town or county's proposed plan or amendment thereto. The date of the second public hearing shall be announced in the presence of the persons in attendance at the hearing, but such date shall be more than seven (7) days after the date of the first public hearing. The purpose of the second public hearing shall be to give any interested persons the opportunity to express their views on the proposed plan or amendment thereto.

B. Notice of the first public hearing shall be given once by publication in a newspaper with circulation in the city, town or county and published on any Internet website maintained by the political subdivision. Any person, entity, or organization that has registered with the city, town or county clerk of the political subdivision shall also receive notice of such public hearing and a copy of the analysis upon request of the proposed project plan required in subsection A of this section. Such notices must be published or mailed no later than fourteen (14) days before the date of the public hearing. The notice shall include the following:

1. The time and place of the public hearing;
2. The boundaries of the proposed districts and proposed project areas by legal description and by street location, if possible, accompanied by a sketch clearly delineating the area in detail as may be necessary to advise the reader of the particular land proposed to be included;
3. A statement that the first public hearing shall be for information and questions purposes only with persons being given the opportunity to be heard at the second public hearing before any votes are taken;
4. A description of the project plan or amendment thereto and a location and time where the entire plan may be reviewed by any interested party; and
5. Such other matters as the city, town or county may deem appropriate.

C. Notice of the second public hearing may be included in the notices provided for in subsection B of this section. Notice of the second public hearing shall be published and mailed in the same manner as the notices provided for in subsection B of this section if:

1. Notice for both public hearings is not included in the notice of the first public hearing;
2. The location, date or time of the second public hearing is changed after the notices of the first hearing have been published and mailed; or
3. The second public hearing is held more than fourteen (14) days after the first public hearing.

D. The provisions of this section shall not apply to the adoption of minor amendments as provided for in Section 858 of this title.



E. The city, town or county clerk shall send the notices or copies of the analysis required to be sent to registered persons, entities, or organizations pursuant to subsection B of this section by electronic mail or if no electronic mail address has been provided by the registrant, by first-class mail. The city, town or county clerk shall provide an affidavit declaring that all registrants have been mailed the requisite notices or analyses. Any technical irregularities in the form of the published or mailed notices required by this section shall not result in the invalidation of any ordinance enacted or amended subsequent thereto, so long as the notices, as published and mailed, reasonably apprise interested parties as to the subject matter of the hearings and correctly describes the date, time and place of such hearings and affidavits of publication and mailing shall constitute compliance with the notice requirement of this section.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE APPROVING AND ADOPTING THAT CERTAIN “PROJECT PLAN RELATING TO INCREMENT DISTRICT NUMBER THREE, CITY OF MIDWEST CITY, OKLAHOMA (NORTH SIDE IMPROVEMENT DISTRICT)”;** RATIFYING AND CONFIRMING ACTIONS, RECOMMENDATIONS AND FINDINGS OF THE MIDWEST CITY LOCAL DEVELOPMENT ACT REVIEW COMMITTEE; ESTABLISHING “INCREMENT DISTRICT NUMBER THREE, CITY OF MIDWEST CITY, OKLAHOMA”; DESIGNATING AND ADOPTING PROJECT AREA AND INCREMENT DISTRICT BOUNDARIES; ADOPTING CERTAIN FINDINGS; APPORTIONING INCREMENTAL AD VALOREM TAX REVENUES; CREATING THE NORTH SIDE IMPROVEMENT DISTRICT APPORTIONMENT FUND; DESIGNATING THE MIDWEST CITY ECONOMIC DEVELOPMENT AUTHORITY (THE “AUTHORITY”) AS THE PUBLIC ENTITY TO CARRY OUT AND ADMINISTER THE PROJECT PLAN AND AUTHORIZING THE AUTHORITY TO MAKE MINOR PLAN AMENDMENTS; AUTHORIZING THE AUTHORITY TO ISSUE TAX APPORTIONMENT BONDS OR NOTES; DESIGNATING THE CITY MANAGER/GENERAL ADMINISTRATOR OF THE AUTHORITY AS THE PERSON IN CHARGE OF THE ADMINISTRATION OF THE PROJECT PLAN; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY; AND CONTAINING OTHER PROVISIONS RELATING THERETO.

**WHEREAS,** proposals have been developed over the years which called for public improvements along Northeast 23rd Street from North Air Depot Road to North Post Road, which have pointed to the need for utility extensions, better transportation and pedestrian access, and enhanced streetscaping along the Northeast 23rd Street corridor; and

**WHEREAS,** several industrial concerns have also expressed interest in locating new commercial facilities along and north of this corridor, and would require an agreement by the City’s economic development authorities to provide some level of development assistance before these location decisions can be finalized; and

**WHEREAS,** the City of Midwest City, Oklahoma (hereinafter, the “City”) and the Midwest City Economic Development Authority (hereinafter, the “Authority”) have proposed the use of a “tax increment district” to provide a portion of the needed development assistance in connection with the Project; and

**WHEREAS,** under the City and the Authority’s proposal, development financing assistance generated through this tax increment district would be used to defray part of the extensive infrastructure, site development and development financing costs required by these improvements; and

**WHEREAS,** Article X, Section 6C of the Oklahoma Constitution, along with the provisions of the Oklahoma Local Development Act, Title 62, Section 850 et seq. of the Oklahoma Statutes, as amended (hereinafter, the “Local Development Act”), authorizes cities,

towns and counties to adopt incentives for the development or redevelopment of areas determined by the governing body of such city, town or county to be unproductive, undeveloped, underdeveloped or blighted and empowers the governing body of such cities, towns or counties to create special districts to apportion tax increments within such areas to help finance the public costs of such development or redevelopment; and

**WHEREAS**, on December 14, 2021, the City Council of the City adopted Resolution No. 2021-48, authorizing and directing the Midwest City Local Development Act Review Committee to analyze the City’s proposal and to determine whether the area described in the proposal would qualify as an “increment district” pursuant to the provisions of the Oklahoma Local Development Act, Title 62, Sections 850 et seq. of the Oklahoma Statutes (hereinafter, the “Local Development Act”), and to make other recommendations and findings as required by the Local Development Act; and

**WHEREAS**, the Authority’s proposal has been incorporated into the terms of that certain “Project Plan Relating to Increment District Number Three, City of Midwest City, Oklahoma (North Side Improvement District)” dated June 1, 2022 (hereinafter, the “Project Plan”); and

**WHEREAS**, the Project Plan provides for the terms and conditions under which a tax increment district may assist in providing development financing assistance to the City and the industrial prospects that are interested in locating within this area; and

**WHEREAS**, the Local Development Act Review Committee, representing each of the taxing jurisdictions in which the proposed district is located, as well as the public at large, has reviewed the Project Plan and the proposed tax increment district in accordance with the criteria specified in the Local Development Act; and

**WHEREAS**, the Local Development Act Review Committee has also considered the financial impact of the Project Plan on each taxing jurisdiction, and has made its findings as to the financial impact which will result from the adoption of the Project Plan; and

**WHEREAS**, the City of Midwest City Planning Commission (hereinafter, the “Planning Commission”) has adopted a resolution declaring the Project Plan to be in compliance with the Comprehensive Plan of the City of Midwest City and recommending approval of the Project Plan; and

**WHEREAS**, all reasonable efforts have been made to allow full public knowledge and participation in the application of the Local Development Act in the review and approval of the proposed Project Plan and related tax increment district; and

**WHEREAS**, all required notices have been given and all required hearings have been held in connection with the proposed Project Plan, in accordance with the provisions of the Local Development Act, the Oklahoma Open Meetings Act, Title 25, Sections 301 et seq. of the Oklahoma Statutes, and other applicable laws; and

**WHEREAS**, implementation of the Project Plan will be facilitated by the designation of the Authority as the public entity authorized to carry out and administer the Project Plan and to exercise certain powers necessary thereto; and

**WHEREAS**, it is in the best interests of the City of Midwest City and its citizens to approve the Project Plan, to establish the proposed tax increment district and to authorize the Authority to undertake those programs and projects described therein.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIDWEST CITY, OKLAHOMA, TO-WIT:**

**SECTION 1. Approving and Adopting the Project Plan Relating to Increment District Number Three, City of Midwest City, Oklahoma.** That certain “Project Plan Relating to Increment District Number Three, City of Midwest City, Oklahoma (North Side Improvement District”, dated June 1, 2022, as recommended by the Local Development Act Review Committee and the Planning Commission, is hereby adopted and approved in the form attached hereto as Exhibit “A”.

**SECTION 2. Ratifying and Confirming Actions, Recommendations and Findings.** All actions taken, recommendations, findings and conclusions made in connection with the Project Plan by the Local Development Act Review Committee and the Planning Commission are hereby ratified and confirmed.

**SECTION 3. Establishing “Increment District Number Three, City of Midwest City, Oklahoma”.** There is hereby established “Increment District Number Three, City of Midwest City, Oklahoma”, in accordance with the provisions of Section 861 and other applicable provisions of the Local Development Act, which district shall be effective as of September 1, 2022, or the effective date of this Ordinance, whichever is later. For identification purposes, the name of the tax increment district being established by this Ordinance may also be referred to herein as the “North Side Improvement District”.

**SECTION 4. Designating and Adopting Project Area and Increment District Boundaries.** The boundaries of the North Side Improvement District and the related Project Area are hereby adopted as set forth in Exhibit “B” and Exhibit “C”, respectively, both attached hereto and made a part hereof.

**SECTION 5. Adopting Certain Findings.** In accordance with the Local Development Act, the City Council hereby finds:

A. That boundaries of the proposed district are within an area requiring public improvements to reverse economic stagnation or decline, to serve as a catalyst for retaining or expanding employment, to attract major investment in the area or to preserve or enhance the tax base. Therefore, the proposed district qualifies as a “reinvestment area” pursuant to Section 853 of the Local Development Act, and is eligible for designation as a tax increment district.



B. That contemplated private and public projects within the North Side Improvement District are likely to enhance the value of other real property, increase ad valorem tax revenues to taxing jurisdictions, increase sales taxes for the City of Midwest City and Oklahoma County, Oklahoma, and effectuate an increase in employment opportunities within the North Side Improvement District, as well as promote the general public interest.

C. That the guidelines specified in Section 852 of the Local Development Act have been and shall be followed in relation to the North Side Improvement District and the Project Plan relating thereto.

D. That the aggregate net assessed value of all taxable property in all districts within the City of Midwest City, as determined pursuant to Section 862 of the Local Development Act, does not exceed twenty-five (25%) of the total net assessed value of taxable property within the City of Midwest City, Oklahoma.

E. That the aggregate net assessed value of the taxable property in all districts, as determined pursuant to Section 862 of the Local Development Act, within the City of Midwest City, Oklahoma, does not exceed twenty-five percent (25%) of the total net assessed value of any school district located within the City of Midwest City.

F. That the land area contained within all districts, as determined pursuant to Section 862 of the Local Development Act, within the City of Midwest City does not and shall not exceed twenty-five percent (25%) of the total land area of the City of Midwest City, Oklahoma.

G. That the Project Plan is feasible and conforms to the Comprehensive Plan of the City of Midwest City, Oklahoma.

**SECTION 6. Apportioning Incremental Ad Valorem Tax Revenues.** In accordance with the provisions of the Local Development Act, incremental ad valorem taxes generated within the North Side Improvement District, as such incremental revenues are determined and defined by the Local Development Act (hereinafter, the “Ad Valorem Increment Revenues”), are hereby apportioned and set aside from all other ad valorem taxes levied within the North Side Improvement District, to be used for:

(i) the payment of “project costs” incurred in connection with the development or construction of those projects listed in this Project Plan;

(ii) the reimbursement of the City, or any agency thereof (including the Authority), which has paid “project costs” from funds which were not increments derived from the North Side Improvement District, but only to the extent that such sums were actually paid; and

(iii) the payment of principal, interest and premium, if any, on the Series 20xx Note, issued pursuant to Section 863 of the Local Development Act.

The apportionment of Ad Valorem Increment Revenues pursuant to this section shall terminate upon the final payment of, or reimbursement for, all “project costs” incurred in connection with the projects listed in the Project Plan, and the payment of all outstanding principal, accrued interest, and premium due on any “tax apportionment bonds or notes” issued hereunder; provided, however, that in no case shall the apportionment of revenues pursuant hereto extend beyond twelve (12) years from the original effective date of this Ordinance, unless extended by action of the governing body of the City.

In the event that a portion of the principal of or interest on any “tax apportionment bonds or notes” issued in connection herewith remains unpaid as of the twelfth (12th) anniversary of the original effective date of this Ordinance, then, the North Side Improvement District shall not terminate until the increment apportioned during the twelfth (12th) year is actually received by the Apportionment Fund, even if the receipt of such revenues occurs subsequent to the twelfth (12th) anniversary of the original effective date of this Ordinance, unless such period is modified by subsequent action of the City Council.

**SECTION 7. Creating the North Side Improvement District Apportionment Fund.**

During the period of apportionment, and subject to the City’s right to subsequently repeal, modify or amend this Ordinance, the increments apportioned hereunder shall be transferred by the respective taxing authorities to the “North Side Improvement District Apportionment Fund” (herein, the “Apportionment Fund”), which fund shall be held by and be the property of, the Midwest City Economic Development Authority (except that such fund may also be held by a trustee bank acting on behalf of the Authority). No portion of such increments and no portion of the Apportionment Fund shall constitute a part of the general fund of the City of Midwest City. Pursuant to the Local Development Act, the Ad Valorem Increment Revenues apportioned hereunder shall be transferred by the respective taxing authorities to the Apportionment Fund. All Ad Valorem Increment Revenues so collected shall be placed into separate accounts created within the Apportionment Fund and pledged as security for the payment of the Series 2017 Notes.

**SECTION 8. Designating the Midwest City Economic Development Authority As the Public Entity to Carry Out and Administer the Project Plan and Authorizing the Authority to Make Minor Amendments to the Project Plan.**

The Midwest City Economic Development Authority shall be and is hereby designated and authorized as the public entity to carry out and administer the provisions of the Project Plan, in accordance with its respective responsibilities, and to exercise all powers deemed necessary and appropriate for public trusts as set forth in the Local Development Act or the Public Trust Act, Title 60, Section 176 et seq. of the Oklahoma Statutes, including the right to make minor amendments to the Project Plan. For these purposes, an amendment shall be considered to be “minor” if: (i) such amendment does not change the character or purpose of the Project Plan; (ii) does not affect more than five percent (5%) of the district’s area; or (iii) does not affect more than five percent (5%) of the public costs of the plan to be financed by apportioned tax increments, all as determined on a cumulative basis.

**SECTION 9. Authorizing the Midwest City Economic Development Authority to Issue Tax Apportionment Bonds or Notes.**

The Midwest City Economic Development

Authority shall have the authority to issue tax apportionment bonds or notes and to pay costs of issuance and to fund appropriate reserves, in connection therewith, all in accordance with the provisions of the Project Plan. The Midwest City Economic Development Authority is also authorized to irrevocably pledge all or part of the apportioned increments and other revenue for the payment of the tax apportionment bonds or notes. The part of the apportioned increments pledged in payment may be used only for the payment of the bonds or notes or interest on the bonds or notes until the bonds or notes have been fully paid. In authorizing the irrevocable pledging of such increments, it is the express intention of the City Council that the North Side Improvement District will remain in place until all of the outstanding principal, accrued interest and premium, if any, on any such tax apportionment bonds or notes have been paid in full. Notwithstanding such intention, the City, by these provisions, does not waive any right which it has now or may have in the future, to repeal, modify or amend this Ordinance, by subsequent action of the City Council, as provided in Section 856(C) of the Local Development Act. In adopting this Ordinance, the City does not purport to create any contractual obligation extending beyond the City's current or any subsequent fiscal year with regard to the establishment or maintenance of the North Side Improvement District, or the apportionment of ad valorem tax increments; provided, however, that the City may, on a year-to-year basis, agree to transfer to the Apportionment Fund, any apportioned increments which it receives. All tax apportionment bonds or notes issued pursuant to this section shall state that such bond or note is not a debt, general or special, liability or obligation of the City of Midwest City or the State of Oklahoma or any other agency or authority of such entities, other than the Midwest City Economic Development Authority. The bond or note shall further state:

(i) that the issuance of such bond or note does not give rise to a charge against the general credit or taxing powers of the City of Midwest City, or a claim on the revenues or resources of the State of Oklahoma, and

(ii) that such bond or note is a special, limited obligation of the Midwest City Economic Development Authority, payable solely from the income, revenues and receipts derived or to be derived from the proceeds of certain tax increments paid over to the Authority and the funds and accounts held pursuant to the terms of any indenture or agreement authorizing the issuance of such bonds or notes.

**SECTION 10. Designating the City Manager/General Administrator as the Person In Charge of the Administration of the Plan.** The City Manager of the City/General Administrator of the Midwest City Economic Development Authority, or in his or her absence or during a vacancy in such office, the Assistant City Manager of the City shall be the person in charge of implementing the Project Plan.

**SECTION 11. Providing for Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional, such portion shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 12. Emergency.** It being immediately necessary for the preservation of the peace, health and safety, and the public good of the City of Midwest City, and the inhabitants thereof, that the provisions of this ordinance be put into full force and effect, an emergency is

hereby declared to exist, by reason whereof this ordinance shall take effect and be put in full force and effect from and after the date of its passage.

PASSED AND approved by the City Council of the City of Midwest City, Oklahoma this \_\_\_ day of August, 2022.

THE CITY OF MIDWEST CITY, OKLAHOMA

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MATTHEW D. DUKES, II, Mayor

ATTEST:

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SARA HANCOCK, City Clerk

APPROVED as to form and legality this \_\_\_\_ day of \_\_\_\_\_, 2022:

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DONALD MAISCH, City Attorney



EXHIBIT "A"

COPY OF THE  
PROJECT PLAN RELATING TO  
INCREMENT DISTRICT NUMBER THREE, CITY OF MIDWEST CITY, OKLAHOMA

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**PROJECT PLAN RELATING TO  
INCREMENT DISTRICT NUMBER THREE,  
CITY OF MIDWEST CITY, OKLAHOMA  
(NORTH SIDE IMPROVEMENT DISTRICT)**

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Submitted By The

**CITY OF MIDWEST CITY, OKLAHOMA**

And The

**MIDWEST CITY ECONOMIC DEVELOPMENT AUTHORITY**

**DATED: June 1, 2022**

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## **INTRODUCTION**

Over the years, proposals have been developed which called for public improvements along Northeast 23rd Street from North Air Depot Road to North Post Road. These proposals have pointed to the need for utility extensions, better transportation and pedestrian access, and enhanced streetscaping along the Northeast 23rd Street corridor. In addition, several industrial concerns have expressed interest in locating new commercial facilities along and north of this corridor; however, these firms would require an agreement by the City's economic development authorities to provide some level of development assistance before these location decisions can be finalized. (The financing of these improvements, along with the provision for development financing assistance, are hereinafter referred to as the "Project").

Due to the magnitude of the Project, and the significant public benefits which will accrue from it, the City of Midwest City, Oklahoma (hereinafter, the "City") and the Midwest City Economic Development Authority (hereinafter, the "Authority") have proposed the use of a "tax increment district" to provide a portion of the needed development assistance in connection with the Project. Under the City and the Authority's proposal, financing assistance generated through this tax increment district would be used to defray part of the extensive infrastructure, site development and development financing costs required by the Project.

On December 14, 2021, the City Council of the City adopted Resolution No. 2021-48, authorizing and directing the Midwest City Local Development Act Review Committee to analyze the City's proposal and to determine whether the area described in the proposal would qualify as an "increment district" pursuant to the provisions of the Oklahoma Local Development Act, Title 62, Sections 850 et seq. of the Oklahoma Statutes (hereinafter, the "Local Development Act"), and to make other recommendations and findings as required by the Local Development Act.

Before an "increment district" may be established, the Local Development Act requires that the City prepare a project plan which must include the following:

1. A description of the proposed boundaries of the district and the proposed boundaries of the project area by legal description and by street or other recognizable physical feature accompanied by a sketch clearly delineating the area in detail;
2. A statement listing the kind, number and location of the proposed public works or improvements, the anticipated private investments and the estimated public revenues which should accrue;
3. A list of estimated project costs including administrative expenses;
4. A general description of the methods of financing the estimated project costs, the expected sources of revenue to finance or pay project costs, and the general time when the costs or monetary obligations related thereto are to be incurred;
5. A map showing existing uses and conditions of real property in the district and a map showing proposed improvements to and proposed uses of that property;
6. Proposed changes in zoning;



7. Proposed changes in the master plan and city ordinances if required to implement the project plan;
8. The name of the person who shall be in charge of the implementation of all of the project plans of the district with such name being forwarded to the Oklahoma Department of Commerce; and
9. A designation of any public entity to be authorized to carry out all or part of the project plan.

This Project Plan was prepared by the staff of the City, with the assistance of the Authority, to present the information required by the Local Development Act in relation to the establishment of “Increment District Number Three, City of Midwest City, Oklahoma” (hereinafter, the “North Side Improvement District”). Any statements contained herein or in the appendices and exhibits hereto, involving matters of opinion, estimates or projections, whether expressly so stated, are intended as such and not as representations of fact. Summaries of documents referred to herein do not purport to be complete or definitive, and all references made to such documents are qualified in their entirety by reference to the complete document. The information contained herein has been compiled from sources believed to be reliable, as of the date hereof. Such information is subject to change and/or correction, at any time prior to the adoption of this Project Plan by the City.

## **I. DESCRIPTION OF THE BOUNDARIES OF THE DISTRICT AND THE PROJECT AREA**

### **A. Boundaries of the District By Legal Description and Street**

The legal description of the North Side Improvement District and a map of the same are attached hereto as Appendix “A”

### **B. Boundaries of the Project Area By Legal Description and Street.**

The legal description of the North Side Improvement District Project Area (hereinafter, the “Project Area”) and a map of the same are attached hereto as Appendix “B”.

## **II. PROPOSED PUBLIC WORKS OR IMPROVEMENTS, ANTICIPATED PRIVATE IMPROVEMENTS, AND ESTIMATED PUBLIC REVENUES**

### **A. Listing of Type and Location of Public Works or Improvements**

The public work or improvements being proposed are, as follows:

*(1) Development Financing Assistance* - The public works or improvements authorized under this Project Plan will include the payment or reimbursement of costs incurred by Global Turbine Services, Inc. (or its affiliate) (hereinafter, “GTS”) for improvements

related to the noise attenuation, landscaping, site development and building costs associated with the testing and manufacturing facilities being constructed by GTS (hereinafter, the “GTS Project Facilities”). Development financing assistance for these improvements will be provided to GTS pursuant to the terms of a “Development Financing Assistance Agreement” (hereinafter, the “GTS Financing Assistance Agreement”), between the Authority and GTS, which agreement will provide for the payment or reimbursement of a portion of the costs associated with these improvements in an amount not to exceed \$1,500,000.

**(2) Off-Site Public Improvements Relating to the GTS Project Facilities** - The public works or improvements authorized under this Project Plan will include the payment for the costs of improving traffic signalization and transportation improvements in the area of the GTS Project Facilities. These improvements will include acquisition and construction of enhanced traffic signalization and roadway striping on N.E. 23rd Street in the areas adjacent to the GTS Project Facilities. In addition, a new EMBARK bus stop may be constructed to serve employees working within the GTS Project Facilities. Project costs under this category include the actual costs of the acquisition, demolition, alteration, remodeling, repair, construction and/or reconstruction of new or existing roadways, traffic signals, bus stop structures and fixtures, and similar public improvements, related common utility or service facilities, related landscaping, clearing and grading of the project site and any environmental remediation related thereto; and professional service costs, including those incurred for architectural, planning, engineering and legal. Project costs under this category are estimated to be \$800,000, with such improvements to be constructed by the City or one of its related public trust authorities.

**(3) Utility Improvements** - Certain of the public works or improvements authorized under this Project Plan will consist of utility improvements and will be necessitated by the construction of the food processing and warehousing facilities to serve Project Oscar (hereinafter, the “Project Oscar Facilities”). Such utility improvements will include the following:

**(i) Sanitary Sewer Extensions** – The infrastructure improvements will include the construction of a sanitary sewer main and branch extensions to serve the Project Oscar Facilities. Project costs under this category include the actual costs of the acquisition, demolition, alteration, remodeling, repair, construction and/or reconstruction of new or existing structures and fixtures, including sewers, similar public improvements, related common utility or service facilities, related landscaping, clearing and grading of the project site and any environmental remediation related thereto; utility relocation costs; and professional service costs, including those incurred for architectural, planning, engineering and legal. Project costs under this category are estimated to be \$1,600,000, with such improvements to be constructed by the City or one of its related public trust authorities.

**(ii) Water Distribution System Improvements** –The infrastructure improvements will include the construction of improvements to the water distribution system within the area of the Project Oscar Facility main line within the Project Area. Project costs under this category include the actual costs of the acquisition,

demolition, alteration, remodeling, repair, construction and/or reconstruction of new or existing structures and fixtures, including water distribution and supply systems, similar public improvements, related common utility or service facilities, related landscaping, clearing and grading of the project site and any environmental remediation related thereto; utility relocation costs; professional service costs, including those incurred for architectural, planning, engineering and legal. Project costs under this category are estimated to be \$1,400,000, with such improvements to be constructed by the City or one of its related public trust authorities.

Project costs under this category include the actual costs of the acquisition, demolition, alteration, remodeling, repair, construction and/or reconstruction of new or existing structures and fixtures; new or existing roadways, including curbing, sidewalks and any similar public improvements, common utility or service facilities; traffic signals, utility structures and fixtures; sanitary sewers and similar public improvements, related common utility or service facilities; water distribution and supply systems, landscaping; parking; water detention/retention systems; retaining walls, clearing and grading of the project site and any environmental remediation related thereto; utility relocation costs; new or existing structures and fixtures; and professional service costs, including those incurred for architectural, planning, engineering and legal.

**(4) Rail System Improvements** - The public works or improvements authorized under this Project Plan will include the payment for the costs of installing a railroad switch or spur to serve the Project Oscar Facilities. “Project costs” under this category include the actual costs of the acquisition, demolition, alteration, remodeling, repair, construction and/or reconstruction of new or existing tracks, railways, roadbeds or overpasses and/or transportation structures, fixtures, and ancillary public improvements, including bridges, sidewalks and any similar public improvements, common utility or service facilities, landscaping, clearing and grading of the project site and any environmental remediation related thereto; utility relocation costs; and professional service costs, including those incurred for architectural, planning, engineering and legal. Project costs under this category are estimated to be \$1,650,000, with such improvements to be constructed by the City or one of its related public trust authorities.

**(5) N.E. 23rd Street Improvements** - The public works or improvements authorized under this Project Plan will include the payment of costs associated with the implementation of the Vision23 Project, which calls for the enhancement and revitalization of N.E. 23rd Street from its intersection with N. Air Depot to its intersection with N. Post Road. This project aims to achieve systemic improvements for the benefit of revitalization of economic development, traffic & pedestrian safety, and to promote better accessibility to commercial businesses. Infrastructure improvements will seek to provide a “pedestrian-friendly environment” through upgraded street lighting and dedicated “safe” crossings at major intersections. Project costs under this category include the actual costs of the acquisition, demolition, alteration, remodeling, repair, construction and/or reconstruction of new or existing structures and fixtures, including streets, bridges and any similar public improvements, common utility or service facilities, related landscaping, parking and water detention/retention systems; the actual cost of the clearing and grading of the project site and any environmental remediation related thereto; utility relocation costs; professional

service costs, including those incurred for architectural, planning, engineering and legal. It is estimated that the Project Costs for the Vision23 project will be approximately \$750,000.00, and would be undertaken by the City and the Authority.

**(6) Financing Costs.** Most of the project costs included in this Project Plan are intended by the Authority to be paid directly from increment revenues generated from the North Side Improvement District or from other funds of the Authority or the City. However, the City and the Authority may decide to finance certain of the costs described above in order to facilitate the completion of one or more projects. “Financing costs” will include all or a portion of the interest paid to holders of bonds, notes or other forms of indebtedness issued to pay for project costs (exclusive of capitalized interest), premiums paid over and above the principal amount for redemption prior to maturity; and fees for bond guarantees, letters of credit and bond insurance, if any. While many of these costs cannot be accurately predicted at this stage, it is estimated that the financing costs relating to such indebtedness will not exceed \$800,000.

**(7) Costs Of Issuance.** - Costs of issuance includes fees and expenses for bond counsel, financial advisor, printing, trustee bank, underwriters counsel and other similar expenses. It is estimated that costs of issuance will not exceed \$100,000.

**(8) Organizational And Direct Administrative Costs** – “Organizational costs” include the direct costs of organizing and implementing this Project Plan, including the costs of conducting any environmental studies, the cost of publicizing the consideration of the project plan, and costs incidental in the creation of the North Side Improvement District for professional services or otherwise. “Direct administrative costs” include reasonable charges for the time spent by employees of the City and the Authority in connection with the supervision and administration of the above-mentioned projects or employees of private entities under contract with a public entity for project planning or implementation; professional service costs, including those incurred for architectural, planning, engineering, legal and financial advice and services. It is estimated that organizational costs will be approximately \$60,000 and direct administrative costs will be approximately \$20,000 per year, totaling \$240,000, over the life of the North Side Improvement District. The total of both Organizational and Direct Administrative Costs is estimated to be \$300,000.

## **B. Anticipated Private Investments**

### Global Turbine Services, Inc.

Global Turbine Services, Inc. (“GTS”) has proposed the construction of testing and manufacturing facility consisting of multiple buildings, which aggregate approximately 325,000 square feet to be constructed in three phases (the “GTS Project Facilities”). In the first phase, GTS would construct a 25,000 square foot jet engine test cell facility capable of testing military and civilian engines prior to installation. This facility would employ approximately 30 people from around central Oklahoma, including the City. The Company estimates that it will begin construction of this phase in November, 2022, with completion estimated by August, 2024.



The second phase of the GTS Project Facilities will consist of a 150,000 square foot maintenance, repair and overhaul building, with approximately 10% of such being devoted to administrative office space. Such facilities would allow GTS to hire an additional 120 persons. Construction of this phase is estimated to begin in July, 2023 and be completed no later than July, 2025.

The third phase of the GTS Project Facilities is expected to consist of another 150,000 square foot maintenance, repair and overhaul building which will require the company to hire an additional 140 employees. Construction of this third phase is estimated to begin in July, 2024 and be completed no later than July, 2026.

The total potential investment from all three phases is estimated to be between \$25,000,000 and \$60,000,000. The estimated total annual payroll for all three phases is \$13,000,000 based upon 200 full-time equivalent employees earning an average of \$65,000.00 per year.

### Project Oscar

The City is currently in negotiations with a company that is seeking a location for a 55,000 square foot food processing facility. Such a facility would employ at least 90 employees and grow over time to employ a total of 150 people. If the company locates in Midwest City, construction would be expected to begin not later than December of this year, with completion estimated for December, 2023. Average wages for employees are expected to total \$52,000 per year.

### Vision23

The City anticipates that the improvements it will make to N.E. 23rd Street in connection with the Vision23 project will attract new private investment from both current and future business owners along the N.E. 23rd Street corridor. While no estimate can be made as to the amount of private investment that will be made in the next five-to-ten-year period, the City believes that this new private investment will range between \$1 to \$10.5 million dollars within the boundaries of the North Side Improvement District in the coming years.

## **C. Estimated Public Revenues**

The City estimates that the public works or improvements described herein will result in increases in not only municipal sales taxes collected within the North Side Improvement District, but in other types of tax revenues as well, such as ad valorem taxes. These public revenues are estimated to accrue, as follows:

**(1) Ad Valorem Taxes** - The estimates regarding increases in ad valorem taxes are based upon the following assumptions:

Real Property Taxes. Based upon an assessment ratio of eleven percent (11%) for real property, and an average tax rate of \$120 dollars per thousand (120 mills), it is estimated that real property ad valorem revenues generated by the new investment within the North Side Improvement District will increase by between \$8,491 to \$1,314,705 per year. These increases in new real property ad valorem revenues are

expected to total approximately \$11,528,143 over the twelve (12) year expected term of the North Side Improvement District.

Personal Property Taxes. Based upon an assessment ratio of thirteen and three-quarters percent (13.75%) for business personal property, and an average tax rate of \$120.00 dollars per thousand (120 mills), it is estimated that ad valorem revenues generated from the installation of personal property within the North Side Improvement District will increase by between \$1,000 to \$15,000 per year. These increases in new business personal ad valorem revenues are expected to total approximately \$120,000 over the twelve (12) year expected term of the North Side Improvement District.

**(2) City Sales and Use Taxes -** The City currently levies sales and use taxes in the amount of four and 60/100 cents (\$0.046) per dollar of taxable sales. The City estimates that, based upon the current City sales and use tax rates, economic activity within the North Side Improvement District will generate an annual increase in City sales and use tax revenue of between \$1,000 to \$5,000 per year, and is expected to generate approximately \$30,000 in new sales and use tax revenues for the City over the twelve (12) year term of the North Side Improvement District. **(Note: This Project Plan does not authorize or contemplate the apportionment of City sales and use taxes revenues generated within the North Side Improvement District for the payment of any project costs described herein.)**

### III. LISTING OF ESTIMATED PROJECT COSTS AND ADMINISTRATIVE EXPENSES

1. Development Financing Assistance -	\$ 1,500,000
2. Off-Site Public Improvements	800,000
3. Utility Improvements:	
Sanitary Sewer Improvements	1,600,000
Water Distribution System Improvements	1,400,000
4. Rail System Improvements	1,650,000
5. N.E. 23rd Street Improvements	750,000
6. Financing Costs	800,000
7. Costs of Issuance	100,000
8. Organizational and Direct Administrative Costs	<u>300,000</u>
Total	\$ 8,900,000

### IV. METHODS OF FINANCING PROJECT COSTS, EXPECTED SOURCES OF REVENUES, AND TIME WHEN COSTS OR MONETARY OBLIGATIONS ARE TO BE INCURRED

#### A. Methods of Financing

It is expected that all project costs described above (except for principal, uncanceled interest payments and redemption premiums, if any, paid on any tax apportionment bonds or notes) will be paid from one of the following sources:

- (i) from increment revenues generated within the North Side Improvement District;
- (ii) from such other funds of the City or the Authority as may be lawfully used for the purposes hereinabove stated; and/or
- (ii) from proceeds from the “Midwest City Economic Development Authority Tax Apportionment Note, Series 20xx (North Side Improvement District Project)” (hereinafter, the “Series 20xx Note”).

## **B. Expected Sources of Revenues**

The payment or reimbursement of project costs will be made from following source(s) of revenues:

**(1) Ad Valorem Taxes** - In accordance with the provisions of the Local Development Act, increments of ad valorem taxes generated within the North Side Improvement District, as such increments are determined and defined by the Local Development Act, are to be apportioned and set aside from all other ad valorem taxes levied within the North Side Improvement District, to be used exclusively for:

- (i) the payment of “project costs” incurred in connection with the development or construction of those projects listed in this Project Plan;
- (ii) the reimbursement of the City, or any agency thereof (including the Authority), which has paid “project costs” from funds which were not increments derived from the North Side Improvement District, but only to the extent that such sums were actually paid; and
- (iii) the payment of principal, interest and premium, if any, on the Series 20xx Note, issued pursuant to Section 863 of the Local Development Act.

(Such revenues being hereinafter referred to as the “Ad Valorem Increment Revenues”).

The apportionment of Ad Valorem Increment Revenues pursuant to this section shall terminate upon the final payment of, or reimbursement for, all “project costs” incurred in connection with the projects listed in this Project Plan, and the payment of all outstanding principal and accrued interest due on any “tax apportionment bonds or notes” issued hereunder; provided, however, that in no case shall the apportionment of revenues pursuant hereto extend beyond twelve (12) years from the Effective Date (hereinafter defined) of the North Side Improvement District.

In the event that a portion of the principal of or interest on any “tax apportionment bonds or notes” issued in connection herewith, remains unpaid as of the twelfth (12th) anniversary

of the Effective Date of this Project Plan, then, the North Side Improvement District shall not terminate until the Ad Valorem Increment Revenues apportioned during the twelfth (12th) year are actually received by the Apportionment Fund, even if the receipt of such revenues occurs subsequent to the twelfth (12th) anniversary of the Effective Date of this district.

Pursuant to the Local Development Act, the Ad Valorem Increment Revenues apportioned hereunder shall be transferred by the respective taxing authorities to a special fund to be known as the “North Side Improvement District Apportionment Fund” (hereinafter, the “Apportionment Fund”), which fund will be held by and be the property of, the Midwest City Economic Development Authority (the “Authority”) (except that such fund may also be held by a trustee acting on behalf of the Authority). No portion of such revenues and no portion of the Apportionment Fund shall constitute a part of the general fund of the City. All Ad Valorem Increment Revenues so collected shall be placed into a separate account created within the Apportionment Fund and used to pay “project costs” described herein. Such account may also be pledged as security for the payment of the Series 20xx Note, if issued. (Such account being hereinafter referred to as the “Ad Valorem Increment Revenue Account”).

**(2) State of Oklahoma Reimbursement Fund Revenues.** To the extent that: (a) one or more private entities located within the North Side Improvement District applies for and receives an exemption from the payment of ad valorem taxes pursuant to Article X, Section 6B of the Oklahoma Constitution relating to exemptions for “qualified manufacturing concerns”; (b) an application is made for reimbursement of ad valorem tax revenues lost by virtue of such exemption from the State of Oklahoma’s Ad Valorem Reimbursement Fund, pursuant to Title 62, Section 193 of the Oklahoma Statutes; and (c) such application is approved by the Oklahoma Tax Commission, then, in that event, revenues received from the Ad Valorem Reimbursement Fund (hereinafter, the “Reimbursement Revenues”), are also to be apportioned and set aside from other revenues, and, pursuant to the provisions of Title 62, Section 193 of the Oklahoma Statutes, used to the same extent and in the same manner as other ad valorem taxes which are collected within the North Side Improvement District for:

(i) the payment of “project costs” incurred in connection with the development or construction of those projects listed in this Project Plan; and

(ii) the reimbursement of the City, or any agency thereof (including the Authority), which has paid “project costs” from funds which were not increments derived from the North Side Improvement District, but only to the extent that such sums were actually paid.

(iii) the payment of principal, interest and premium, if any, on the Series 20xx Note, issued pursuant to Section 863 of the Local Development Act.

The apportionment of Reimbursement Revenues pursuant to this section shall terminate upon the final payment of, or reimbursement for, all “project costs” incurred in connection with the projects listed in this Project Plan, and the payment of all outstanding principal

and accrued interest due on any “tax apportionment bonds or notes” issued hereunder; provided, however, that in no case shall the apportionment of revenues pursuant hereto extend beyond twelve (12) years from the Effective Date (hereinafter defined) of the North Side Improvement District.

In the event that a portion of the principal of or interest on any “tax apportionment bonds or notes” issued in connection herewith, remains unpaid as of the twelfth (12th) anniversary of the Effective Date of this Project Plan, then, the North Side Improvement District shall not terminate until the Reimbursement Revenues apportioned during the twelfth (12th) year are actually received by the Apportionment Fund, even if the receipt of such revenues occurs subsequent to the twelfth (12th) anniversary of the Effective Date of this district.

Pursuant to the Local Development Act, the Reimbursement Revenues apportioned hereunder shall be transferred by the respective taxing authorities to the Apportionment Fund. No portion of such revenues and no portion of the Apportionment Fund shall constitute a part of the general fund of the City. All Ad Valorem Increment Revenues so collected shall be placed into a separate account created within the Apportionment Fund and used to pay “project costs” described herein. Such account may also be pledged as security for the payment of the Series 20xx Note, if issued. (Such account being hereinafter referred to as the “Reimbursement Revenue Account”).

**C. Time When Costs Or Monetary Obligations Are To Be Incurred.**

Except as otherwise provided, all costs associated with the projects described herein (with the exception of financing costs) will be incurred within thirty-six (36) months of the Effective Date of the North Side Improvement District. Financing costs, if any will be incurred during the remaining term of the North Side Improvement District.

**D. Distribution of Revenues.**

During the term of the North Side Improvement District, all Ad Valorem Increment Revenues and Reimbursement Revenues (hereinafter, collectively, the “Apportioned Revenues”) will be used, as follows:

FIRST, to pay principal and interest next due on the Series 20xx Note, if issued;

SECOND, to pay “project costs” as described herein;

THIRD, to pay any unreimbursed “project costs” which were not otherwise financed through the Series 20xx Note, and which had been previously incurred by the Authority or the City; and

FOURTH, the balance shall be used to prepay the principal outstanding under the Series 2017A Note prior to its scheduled maturity.



**V. MAP OF EXISTING USES AND CONDITIONS;  
MAP OF PROPOSED IMPROVEMENTS AND USES**

See Appendix No. “C” for a map showing the existing uses and conditions of the property within the North Side Improvement District. See Appendix No. “D” for a map showing the proposed improvements and uses.

**VI. PROPOSED CHANGES IN ZONING**

It is anticipated that the site of Project Oscar will need to be amended from “Agricultural” to “PUD District”. No other changes in zoning are anticipated at this time.

**VII. PROPOSED CHANGES IN THE MASTER PLAN AND CITY  
ORDINANCES IF REQUIRED TO IMPLEMENT THE PROJECT PLAN**

Section 854.13 of the Local Development Act confers the power to the City to, “[a]dopt ordinances or resolutions or repeal or modify such ordinances or resolutions or establish exceptions to existing ordinances and resolutions regulating the design, construction, and use of buildings.” As noted above, the City Council of the City may find it necessary or convenient to modify current zoning ordinances to bring them into alignment with the City’s development plans for the North Side Improvement District.

**VIII. NAME OF PERSON IN CHARGE OF IMPLEMENTATION  
OF THE PROJECT PLAN OF THE DISTRICT**

The General Manager/Administrator of the Authority shall be the person in charge of the implementation of the plan in accordance with the provisions, authorization, and respective delegations of responsibilities contained herein.

**IX. DESIGNATION OF PUBLIC ENTITY AUTHORIZED  
TO CARRY OUT ALL OR A PART OF THE PROJECT PLAN**

The Midwest City Economic Development Authority (the “Authority”) is designated and authorized as the public entity to carry out and administer the provisions of this Project Plan and to exercise all powers deemed necessary and appropriate for public trusts as set forth in the Local Development Act, including the right to make minor amendments to the Project Plan. For these purposes, an amendment shall be considered to be “minor” if: (i) such amendment does not change the character or purpose of the Project Plan; (ii) does not affect more than five percent (5%) of the North Side Improvement District’s area; or (iii) does not affect more than five percent (5%) of the public costs of the plan to be financed by apportioned tax increments, all as determined on a cumulative basis. The Authority is further authorized and designated to carry out those provisions of this Project Plan related to issuance of “tax apportionment bonds or notes” as provided in Section 863 of the Local Development Act, subject to approval of the governing body of the City of any specific notes or bonds.

**X. EFFECTIVE DATE**

The North Side Improvement District shall commence on September 1, 2022, or the effective date of the Ordinance approving this Project Plan and establishing North Side Improvement District, whichever is later (herein, the “Effective Date”).

**APPENDIX “A”**

**LEGAL DESCRIPTION AND SKETCH OF  
INCREMENT DISTRICT NUMBER THREE,  
CITY OF MIDWEST CITY, OKLAHOMA  
(NORTH SIDE IMPROVEMENT DISTRICT)**

The North Side Improvement District is a tract located in Sections 15, 22, 24, 25, 26 and 27, Township 12 North Range 2 West, more particularly described as follows:

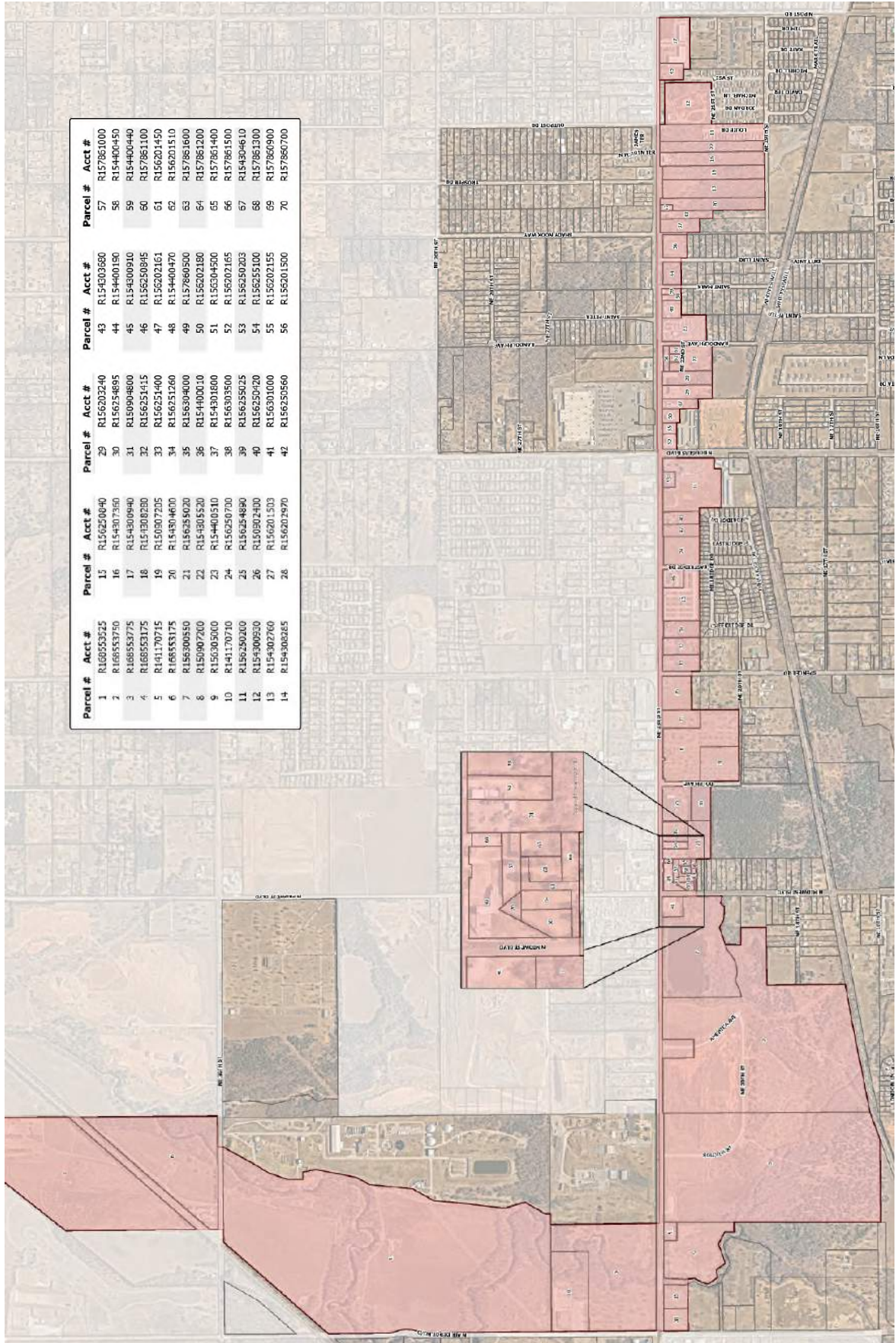
BEGINNING at the Southeast Corner of the Southwest Quarter of Section 15, Township 12 North, Range 2 West of the Indian Meridian; THENCE, north along the East line of the Southwest Quarter to the Northeast Corner of said Southwest Quarter of Section 15; THENCE, west along the North line of said Southwest Quarter a distance of approximately 700 feet; THENCE, Southwesterly to a point on the West line of the East half of said Southwest Quarter that is 1,900 feet north of the Southwest Corner of said Southwest Quarter; THENCE, south along the West line of the East half of the Southwest Quarter to the Southwest Corner of the Southeast Quarter of the Southwest Quarter; THENCE, west along the North line of Section 22 a distance of approximately 290 feet to a point of intersection with the North line of the Railroad Right-of-Way; THENCE, southwesterly along the West line of the Railroad Right-of-Way to a point where the West line of the Railroad Right-of-Way intersects with the East Right-of-Way line of Air Depot Boulevard; THENCE, south along the East Right-of-Way line of Air Depot Boulevard to a point where the East Right-of-Way line intersects with the North line of Section 27; THENCE, south along the East Right-of-Way line of Air Depot Boulevard a distance of 330 feet; THENCE, east and parallel with the North line of said Section 27 a distance of 315 feet to the intersection of such line with the centerline of Crutch Creek; THENCE, south and southeasterly along the centerline of Crutch Creek to a point where the centerline of Crutch Creek intersects with the East line of the East half of Section 27, said intersection being approximately 895 feet south of the North line of Section 27; THENCE, south along the East line of the East half of Section 27 to the Southwest Corner of the Northwest Quarter of Section 27; THENCE, east along the South line of the North half of Section 27 to a point where such line intersects the North line of the Railroad Right-of-Way; THENCE, northeasterly along said North line of the Railroad Right-of-Way to the Southeast Corner of Lot 11, Block 3 in the KANALY’S NORTHEAST 23RD STREET ADDITION; THENCE, north along the West line of said Lot 11, Block 3 to the Northwest Corner of Lot 11, Block 2 of KANALY’S NORTHEAST 23RD STREET ADDITION; THENCE, east along the North line of KANALY’S NORTHEAST 23RD STREET ADDITION to a point which is 427 feet west of the East line of the Northeast Quarter of Section 27; THENCE, north 306 feet along the East line of said Northeast Quarter; THENCE, west and parallel to the South line of said Northeast Quarter a distance of 219 feet; THENCE, north and parallel to the East line of said Northeast Quarter approximately 200 feet to the centerline of Soldier Creek; THENCE, northeasterly along said centerline approximately 678 feet to the East line of Section 27; THENCE, north along the East line of Section 27 to a point which is approximately 413 feet south of the Northeast Corner of Section 27; THENCE, easterly and parallel to the North line of Section 26 to a point which is 420.1 feet east of the West line of Section 26 and 413 feet south of the North line of

Section 26; THENCE, south and parallel to the West line of Section 26 a distance of 213 feet; THENCE, east and parallel to the North line of Section 26 where such line intersects with the West line of Block 4 of the DICKSON HEIGHTS ADDITION; THENCE, south along the West line of the DICKSON HEIGHTS ADDITION to the Southwest Corner of Block 4 of the DICKSON HEIGHTS ADDITION; THENCE, east along the South line of Blocks 4 and 5 of the DICKSON HEIGHTS ADDITION to the Southeast Corner of said Block 5; THENCE, north along the East line of Block 5 of the DICKSON HEIGHTS ADDITION to a point that is 100 feet north of the Southeast corner of Block 2 of the DICKSON HEIGHTS ADDITION; THENCE, east and parallel to the South line of Block 1 of the DICKSON HEIGHTS ADDITION to a point where such line intersects with the East Right-of-Way line of Spencer Rd.; THENCE, south along the East Right-of-Way line of Spencer Rd. a distance of 100 feet; THENCE, east and parallel to the North line of Section 26 to a point which is 515 feet west of the East line of Section 26; THENCE, south and parallel to the East line of Section 26 a distance of 259.75 feet; THENCE, east and parallel to the North line of Section 26 a distance of 465 feet; THENCE, north and parallel to the East line of Section 26 a distance of 85 feet; THENCE, east and parallel to the North line of Section 26 to a point on the East Right-of-Way line of Section 26; THENCE, north along the East line of Section 26 to a point which is 225 feet south of the North line of Douglas Blvd.; THENCE, east and parallel to the North line of Section 26 and Section 25 a distance of 367 feet; THENCE, south and parallel to the West line of Section 25 a distance of 40 feet; THENCE, east and parallel to the North line of Section 25 a distance of 170 feet; THENCE, south and parallel to the West line of Section 25 a distance of 230 feet; THENCE, east and parallel to the North line of Section 25 a distance of 122.36 feet; THENCE, south and parallel to the West line of Section 25 a distance of 165 feet; THENCE, east and parallel to the North line of Section 25 to a point on the West Right-of-Way line of Randolph Ave.; THENCE, north and parallel to the West line of Section 25 a distance of 70 feet; THENCE, east and parallel to the North line of Section 25 to the Southwest Corner of Block 3, Lot 13 of KANALY'S SECOND NORTHEAST 23RD STREET ADDITION; THENCE, east along the South line of said Lot 13 to the Southeast Corner of said Lot 13; THENCE, north along the East line of Lots 13, 12, 11 & 10 of Block 3 of KANALY'S SECOND NORTHEAST 23RD STREET ADDITION to a point on the South line of Lot 5 of Block 3 of KANALY'S SECOND NORTHEAST 23RD STREET ADDITION; THENCE, east along the South line of Lots 5, 4, 3, 2 and 1 to the Southeast Corner of Lot 1 of Block 3 of KANALY'S SECOND NORTHEAST 23RD STREET ADDITION; THENCE, east from the Southeast corner of Block 3, Lot 1 KANALY'S SECOND NORTHEAST 23RD STREET ADDITION a distance of approximately 50 feet to the Southwest Corner of Block 2, Lot 4 of KANALY'S SECOND NORTHEAST 23RD STREET ADDITION; THENCE, east along the South line of Lots 4, 3, 2, and 1 of Block 2 KANALY'S SECOND NORTHEAST 23RD STREET ADDITION to the Southeast Corner of Block 2, Lot 1 of KANALY'S SECOND NORTHEAST 23RD STREET ADDITION; THENCE, east a distance of approximately 50 feet to the Southwest Corner of Block 1, Lot 4 KANALY'S SECOND NORTHEAST 23RD STREET ADDITION; THENCE, south a distance of 75 feet to the Southwest Corner of Lot 5 of Block 1 of KANALY'S SECOND NORTHEAST 23RD STREET ADDITION; THENCE, east along the South line of Lot 5 of Block 1 of KANALY'S SECOND NORTHEAST 23RD STREET ADDITION to the Southeast corner of said Lot 5; THENCE, east and parallel to the North line of Section 25 to a point on the West line

of Block 4 of MINTON'S ORCHARD PARK ADDITION; THENCE, south along the West line of Block 4 of MINTON'S ORCHARD PARK ADDITION to a point which is 475 feet south of the Northwest Corner of said Block 4; THENCE, east and parallel to the North line of Block 4 of MINTON'S ORCHARD PARK ADDITION a distance of 165 feet; THENCE, south and parallel to the West line of Block 4 of MINTON'S ORCHARD PARK ADDITION a distance of 160 feet; THENCE, east and parallel to the North line of Block 4 of MINTON'S ORCHARD PARK ADDITION a distance of 99 feet; THENCE, south to a point on the centerline of N.E. 19th Street; THENCE, east along the centerline of N.E. 19th Street to the Southeast Corner of Block 6 of MINTON'S ORCHARD PARK ADDITION; THENCE, north along the East line of Block 1 of MINTON'S ORCHARD PARK ADDITION a distance of 633.5 feet; THENCE, east and parallel to the North line of Block 2 of MINTON'S ORCHARD PARK ADDITION a distance of 497 feet; THENCE, north and parallel to the East line of Block 2 of MINTON'S ORCHARD PARK ADDITION a distance of 266.5 feet; THENCE, east and parallel to the North line of Blocks 1 and 2 of MINTON'S ORCHARD PARK ADDITION to a point on the East line of said Block 1; THENCE, north along the East line of Block 1 of MINTON'S ORCHARD PARK ADDITION to the Northeast Corner of said Block 1; THENCE, north and parallel to the East line of Section 25 to a point where such line intersects the North line of Section 25; THENCE, west along the North line of Sections 25, 26 and 27 to the Southeast Corner of the Southwest Quarter of the Southwest Quarter of Section 22; THENCE, north along the East line of the Southwest Quarter of the Southwest Quarter of Section 22 to the Northeast Corner of the Southwest Quarter of the Southwest Quarter of Section 22; THENCE, east along the South line of the North Half of the Southwest Quarter of Section 22 to the Southeast Corner of the North Half of the Southwest Quarter of Section 22; THENCE, north along the East line of the West Half of Section 22 to the POINT OF BEGINNING.

A map of the boundaries of the North Side Improvement District is attached below:





Parcel #	Acct #	Parcel #	Acct #	Parcel #	Acct #	Parcel #	Acct #
1	R168533225	15	R156250640	29	R156202240	43	R154003680
2	R168533750	16	R154307350	30	R156254695	44	R154001190
3	R168533775	17	R154300940	31	R150904800	45	R154000910
4	R168533175	18	R151308290	32	R156251415	46	R156250945
5	R141170715	19	R150307205	33	R156251400	47	R156201450
6	R168533175	20	R143304000	34	R156251260	48	R154400470
7	R156300550	21	R156258020	35	R156304000	49	R157860150
8	R150307200	22	R154305520	36	R154400010	50	R156202180
9	R150303000	23	R154400510	37	R154301800	51	R155204950
10	R141170710	24	R156250730	38	R156303500	52	R155202165
11	R156250200	25	R156254940	39	R156258025	53	R154304610
12	R154300930	26	R150302400	40	R156250200	54	R155255100
13	R154302760	27	R156201503	41	R156301000	55	R155202155
14	R154308285	28	R156207870	42	R156350560	56	R155201500
						57	R157861000
						58	R154400450
						59	R154400440
						60	R157861100
						61	R156201450
						62	R156201510
						63	R157861600
						64	R157861200
						65	R157861400
						66	R157861500
						67	R154304610
						68	R157861300
						69	R157860900
						70	R157860700

**APPENDIX “B”**

**LEGAL DESCRIPTION AND SKETCH OF  
PROJECT AREA RELATING TO  
INCREMENT DISTRICT NUMBER THREE,  
CITY OF MIDWEST CITY, OKLAHOMA  
(NORTH SIDE IMPROVEMENT DISTRICT)**

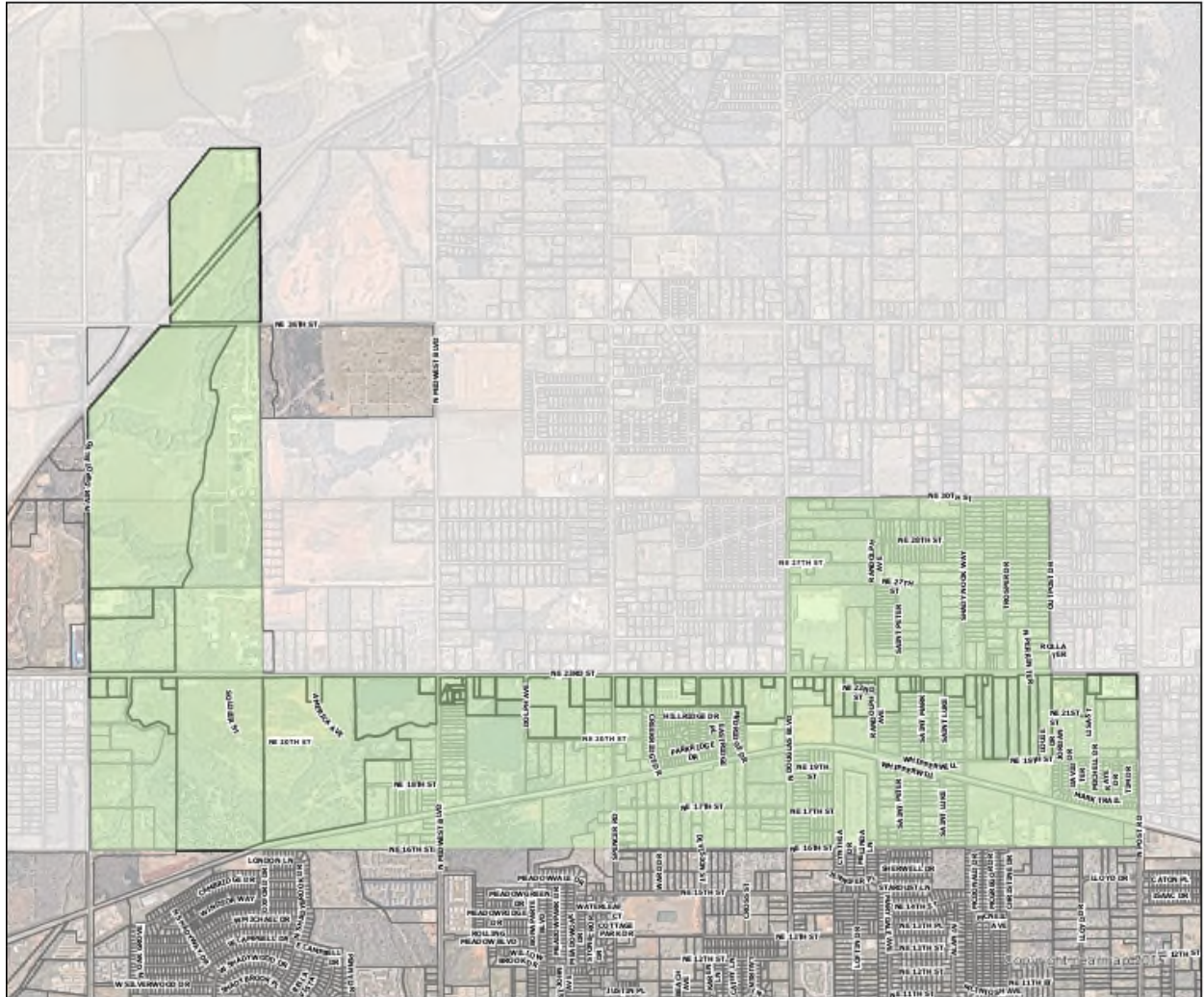
The Project Area relating to the North Side Improvement District is a tract located in Sections 15, 22, 24, 25, 26 and 27, Township 12 North Range 2 West, more particularly described as follows:

BEGINNING at the Southeast Corner of the Southwest Quarter of Section 15, Township 12 North, Range 2 West of the Indian Meridian; THENCE, north along the East line of the Southwest Quarter to the Northeast Corner of said Southwest Quarter; THENCE, west along the North line of said Southwest Quarter a distance of approximately 700 feet; THENCE Southwesterly to a point on the West line of the East half of said Southwest Quarter that is 1900 feet north of the Southwest Corner of said Southwest Quarter; THENCE south along the West line of said East half of the Southwest Quarter to the Southwest Corner of the Southeast Quarter of the Southwest Quarter; THENCE, west along the North line of Section 22 a distance of approximately 290 feet to a point of intersection with the North line of the Railroad Right-of-Way; THENCE, southwesterly along the North line of the Railroad Right-of-Way to a point which is 33 feet east of the West line of Section 22; THENCE, south and parallel to the West line of Section 22 to a point which is 33 feet north and 33 feet east of the Southwest Corner of Section 22; THENCE, west a distance of 33 feet to the West line of Section 22; THENCE, south a distance of 33 feet to the Southwest Corner of Section 22; THENCE, south along the West line of Section 27 to the Southwest Corner of the North half of Section 27; THENCE, east along the South line of the North half of Section 27 to the Southeast Corner of the North half of Section 27; THENCE, east along the South line of the North half of Section 26 to the Southeast Corner of the North half of Section 26; THENCE, east along the South line of the North half of Section 25 to the Southeast Corner of the North half of Section 25; THENCE, north along the East line of Section 25 to a point which is 33 feet south of the Northeast Corner of Section 25; THENCE, west and parallel to the North line of Section 25 to a point which is 33 feet south of the Northwest Corner of the East half of the East half of Section 25; THENCE, north along the East line of the East half of the East half of Section 25 a distance of 33 feet to the North line of Section 25; THENCE, north along the East line of the West half of the East half of Section 24 (also being the centerline of Outpost Drive) to the Northeast Corner of the West half of the Southeast Quarter of Section 24; THENCE, west along the North line of the South half of Section 24 to the Northwest Corner of the Southwest Quarter of Section 24; THENCE, south along the West line of Section 24 (also being the centerline of North Douglas Boulevard) to the Southwest Corner of Section 24; THENCE, west along the North line of Section 26 (also being the centerline of N.E. 23rd Street) to the Northwest Corner of Section 26; THENCE, west along the North line of Section 27 (also being the centerline of N.E. 23rd Street) to the Northwest Corner of the Northeast Quarter of Section 27; THENCE, north along the East line of the West half of Section 22, to the Point of Beginning.



A map of the Project Area of the North Side Improvement District is attached below:

North Side Improvement District - Project Area Boundary



**APPENDIX “C”**

**MAPS SHOWING EXISTING USES AND CONDITIONS**

APPENDIX "C"

MAPS SHOWING EXISTING USES AND CONDITIONS

**City of Midwest City North Side Improvement District**  
 Existing Uses as of May 12, 2022: North Half of Section 27, Township 12 North, Range 2 West

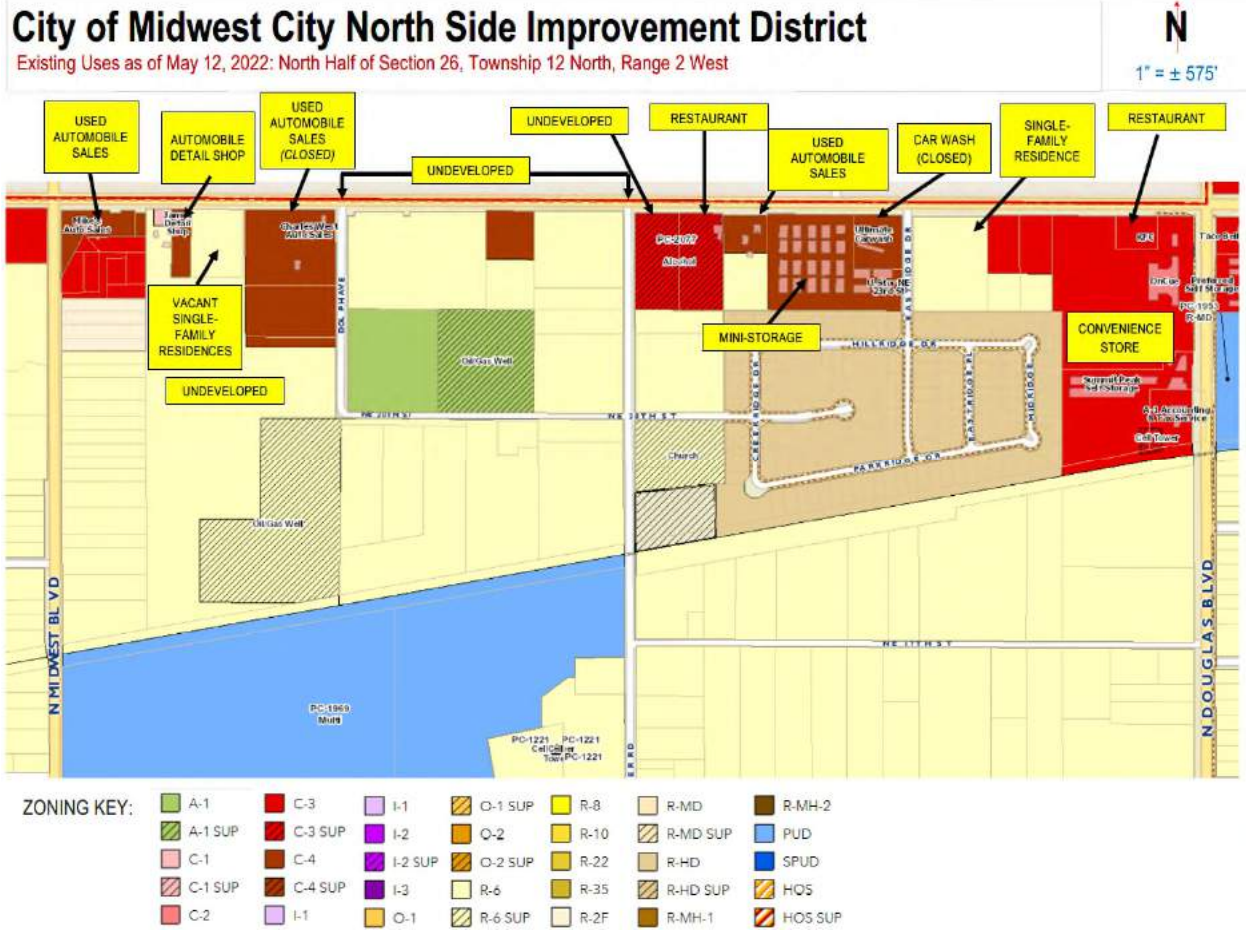
  
 1" = ± 575'

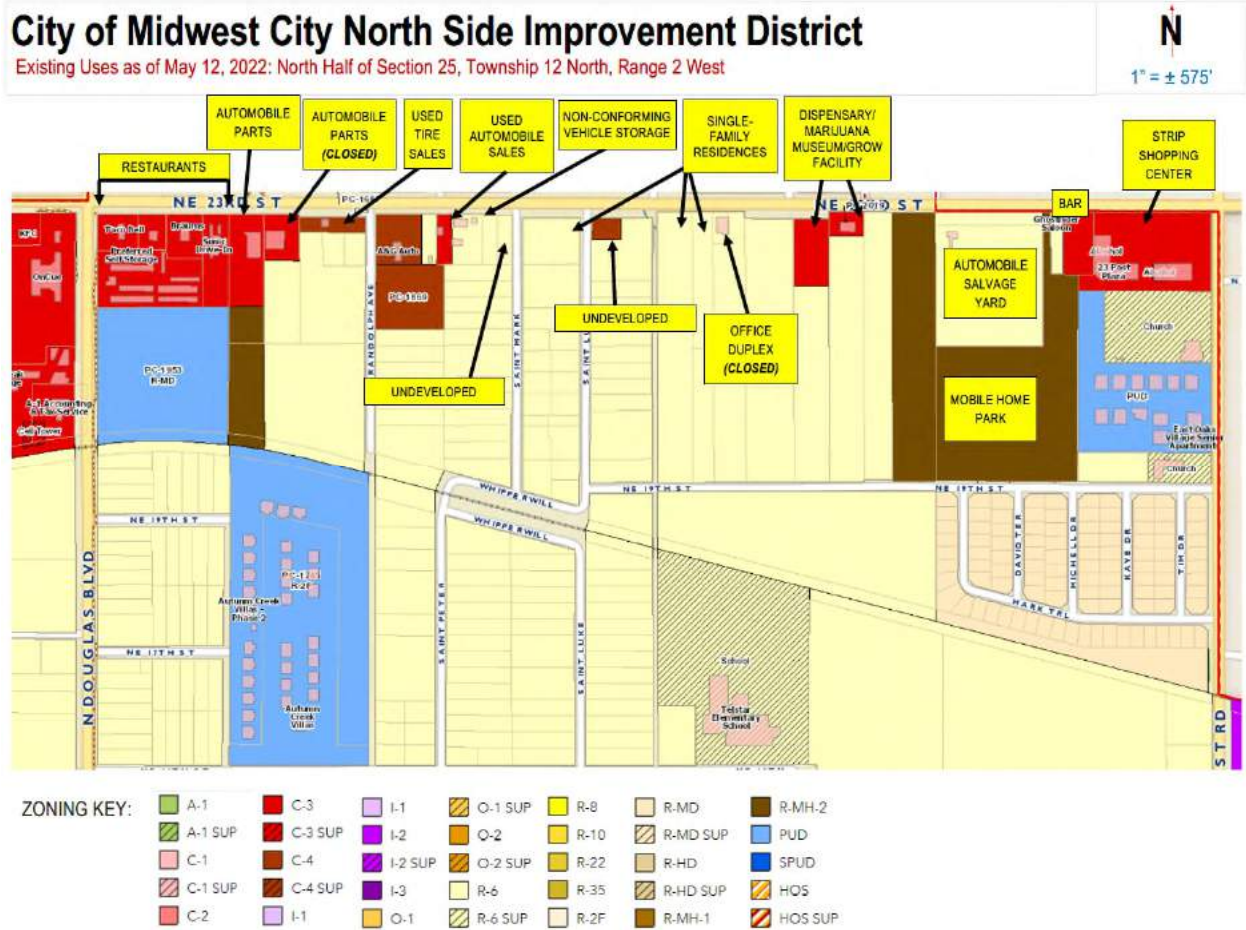


ZONING KEY:

A-1	C-3	I-1	O-1 SUP	R-8	R-MD	R-MH-2
A-1 SUP	C-3 SUP	I-2	O-2	R-10	R-MD SUP	PUD
C-1	C-4	I-2 SUP	O-2 SUP	R-22	R-HD	SPUD
C-1 SUP	C-4 SUP	I-3	R-6	R-35	R-HD SUP	HOS
C-2	I-1	O-1	R-6 SUP	R-2F	R-MH-1	HOS SUP







# City of Midwest City North Side Improvement District

Existing Uses as of May 12, 2022: Part of the South Half of Section 24, Township 12 North, Range 2 West



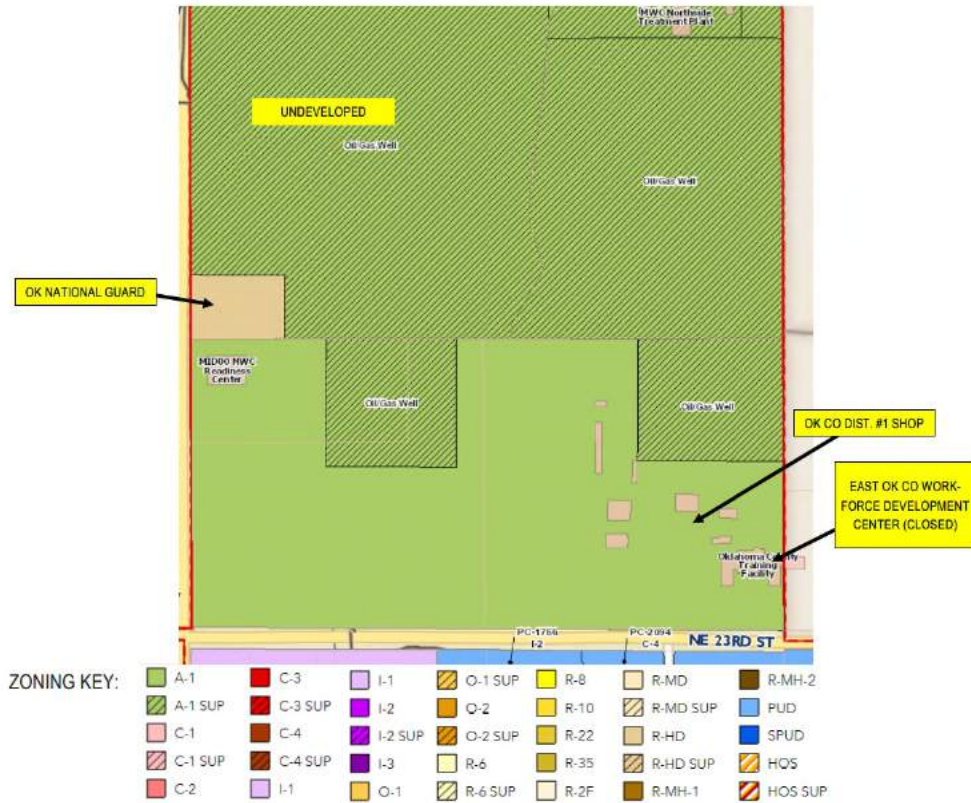
ZONING KEY:

A-1	C-3	I-1	O-1 SUP	R-8	R-MD	R-MH-2
A-1 SUP	C-3 SUP	I-2	O-2	R-10	R-MD SUP	PUD
C-1	C-4	I-2 SUP	O-2 SUP	R-22	R-HD	SPUD
C-1 SUP	C-4 SUP	I-3	R-6	R-35	R-HD SUP	HOS
C-2	I-1	O-1	R-6 SUP	R-2F	R-MH-1	HOS SUP

# City of Midwest City North Side Improvement District

Existing Uses as of May 12, 2022: Part of the South Half of Section 22, Township 12 North, Range 2 West

N  
 1" = ± 555'



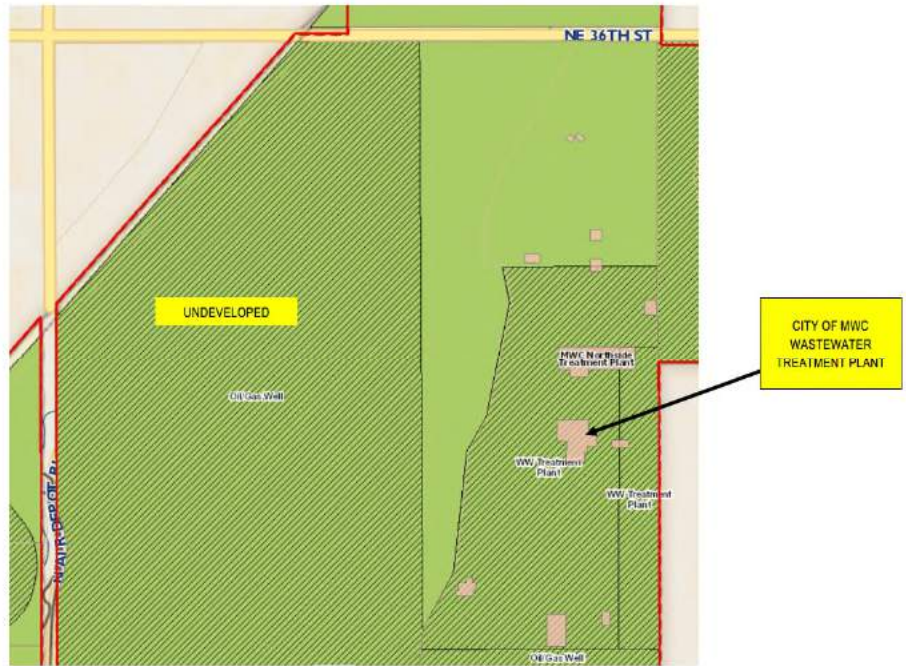


# City of Midwest City North Side Improvement District

Existing Uses as of May 12, 2022: Part of the North Half of Section 22, Township 12 North, Range 2 West



1" = ± 545'



ZONING KEY:

A-1	C-3	I-1	O-1 SUP	R-8	R-MD	R-MH-2
A-1 SUP	C-3 SUP	I-2	O-2	R-10	R-MD SUP	PUD
C-1	C-4	I-2 SUP	O-2 SUP	R-22	R-HD	SPUD
C-1 SUP	C-4 SUP	I-3	R-6	R-35	R-HD SUP	HOS
C-2	I-1	O-1	R-6 SUP	R-2F	R-MH-1	HOS SUP



# City of Midwest City North Side Improvement District

Existing Uses as of May 12, 2022: Part of the West Half of Section 15, Township 12 North, Range 2 West

N  
 1" = ± 515'



ZONING KEY:

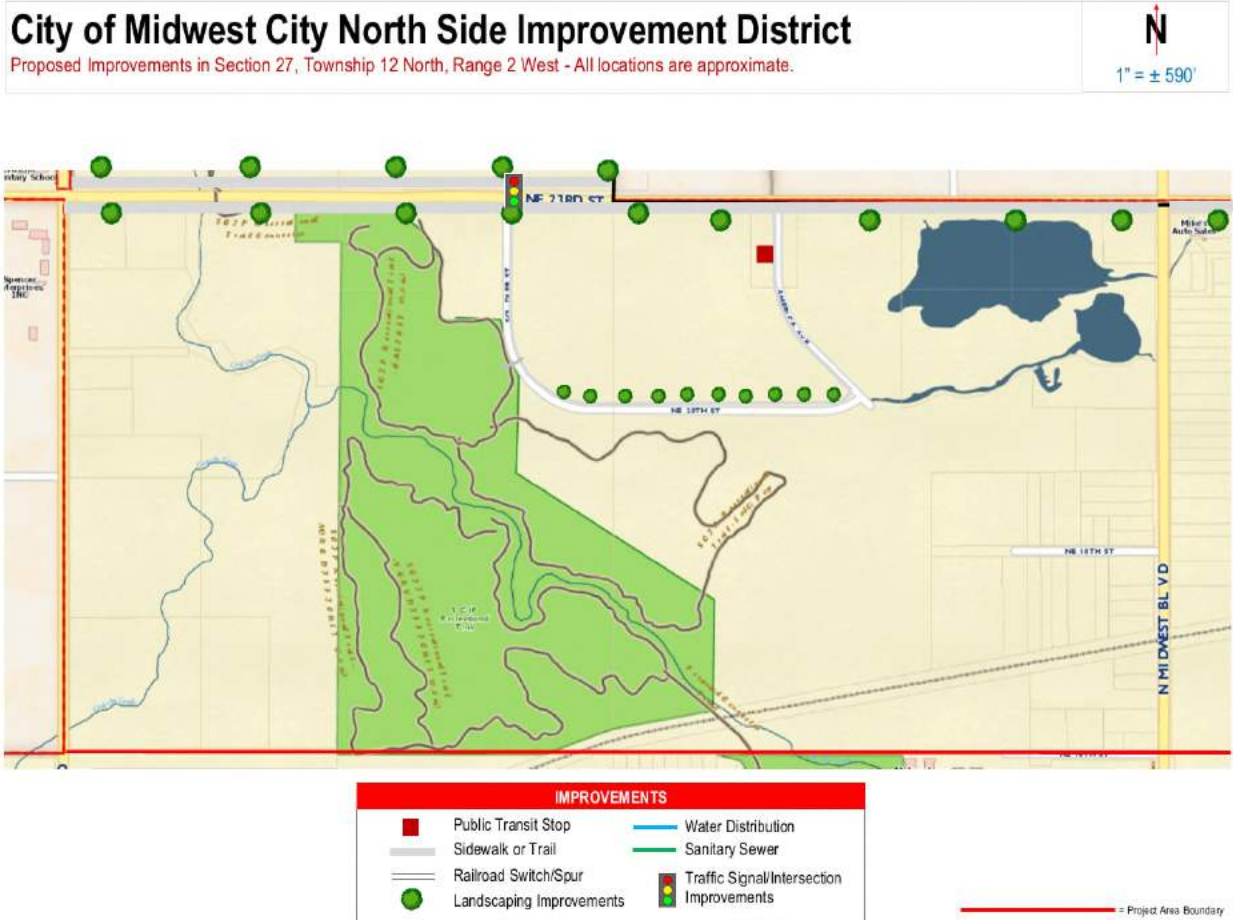
A-1	C-3	I-1	O-1 SUP	R-8	R-MD	R-MH-2
A-1 SUP	C-3 SUP	I-2	O-2	R-10	R-MD SUP	PUD
C-1	C-4	I-2 SUP	O-2 SUP	R-22	R-HD	SPUD
C-1 SUP	C-4 SUP	I-3	R-6	R-35	R-HD SUP	HQS
C-2	I-1	O-1	R-6 SUP	R-2F	R-MH-1	HQS SUP

**APPENDIX “D”**

**MAPS SHOWING PROPOSED IMPROVEMENTS AND USES**

**APPENDIX "D"**

**MAPS SHOWING PROPOSED IMPROVEMENTS AND USES**



## City of Midwest City North Side Improvement District

Proposed Improvements in Section 26, Township 12 North, Range 2 West - All locations are approximate.

N

1" = ± 590'



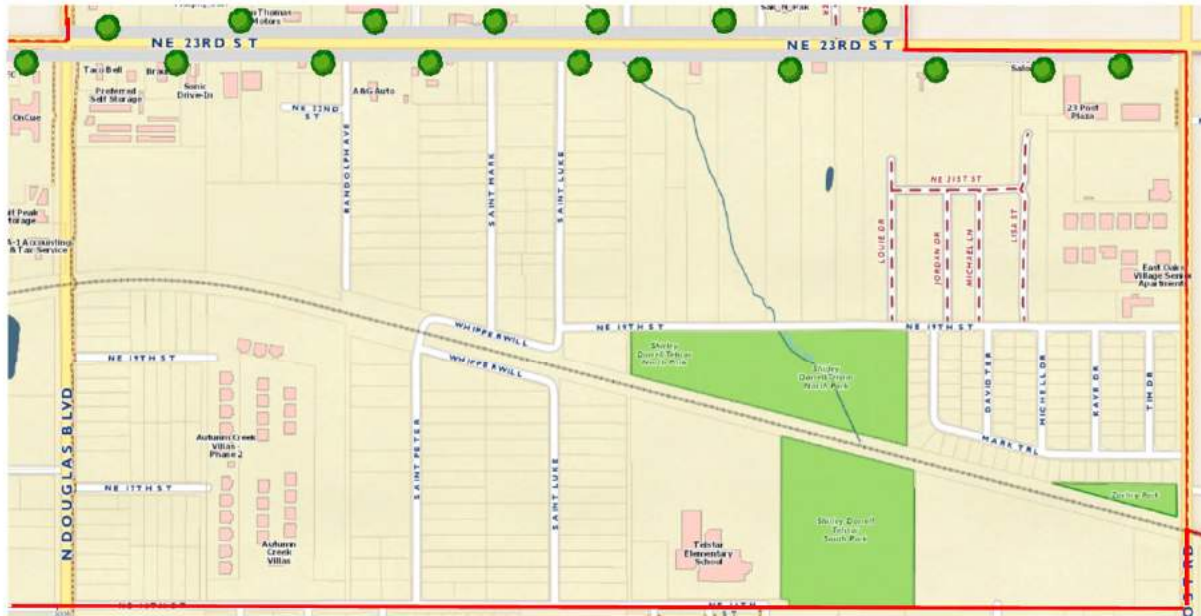
IMPROVEMENTS	
	Public Transit Stop
	Sidewalk or Trail
	Railroad Switch/Spur
	Landscaping Improvements
	Water Distribution
	Sanitary Sewer
	Traffic Signal/Intersection Improvements

 = Project Area Boundary

## City of Midwest City North Side Improvement District

Proposed Improvements in Section 25, Township 12 North, Range 2 West - All locations are approximate.

N  
1" = ± 580'



IMPROVEMENTS	
	Public Transit Stop
	Sidewalk or Trail
	Railroad Switch/Spur
	Landscaping Improvements
	Water Distribution
	Sanitary Sewer
	Traffic Signal/Intersection Improvements

Project Area Boundary



# City of Midwest City North Side Improvement District

Proposed Improvements in the South Half of Section 22, Township 12 North, Range 2 West - All locations are approximate.



1" = ± 555'



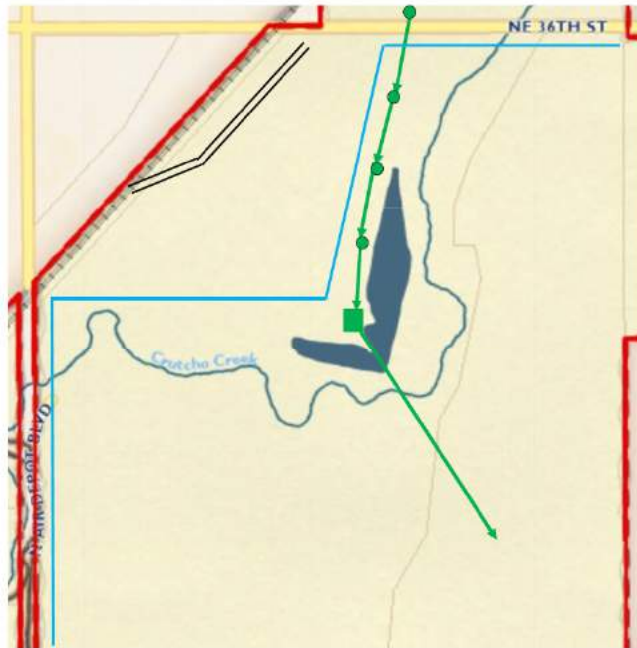
IMPROVEMENTS	
	Public Transit Stop
	Sidewalk or Trail
	Water Distribution
	Sanitary Sewer
	Railroad Switch/Spur
	Landscaping Improvements
	Traffic Signal/Intersection Improvements

Project Area Boundary

# City of Midwest City North Side Improvement District

Proposed Improvements in the North Half of Section 22, Township 12 North, Range 2 West - All locations are approximate.

N  
1" = ± 545'



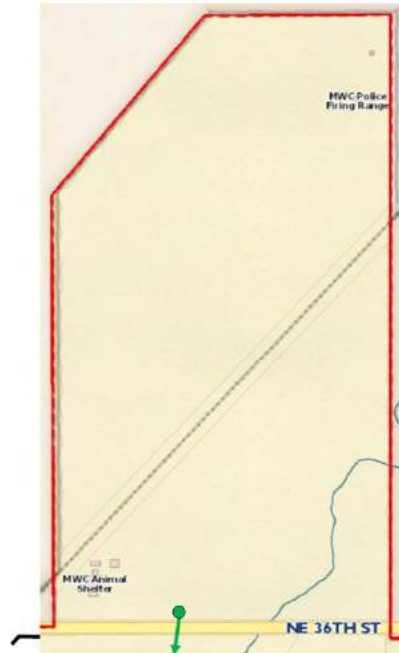
IMPROVEMENTS	
	Public Transit Stop
	Sidewalk or Trail
	Railroad Switch/Spur
	Landscaping Improvements
	Water Distribution
	Sanitary Sewer
	Traffic Signal/Intersection
	Improvements

 Project Area Boundary

# City of Midwest City North Side Improvement District

Proposed Improvements in Section 15, Township 12 North, Range 2 West - All locations are approximate.

N  
1" = ± 515'



IMPROVEMENTS	
	Public Transit Stop
	Sidewalk or Trail
	Railroad Switch/Spur
	Landscaping Improvements
	Water Distribution
	Sanitary Sewer
	Traffic Signal/Intersection Improvements

Project Area Boundary

EXHIBIT "B"

BOUNDARIES OF THE  
NORTH SIDE IMPROVEMENT DISTRICT

The North Side Improvement District is a tract located in Sections 15, 22, 24, 25, 26 and 27, Township 12 North Range 2 West, more particularly described as follows:

BEGINNING at the Southeast Corner of the Southwest Quarter of Section 15, Township 12 North, Range 2 West of the Indian Meridian; THENCE, north along the East line of the Southwest Quarter to the Northeast Corner of said Southwest Quarter of Section 15; THENCE, west along the North line of said Southwest Quarter a distance of approximately 700 feet; THENCE, Southwesterly to a point on the West line of the East half of said Southwest Quarter that is 1,900 feet north of the Southwest Corner of said Southwest Quarter; THENCE, south along the West line of the East half of the Southwest Quarter to the Southwest Corner of the Southeast Quarter of the Southwest Quarter; THENCE, west along the North line of Section 22 a distance of approximately 290 feet to a point of intersection with the North line of the Railroad Right-of-Way; THENCE, southwesterly along the West line of the Railroad Right-of-Way to a point where the West line of the Railroad Right-of-Way intersects with the East Right-of-Way line of Air Depot Boulevard; THENCE, south along the East Right-of-Way line of Air Depot Boulevard to a point where the East Right-of-Way line intersects with the North line of Section 27; THENCE, south along the East Right-of-Way line of Air Depot Boulevard a distance of 330 feet; THENCE, east and parallel with the North line of said Section 27 a distance of 315 feet to the intersection of such line with the centerline of Crutch Creek; THENCE, south and southeasterly along the centerline of Crutch Creek to a point where the centerline of Crutch Creek intersects with the East line of the East half of Section 27, said intersection being approximately 895 feet south of the North line of Section 27; THENCE, south along the East line of the East half of Section 27 to the Southwest Corner of the Northwest Quarter of Section 27; THENCE, east along the South line of the North half of Section 27 to a point where such line intersects the North line of the Railroad Right-of-Way; THENCE, northeasterly along said North line of the Railroad Right-of-Way to the Southeast Corner of Lot 11, Block 3 in the KANALY'S NORTHEAST 23RD STREET ADDITION; THENCE, north along the West line of said Lot 11, Block 3 to the Northwest Corner of Lot 11, Block 2 of KANALY'S NORTHEAST 23RD STREET ADDITION; THENCE, east along the North line of KANALY'S NORTHEAST 23RD STREET ADDITION to a point which is 427 feet west of the East line of the Northeast Quarter of Section 27; THENCE, north 306 feet along the East line of said Northeast Quarter; THENCE, west and parallel to the South line of said Northeast Quarter a distance of 219 feet; THENCE, north and parallel to the East line of said Northeast Quarter approximately 200 feet to the centerline of Soldier Creek; THENCE, northeasterly along said centerline approximately 678 feet to the East line of Section 27; THENCE, north along the East line of Section 27 to a point which is approximately 413 feet south of the Northeast Corner of Section 27; THENCE, easterly and parallel to the North line of Section 26 to a point which is 420.1 feet east of the West line of Section 26 and 413 feet south of the North line of Section 26; THENCE, south

and parallel to the West line of Section 26 a distance of 213 feet; THENCE, east and parallel to the North line of Section 26 where such line intersects with the West line of Block 4 of the DICKSON HEIGHTS ADDITION; THENCE, south along the West line of the DICKSON HEIGHTS ADDITION to the Southwest Corner of Block 4 of the DICKSON HEIGHTS ADDITION; THENCE, east along the South line of Blocks 4 and 5 of the DICKSON HEIGHTS ADDITION to the Southeast Corner of said Block 5; THENCE, north along the East line of Block 5 of the DICKSON HEIGHTS ADDITION to a point that is 100 feet north of the Southeast corner of Block 2 of the DICKSON HEIGHTS ADDITION; THENCE, east and parallel to the South line of Block 1 of the DICKSON HEIGHTS ADDITION to a point where such line intersects with the East Right-of-Way line of Spencer Rd.; THENCE, south along the East Right-of-Way line of Spencer Rd. a distance of 100 feet; THENCE, east and parallel to the North line of Section 26 to a point which is 515 feet west of the East line of Section 26; THENCE, south and parallel to the East line of Section 26 a distance of 259.75 feet; THENCE, east and parallel to the North line of Section 26 a distance of 465 feet; THENCE, north and parallel to the East line of Section 26 a distance of 85 feet; THENCE, east and parallel to the North line of Section 26 to a point on the East Right-of-Way line of Section 26; THENCE, north along the East line of Section 26 to a point which is 225 feet south of the North line of Douglas Blvd.; THENCE, east and parallel to the North line of Section 26 and Section 25 a distance of 367 feet; THENCE, south and parallel to the West line of Section 25 a distance of 40 feet; THENCE, east and parallel to the North line of Section 25 a distance of 170 feet; THENCE, south and parallel to the West line of Section 25 a distance of 230 feet; THENCE, east and parallel to the North line of Section 25 a distance of 122.36 feet; THENCE, south and parallel to the West line of Section 25 a distance of 165 feet; THENCE, east and parallel to the North line of Section 25 to a point on the West Right-of-Way line of Randolph Ave.; THENCE, north and parallel to the West line of Section 25 a distance of 70 feet; THENCE, east and parallel to the North line of Section 25 to the Southwest Corner of Block 3, Lot 13 of KANALY'S SECOND NORTHEAST 23RD STREET ADDITION; THENCE, east along the South line of said Lot 13 to the Southeast Corner of said Lot 13; THENCE, north along the East line of Lots 13, 12, 11 & 10 of Block 3 of KANALY'S SECOND NORTHEAST 23RD STREET ADDITION to a point on the South line of Lot 5 of Block 3 of KANALY'S SECOND NORTHEAST 23RD STREET ADDITION; THENCE, east along the South line of Lots 5, 4, 3, 2 and 1 to the Southeast Corner of Lot 1 of Block 3 of KANALY'S SECOND NORTHEAST 23RD STREET ADDITION; THENCE, east from the Southeast corner of Block 3, Lot 1 KANALY'S SECOND NORTHEAST 23RD STREET ADDITION a distance of approximately 50 feet to the Southwest Corner of Block 2, Lot 4 of KANALY'S SECOND NORTHEAST 23RD STREET ADDITION; THENCE, east along the South line of Lots 4, 3, 2, and 1 of Block 2 KANALY'S SECOND NORTHEAST 23RD STREET ADDITION to the Southeast Corner of Block 2, Lot 1 of KANALY'S SECOND NORTHEAST 23RD STREET ADDITION; THENCE, east a distance of approximately 50 feet to the Southwest Corner of Block 1, Lot 4 KANALY'S SECOND NORTHEAST 23RD STREET ADDITION; THENCE, south a distance of 75 feet to the Southwest Corner of Lot 5 of Block 1 of KANALY'S SECOND NORTHEAST 23RD STREET ADDITION; THENCE, east along the South line of Lot 5 of Block 1 of KANALY'S SECOND NORTHEAST 23RD



STREET ADDITION to the Southeast corner of said Lot 5; THENCE, east and parallel to the North line of Section 25 to a point on the West line of Block 4 of MINTON'S ORCHARD PARK ADDITION; THENCE, south along the West line of Block 4 of MINTON'S ORCHARD PARK ADDITION to a point which is 475 feet south of the Northwest Corner of said Block 4; THENCE, east and parallel to the North line of Block 4 of MINTON'S ORCHARD PARK ADDITION a distance of 165 feet; THENCE, south and parallel to the West line of Block 4 of MINTON'S ORCHARD PARK ADDITION a distance of 160 feet; THENCE, east and parallel to the North line of Block 4 of MINTON'S ORCHARD PARK ADDITION a distance of 99 feet; THENCE, south to a point on the centerline of N.E. 19th Street; THENCE, east along the centerline of N.E. 19th Street to the Southeast Corner of Block 6 of MINTON'S ORCHARD PARK ADDITION; THENCE, north along the East line of Block 1 of MINTON'S ORCHARD PARK ADDITION a distance of 633.5 feet; THENCE, east and parallel to the North line of Block 2 of MINTON'S ORCHARD PARK ADDITION a distance of 497 feet; THENCE, north and parallel to the East line of Block 2 of MINTON'S ORCHARD PARK ADDITION a distance of 266.5 feet; THENCE, east and parallel to the North line of Blocks 1 and 2 of MINTON'S ORCHARD PARK ADDITION to a point on the East line of said Block 1; THENCE, north along the East line of Block 1 of MINTON'S ORCHARD PARK ADDITION to the Northeast Corner of said Block 1; THENCE, north and parallel to the East line of Section 25 to a point where such line intersects the North line of Section 25; THENCE, west along the North line of Sections 25, 26 and 27 to the Southeast Corner of the Southwest Quarter of the Southwest Quarter of Section 22; THENCE, north along the East line of the Southwest Quarter of the Southwest Quarter of Section 22 to the Northeast Corner of the Southwest Quarter of the Southwest Quarter of Section 22; THENCE, east along the South line of the North Half of the Southwest Quarter of Section 22 to the Southeast Corner of the North Half of the Southwest Quarter of Section 22; THENCE, north along the East line of the West Half of Section 22 to the POINT OF BEGINNING.

EXHIBIT "C"

BOUNDARIES OF THE  
SOONER ROSE PROJECT AREA

The Project Area relating to the North Side Improvement District is a tract located in Sections 15, 22, 24, 25, 26 and 27, Township 12 North Range 2 West, more particularly described as follows:

BEGINNING at the Southeast Corner of the Southwest Quarter of Section 15, Township 12 North, Range 2 West of the Indian Meridian; THENCE, north along the East line of the Southwest Quarter to the Northeast Corner of said Southwest Quarter; THENCE, west along the North line of said Southwest Quarter a distance of approximately 700 feet; THENCE Southwesterly to a point on the West line of the East half of said Southwest Quarter that is 1900 feet north of the Southwest Corner of said Southwest Quarter; THENCE south along the West line of said East half of the Southwest Quarter to the Southwest Corner of the Southeast Quarter of the Southwest Quarter; THENCE, west along the North line of Section 22 a distance of approximately 290 feet to a point of intersection with the North line of the Railroad Right-of-Way; THENCE, southwesterly along the North line of the Railroad Right-of-Way to a point which is 33 feet east of the West line of Section 22; THENCE, south and parallel to the West line of Section 22 to a point which is 33 feet north and 33 feet east of the Southwest Corner of Section 22; THENCE, west a distance of 33 feet to the West line of Section 22; THENCE, south a distance of 33 feet to the Southwest Corner of Section 22; THENCE, south along the West line of Section 27 to the Southwest Corner of the North half of Section 27; THENCE, east along the South line of the North half of Section 27 to the Southeast Corner of the North half of Section 27; THENCE, east along the South line of the North half of Section 26 to the Southeast Corner of the North half of Section 26; THENCE, east along the South line of the North half of Section 25 to the Southeast Corner of the North half of Section 25; THENCE, north along the East line of Section 25 to a point which is 33 feet south of the Northeast Corner of Section 25; THENCE, west and parallel to the North line of Section 25 to a point which is 33 feet south of the Northwest Corner of the East half of the East half of Section 25; THENCE, north along the East line of the East half of the East half of Section 25 a distance of 33 feet to the North line of Section 25; THENCE, north along the East line of the West half of the East half of Section 24 (also being the centerline of Outpost Drive) to the Northeast Corner of the West half of the Southeast Quarter of Section 24; THENCE, west along the North line of the South half of Section 24 to the Northwest Corner of the Southwest Quarter of Section 24; THENCE, south along the West line of Section 24 (also being the centerline of North Douglas Boulevard) to the Southwest Corner of Section 24; THENCE, west along the North line of Section 26 (also being the centerline of N.E. 23rd Street) to the Northwest Corner of Section 26; THENCE, west along the North line of Section 27 (also being the centerline of N.E. 23rd Street) to the Northwest Corner of the Northeast Quarter of Section 27; THENCE, north along the East line of the West half of Section 22, to the Point of Beginning.





**Engineering and  
Construction Services**  
100 N Midwest Boulevard  
Midwest City, OK 73110  
Office 405.739.1220

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TO : Honorable Mayor and Council

FROM : Brandon Bundy, P.E., Director

DATE : July 26, 2022

SUBJECT : Discussion and consideration for entering into and approving, including any possible amendment for Professional Services with Plummer Associates, Inc. in the amount of \$299,365 to provide survey and design services for a future utility extension to serve Centrillum Proteins and the Water Resource Recovery Facility.

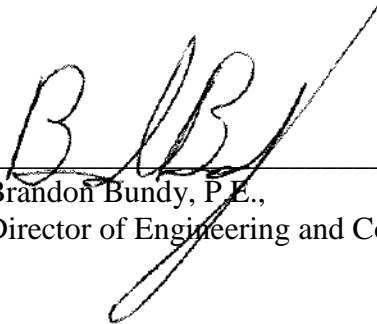
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The City conducted interviews of three qualified design consultants in the week of June 27th for an upcoming to extend public utilities to serve the Project Oscar Site and Water Resource Recovery Facility (WRRF). This will include approximately 10,000 feet of new water main and a sanitary sewer lift station with associated piping. Plummer was selected by the selection committee which had representatives from Public Works, Engineering, and Economic Development. Negotiations then began with Plummer to define the scope and fee.

This project will allow for economic development of the north side of the City as well as bring Midwest City water to our WRRF facility which currently gets water from another municipality at an increased rate.

This contract will be funded in the FY 22-23 budget through projects #952309 and #952311 (Fund 353).

I am available for any additional questions.



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Brandon Bundy, P.E.,  
Director of Engineering and Construction Services

**PROFESSIONAL SERVICES AGREEMENT**  
**between**  
**Plummer Associates, Inc.**  
**And**  
**THE CITY OF MIDWEST CITY**

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**THIS PROFESSIONAL SERVICES AGREEMENT** (hereinafter referred to as “**Agreement**”) is entered into by and among The City of Midwest City, a municipal corporation (hereinafter referred to as “**City**”), and (Plummer Associates, Inc.), (hereinafter referred to as “**Service Provider**”) (**City**, and **Service Provider** being collectively referred to herein as the “**Parties**”) and is effective upon the date of execution by the last party hereto.

**WITNESSETH:**

**WHEREAS, City** is in need of the following professional services potable waterline design, sanitary sewer line design and sanitary sewer lift station design for a new industrial customer; and

**WHEREAS, Service Provider** is in the business of providing professional services that is needed by the **City**; and

**WHEREAS, the City** and the **Service Provider** have reached an agreement for the **Service Provider** to provide the **City** the requested professional services; and

**WHEREAS, City** hereby retains **Service Provider** to provide professional services as an independent contractor; and

**WHEREAS, Service Provider** agrees to provide the **City** all services, in accordance with the standards exercised by experts in the field, necessary to provide the **City** services, products, solutions and deliverables that meet all the purposes and functionality requested or described in the RFP and in this Agreement.

**NOW, THEREFORE**, for and in consideration of the above premises and mutual covenants as set forth herein, the **City**, and **Service Provider** hereby agree as follows:

**1. SERVICES, PRODUCTS, SOLUTIONS AND DELIVERABLES TO BE PROVIDED**

Subject to the terms and conditions of this **Agreement**, the **City** retains the **Service Provider** as an independent contractor, to provide **City** all services, in accordance with the standards exercised by experts in the field, necessary to provide the **City** services, products,



**PROFESSIONAL SERVICES AGREEMENT**  
**between**  
**Plummer Associates, Inc.**  
**And**  
**THE CITY OF MIDWEST CITY**

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solutions, and deliverables (collectively referred to as “Deliverables”) that meet all the purposes and functionality requested or described in this Agreement. The **City** shall meet with **Service Provider** to identify service needs on a project by project basis. **Service Provider** will provide a written proposal for the identified services in accord with the terms and conditions of this Agreement. The **City** may issue a purchase order for the identified services accompanied by **Service Provider’s** written proposal. Upon issuance of the purchase order, the **Service Provider** shall be responsible for timely providing the services authorized by the purchase order (“Project”). Upon completion of the Project (services in a purchase order), the **Service Provider** will issue an invoice to the **City** and, upon approval of the invoice, the **City** will pay the invoice. Upon completion of each Project and provision to the **City** of all Deliverables for that Project and payment of the invoice for that Project to the **Service Provider**, the **City** shall own all rights and license for the Deliverables and other work products related to that Project.

a) This **Agreement** governs the Scope of Services including, but not limited to, all Deliverables to be provided by **Service Provider** to the **City**. The Attachments are incorporated into this **Agreement** by reference and, should there be a conflict in language, terms, conditions, or provisions, shall have the priority and precedential value as set forth in this **Agreement**.

b) The text of this **Agreement** together with the Attachments constitutes the entire Agreement and the only understanding and agreement between the **City** and the **Service Provider** with respect to the services, products, solutions and deliverables to be provided by the **Service Provider** hereunder. This Agreement may only be amended, modified or changed in writing when signed by all parties, or their respective specifically authorized representatives, as set forth in this **Agreement**.

**PROFESSIONAL SERVICES AGREEMENT**  
**between**  
**Plummer Associates, Inc.**  
**And**  
**THE CITY OF MIDWEST CITY**

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c) If there is a conflict in language, terms, conditions, or provisions, in this **Agreement** between the text of this document, and any language, term, condition, or provision in any Attachment, then the text of this document, shall govern and control over any conflicting language, term, condition, or provision in any Attachment. As among the Attachments any conflict in the language, terms, conditions, or provisions shall be governed in the following order of priority and precedence:

- Attachment “A” (“Scope of Services”)
- Attachment “B” (“Schedule of Fees / Rate Card”),
- Attachment “C” (“**Service Provider’s Team**”),
- Attachment “D” (“Insurance”).

**2. RETENTION OF SERVICES PROVIDER AND SCOPE OF SERVICES**

A. **Service Provider** is solely responsible for the actions, non-action, omissions, and performance of **Service Provider’s** employees, agents, contractors, and subcontractors (herein collectively included in the term “Service Provider’s Project Team”) and to ensure the timely provision of each Project, timely performance of the Scope of Services, and the timely performance of each Project and the provision of all Deliverables as each are defined in **Attachment “A” (“Scope of Services”)** or the Project.

B. **Service Provider** will be solely responsible to ensure the **Service Provider’s Project Team** fully understands each Project, the Scope of Services, the Deliverables, the schedule for performance. Service Provider will be solely responsible to ensure the **Service Provider’s Team**, specifically assigned to work on the Project for the City, is adequately trained, instructed, and managed so that **Service Provider** timely provides each Project task and satisfies the **Service Provider’s** obligations under this Agreement. The **Service Provider** may not change the **Service Provider’s Team**, for the services to be provided as set forth on Attachment “C” (“**Service Provider’s Team**”) without the prior written consent of the **City**, which will not be unreasonably withheld.

**PROFESSIONAL SERVICES AGREEMENT**  
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C. **Service Provider** shall comply with applicable federal, state and local laws, standards, codes, ordinances, administrative regulations and all amendments and additions thereto, pertaining in any manner to the performance or services provided under this **Agreement**. **Service Provider** shall obtain patents, licenses and any other permission required to provide all Deliverables and for use of all Deliverables by the **City**.

**3. PAYMENT PROCEDURES**

- A. Invoices: Service Provider shall prepare invoices in accordance with its standard invoicing practices and submit the invoices to City on a monthly basis. Invoices are due and payable within 60 days of receipt. If City fails to make any payment due Service Provider for Services, Additional Services, and expenses within 60 days after receipt of Service Provider's invoice, then (1) the amounts due Service Provider will be increased at the rate of 1.0 percent per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day, and (2) in addition Service Provider may, after giving seven days written notice to City, suspend Services under this Agreement until Service Provider has been paid in full all amounts due for Services, Additional Services, expenses, and other related charges. City waives any and all claims against Service Provider for any such suspension.
- B. Payment: As compensation for Service Provider providing or furnishing Services and Additional Services, City shall pay Service Provider as set forth in Paragraphs 2.01, 2.02 (Services), and 2.03 (Additional Services). If City disputes an invoice, either as to amount or entitlement, then City shall promptly advise Service Provider in writing of the specific basis for doing so, may withhold only that portion so disputed, and must pay the undisputed portion.
- C. Additional Services: City shall pay Service Provider an amount equal to the cumulative hours charged in providing the Additional Services by each class of

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Service Provider's employees, times standard hourly rates for each applicable billing class; plus reimbursement of expenses incurred in connection with providing the Additional Services and Service Provider's consultants' charges, if any. Service Provider's standard hourly rates are attached as Exhibit B.

- D. The **City** shall pay the **Service Provider** the compensation as specified in **Attachment "B" ("Schedule of Fees / Rate Card")**.
- E. The **City** and the **Service Provider** acknowledge that the compensation to be paid the **Service Provider** pursuant to this **Agreement** has been established at an amount reasonable for the availability and services of the **Service Provider and the Service Provider's Team**.

**4. INDEPENDENT CONTRACTOR STATUS**

The parties hereby acknowledge and covenant that:

A. **Service Provider** is an independent contractor and will act exclusively as an independent contractor is not an agent or employee of the **City** in performing the duties in this Agreement.

1. The parties do not intend, and will not hold out that there exists, any corporation, joint venture, undertaking for a profit or other form of business venture or any employment relationship among the parties other than that of an independent contractor relationship.

2. All payments to **Service Provider** pursuant to this **Agreement** shall be due and payable in the State of Oklahoma, even if services of **Service Provider** are performed outside the State of Oklahoma.

B. The **City** shall not withhold any social security tax, workmen's compensation, Medicare tax, federal unemployment tax, federal income tax, or state income tax from any compensation paid to **Service Provider** as **Service Provider** is an independent contractor and the members of its **Service Provider's Team**, assigned to work on the Project for the **City** are

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not employees of the **City**. Any such taxes, if due, are the responsibilities of **Service Provider** and will not be charged to the **City**.

C. **Service Provider** acknowledges that as an independent contractor it and **Service Provider's Project Team**, assigned to work on the Project for the **City** are not eligible to participate in any health, welfare or retirement benefit programs provided by the **City** or its employees.

**5. TERM, TERMINATION AND STOP WORK**

A. This **Agreement** shall commence upon execution by the last party hereto and shall continue in effect for one-year from the date of execution, unless terminated by either party as provided for herein. This **Agreement** may be extended by mutual agreement of the **Parties** in one-year increments, until the Project is completed and accepted as provided herein.

B. The **City** issue notices of termination or suspension to the **Service Provider**. This **Agreement** may be terminated, with or without cause, upon written notice, at the option of **City**.

1. Upon receipt of a notice of termination for the *convenience* from the **City**, the **Service Provider** shall immediately discontinue all services and activities (unless the notice directs otherwise), and

2. Upon payment for products or services fully performed and accepted, **Service Provider** shall deliver to the **City** all licenses, work, products, deliverables, solutions, communication recommendations, plans, messaging strategies, style guides, design elements, internal and external messaging campaigns, documents, data analysis, reports, and other information and materials accumulated or created in performing this **Agreement**, whether same are complete or incomplete, unless the notice directs otherwise. Upon termination for the *convenience* by the **City**, the **City** shall pay **Service Provider** for completed Projects and Deliverables up to the time of the notice of termination for *convenience*, in accordance with the



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terms, limits and conditions of the **Agreement** and as further limited by the “not to exceed” amounts set out in this **Agreement**.

3. Upon notice of termination for *cause* from the **City**, the **Service Provider** shall not be entitled to future payments, including, but not limited to, any services, performances, work, products, deliverables, solutions, costs, or expenses, and **Service Provider** shall release and waive any interest in any retainage. The **City** may hold any outstanding payments for prior completed Projects, Deliverables, Services or expenses and any retainage as security for payment of any costs, expenses, or damages incurred by the **City** by reason of **Service Provider’s** breach or other cause. Provided, however, upon notice of termination for cause, the **Service Provider** shall deliver to the **City** services, products, solutions, and Deliverables including, but limited to, all communication recommendations, plans, messaging strategies, style guides, design elements, internal and external messaging campaigns, documents, data analysis, reports, and other information and materials accumulated or created in performing this **Agreement**, whether complete or incomplete, unless the notice directs otherwise.

4. The rights and remedies of the **City** provided in this paragraph are in addition to any other rights and remedies provided by law or under the **Agreement**. Termination herein shall not terminate or suspend any warranty, indemnification, insurance, or confidentiality required to be provided by **Service Provider** under this **Agreement**.

C. Upon notice to **Service Provider**, the **City** may issue a stop work order suspending any Projects, services, performances, work, products, Deliverables, or solutions under this **Agreement**. Any stop work order shall not terminate or suspend any warranty, indemnification, insurance, or confidentiality required to be provided by **Service Provider** under this **Agreement**. In the event the **City** issues a stop work order to **Service Provider**, the **City** will provide a copy of such stop work order to the **Service Provider**. Upon receipt of a stop work order issued from the **City**, the **Service Provider** shall suspend all work, services and activities except such work, services, and activities expressly directed by the **City** in the stop work order. Upon notice

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to the **Service Provider**, this **Agreement**, and any or all work, services, and activities thereunder, may be suspended up to thirty (30) calendar days by the **City**, without cause and without cost to the **City**; provided however, the **Service Provider** shall be entitled to an extension of all subsequent deadlines for a period equal to the suspension periods for those suspended work, services, and activities only.

**D. Obligation upon Termination for Convenience.**

1. In the event this **Agreement** is terminated for convenience hereunder, the **City** shall pay **Service Provider** for such properly documented invoices, if any, in accordance with the provisions of this **Agreement** above, through the date of termination for *convenience* and the period set forth in the notice, and thereafter the **City** shall have no further liability under this **Agreement** to **Service Provider** and **Service Provider** shall have no further obligations to the **City**.

2. Upon termination for *convenience* of the Project and the providing to the **City** of all Deliverables for the Project and payment of the invoice for the Project to **Service Provider**, the **City** shall own all rights and license for the Deliverables and other work products related to that Project.

**6. STANDARD OF CARE**

A. **Service Provider** will meet the standard of care for all professional services performed or furnished under this **Agreement**, meaning they shall be performed consistent with generally prevailing professional standards and expertise practicing under similar circumstances at the same time and in the same locality. **Service Provider** shall maintain during the course of this **Agreement** said standard of care, expertise, skill, diligence and professional competency for any and all such services, products, solutions and deliverables. **Service Provider** agrees to require all members of the **Service Provider's Team**, also including FTEs assigned to work on the Project, to provide any and all services, products, solutions and Deliverables at said same

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standard of care, expertise, skill, diligence and professional competence required of **Service Provider**.

B. During the term of this **Agreement**, the **City's** initial remedy for any breach of the above warranty shall be to permit **Service Provider** one additional opportunity to perform the work, services, and activities or provide the Projects and Deliverables without additional cost to the **City**. If the **Services Provider** cannot perform the work, services, and activities or provide the products, solutions and deliverables according to the standards and requirements set forth in this **Agreement** within thirty (30) calendar days of the original performance date, the **City** shall be entitled to recover, should the **City** so determine to be in their best interest, any fees paid to the **Service Provider** for previous payments, including, but not limited to, work, services, activities services, Projects and Deliverables and **Service Provider** shall make reimbursement or repayment within thirty (30) calendar days of a demand by the **City**. Should the **Service Provider** fail to reimburse the **City** within thirty (30) calendar days of demand, the **City** shall also be entitled to interest at 1.5% percent per month on all outstanding reimbursement and repayment obligations.

**7. INSURANCE**

A. **Service Provider** must provide and maintain at all times throughout the term of this **Agreement**, as set forth below. Service Provider shall cause City to be listed as an additional insured on any applicable general liability insurance policy carried by Service Provider.

1. Workers' Compensation Employer's Liability: .....Statutory
2. Employer's Liability:
  - a. Bodily Injury: Each Accident: ..... \$1,000,000
  - b. Bodily Injury: By Disease, Each Employee..... \$1,000,000
  - c. Bodily Injury: By Disease, Aggregate..... \$1,000,000
3. General Liability:
  - a. Each Occurrence (Bodily Injury and Property Damage):..... \$1,000,000

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- b. General Aggregate:..... \$2,000,000
- 4. Excess or Umbrella Liability:
  - a. Each Occurrence (Bodily Injury and Property Damage):..... \$5,000,000
  - b. General Aggregate:..... \$5,000,000
- 5. Automobile Liability - Bodily Injury:
  - a. Combined Single Limit – Per Accident ..... \$1,000,000
- 6. Professional Liability:
  - a. Each Claim Made ..... \$3,000,000
  - b. Annual Aggregate ..... \$3,000,000
- 7. Additional Insureds:
  - a. The following individuals or entities are to be listed on Owner’s general liability policies of insurance as additional insureds:
    - Plummer Associates, Inc.

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    - Engineer
    - CEC Corporation

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    - Engineer’s Consultant
    - Cojeen Archaeological Services

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    - Engineer’s Consultant
  
    - Envirotech Engineering & Consulting

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    - [other]
  - b. During the term of this Agreement the Service Provider shall notify City of any other Consultant to be listed as an additional insured on City’s general liability policies of insurance.
  - c. The City shall be listed on Service Provider’s general liability policy.
- A. A certificate of insurance evidencing the coverage required herein shall be provided

**PROFESSIONAL SERVICES AGREEMENT**  
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to the **City** within five (5) days of the execution of this **Agreement**.

B. **Service Provider** shall require any contractor or subcontractor to obtain and maintain substantially the same coverage as required of **Service Provider** including the **City** as an additional insured as their interest may appear under this **Agreement**.

C. The insurance requirements set forth herein must not be deemed to limit, affect, waive, or define any obligations of the **Service Provider** in any other paragraph of this **Agreement** or any indemnification or insurance requirement in any other paragraph of this **Agreement**. This paragraph must continue in full force and affect for any act, omission, incident or occurrence occurring or commencing during the term of this **Agreement**. Further, the insurance coverage required by this paragraph will survive revocation, non-renewal, termination and expiration of this **Agreement** for any occurrence or event occurring, initiated, or commencing prior to such revocation, non-renewal, termination and expiration or during the period in which the **Service Provider** is services under the **Agreement**.

D. Provided, however, should the **Service Provider** or its officers, invitees, representatives, contractors, employees or agents carry any additional, different or other insurance or insurance coverage of any kind or nature, the provisions of this paragraph must not in any way limit, waive or inhibit the **City** from making a claim or recovering under such insurance or insurance coverage.

F. Notwithstanding any other provision to the contrary, upon termination or lapse of insurance coverage required hereunder, this **Agreement** may be terminated. Termination of this **Agreement** pursuant to this paragraph must take precedence and supersede any other paragraph establishing the term of this **Agreement**, establishing a procedure for revocation or termination, or requiring notice and/or providing an opportunity to cure a breach.

G. The insurance limits in this paragraph in no way act or will be deemed to define or limit the right of **City** to recover damages, expenses, losses or for personal injuries, death or property damage pursuant to applicable law or the indemnification provisions or under any other paragraph or provision in this **Agreement**.



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**8. INDEMNIFICATION**

A. **Service Provider** agrees to indemnify, and hold harmless the **City** from and against all liability for: (a) injuries or death to persons; (b) costs, losses, and expenses; (c) legal fees, legal expenses, and court costs; and (d) damages, loss to property, which are caused by the **Service Provider**, its officers, representatives, agents, contractors, and employees except to the extent such injuries, losses, damages and/or costs are caused by the negligence of the indemnified party. The **Service Provider** must give the **City** prompt and timely notice of any claim or suit instituted which in any way, directly or indirectly, contingently or otherwise, affects or might affect the **City**, provided, however, such notice will not be a precondition to indemnification hereunder. The rights granted by this paragraph will not limit, restrict, or inhibit the rights of the **City** under any other paragraph, including but not limited to any insurance provision or requirement in this **Agreement**.

B. The provisions of this paragraph shall survive the expiration of this **Agreement**. It is understood that these indemnities and hold harmless provisions are not limited or defined by the insurance required under the insurance provisions of this **Agreement**.

**9. BONDS**

**Not Used.**

**10. CONFIDENTIALITY**

**Service Provider** acknowledges that in the course of training and providing other services to the **City**, the **City** may provide **Service Provider** with access to valuable information of a confidential and proprietary nature including but not limited to information relating to the **City's** employees, customers, marketing strategies, business processes and strategies, security systems, data and technology. **Service Provider** agrees that during the time period this **Agreement** is in effect, and thereafter, neither **Service Provider** nor **Service Provider's Team**, without the prior written consent of the **City**, shall disclose to any person, other than to the **City**, any information obtained by **Service Provider**. **Service Provider** shall require and maintain adequate confidentiality agreements with its employees, agents, contractors, and subcontractors.

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**11. NOTICES**

A. Notices and other communications to the **City** pursuant to the provisions hereof will be sufficient if sent by first class mail, postage prepaid, return receipt required, or by a nationally recognized courier service, addressed to:

The City of Midwest City, City Clerk  
100 N. Midwest Boulevard  
Midwest City, OK 73110

respectively, and notices or other communications to the **Service Provider** pursuant to the provisions hereof will be sufficient if by first class mail, postage prepaid, return receipt required, or by a nationally recognized courier service, addressed to:

\_\_\_\_\_  
Alan Swartz, PE  
\_\_\_\_\_  
Plummer Associates, Inc.  
\_\_\_\_\_  
531 Couch Drive, Suite #200  
\_\_\_\_\_  
Oklahoma City, OK 73102  
\_\_\_\_\_

B. Any party hereto may change the address or addressee for the giving of notice to it by thirty (30) days prior written notice to the other parties hereto as provided herein. Unless otherwise specified in this **Agreement**, notice will be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to this paragraph.

**12. ABIDES BY LAW**

The **Service Provider** must abide by the conditions of this **Agreement**, the ordinances of the **City**, and all laws and regulations of the State of Oklahoma and the United States of America (“Laws”), applicable to **Service Provider’s** activities. **Service Provider** will be responsible for securing any license, permits and/or zoning which may be required prior to commencement of the Project.

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**13. ASSIGNMENT AND SUBLEASE**

**Service Provider** may not assign or sublease its interest under this **Agreement** without the prior written consent of the **City**. Any assignment or sublease shall become effective upon receipt of a request signed by authorized and empowered officers/agents of the **Service Provider** and sublessee and provision by the sublessee of a certificate of insurance evidencing the insurance required by this **Agreement** and upon approval of such sublease by **City**. The **City** may, but not required, to execute a letter approving either the assignment or sublease as provided herein on behalf of **City**. Upon approval of such assignment or sublease, **Service Provider** will not be relieved of future performance, liabilities, and obligations under this **Agreement**. **City** shall be provided with a copy of each written sublease agreement, and all amendments thereto, entered into by **Service Provider** within forty-five (45) days after the entering into of same.

**14. COMPLETE AGREEMENT AND AMENDMENT**

This is the complete agreement between the parties and no additions, amendments, alterations, or changes in this **Agreement** shall be effective unless reduced to writing and signed by all parties hereto. Additionally, no statements, discussions, or negotiations shall be deemed or interpreted to be included in this **Agreement**, unless specifically and expressly provided herein.

**15. PERIOD OF SERVICE**

For the purposes of this **Agreement**, if no specific time period is indicated, **Service Provider** shall complete its **Services** within a reasonable period of time. If, through no fault of the **Service Provider**, such periods of time or dates are changed, or the orderly and continuous progress of **Service Providers Services** is impaired, or **Service Provider's Services** are delayed or suspended, then the time for completion of **Service Provider's Services**, and the rates and amounts of **Engineer's compensation**, shall be adjusted equitably.

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**16. MULTIPLE ORIGINALS**

This **Agreement** shall be executed in multiple counterparts, each of which shall be deemed an original.

**17. ANTI-COLLUSION**

**Service Provider** agrees that it has not been and shall not be a party to any collusion with any of their officials, trustees, or employees of the **City** as to the terms or conditions of this **Agreement**, and has not and will not exchange, give or donate money or other things of value for special consideration to any officials, trustees, or employees of the **City**, either directly or indirectly, in procuring and execution of this **Agreement**.

**18. BREACH AND DEFAULT**

A. A breach of any provision of this **Agreement** shall act as a breach of the entire **Agreement** unless said breach is expressly waived in writing by all other parties hereto. Failure to enforce or timely pursue any breach shall not be deemed a waiver of that breach or any subsequent breach. No waiver of any breach by any party hereto of any terms, covenants, or conditions herein contained shall be deemed a waiver of any subsequent breach of the same, similar, or different nature.

B. Further, except as otherwise specifically and expressly provided and any other paragraph hereto, should any party hereto fail to perform, keep or observe any of the terms, covenants, or conditions herein contained, this **Agreement** may be terminated by any party not in default thirty (30) days after receipt of written notice and opportunity to cure, less and except as such lesser time is provided in this **Agreement**.

C. Should the **City** breach this **Agreement**, **Service Provider** may only recover that proportion of services provided prior to the breach. **Service Provider** may not collect or recover any other or additional damages, losses, or expenses.

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**19. THIRD PARTY BENEFICIARIES**

All parties expressly agree that no third-party beneficiaries, expressly or implicitly, are intended to be or shall be created or acknowledged by this **Agreement**. This **Agreement** is solely for the benefit of the **Service Provider** and the **City**, and none of the provisions hereof are intended to benefit any third parties.

20. **DISPUTE RESOLUTION** City and Service Provider shall resolve all disputes in the following manner:

1. City and Service Provider agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice, prior to invoking mediation.
2. City and Service Provider agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof (“Disputes”) to mediation. City and Service Provider agree to participate in the mediation process in good faith. The process will be conducted on a confidential basis, and must be completed within 120 days.
3. If the parties fail to resolve a Dispute through negotiations under Paragraph 20.1 or mediation under Paragraph 20.2, then the parties may exercise their rights at law.

**20. VENUE AND CHOICE OF LAW**

All parties hereto expressly agree that the venue of any litigation relating to or involving this **Agreement** and/or the rights, obligations, duties and covenants therein shall be in the appropriate court (state or federal) located in Oklahoma County, Oklahoma. All parties agree that this **Agreement** shall be interpreted and enforced in accordance with Oklahoma law and all rights of the parties shall be determined in accordance with Oklahoma law.



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**21. VALIDITY**

The invalidity or unenforceability of any provision of this **Agreement** shall not affect the validity or enforceability of any other provisions of this **Agreement**, which shall remain in full force and effect.

**22. NO WAIVER**

The failure or neglect of either of the **Parties** hereto to insist, in any one or more instances, upon the strict performance of any of the terms or conditions of this **Agreement**, or waiver by any party of strict performance of any of the terms or conditions of this **Agreement**, shall not be construed as a waiver or relinquishment in the future of such term or condition, but such term or condition shall continue in full force and effect.

**23. NO EXTRA WORK**

No claims for extra work, product, services, solution, or deliverables of any kind or nature or character shall be recognized or paid by or be binding upon the **City** unless such services, work, product, solution, or deliverable is first requested and approved in writing by the **City** through a amendment.

**24. AMENDMENT**

This **Agreement** may be amended by mutual agreement of the **Parties**, in writing and signed by both **Parties**. The **City** hereby delegates to the City Manager all amendments to this **Agreement** for approval and execution, unless the amendment would increase the contracted amount by more than ten percent (10%).

**25. EFFECTIVE DATE**

The Effective Date of this **Agreement** is the date approved by the **City** as the last party hereto.

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IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute and seal this **Agreement** on the dates set forth below.

**Service Provider:** \_\_\_\_\_ Plummer Associates, Inc. \_\_\_\_\_

By: Cletus R Martin

Name: CLETUS R. MARTIN

Title: PRINCIPAL

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**PROFESSIONAL SERVICES AGREEMENT**  
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**APPROVED** by the Council and **SIGNED** by the Mayor of The City of Midwest City this  
\_\_\_\_\_ day of \_\_\_\_\_, 2022.

**THE CITY OF MIDWEST CITY**

\_\_\_\_\_  
**MAYOR**

\_\_\_\_\_  
SARA HANCOCK, CITY CLERK

**REVIEWED** for form and legality.

\_\_\_\_\_  
DONALD D. MAISCH, CITY ATTORNEY

## ATTACHMENT A

### SCOPE OF SERVICES

#### OPERATION OSCAR – PRELIMINARY DESIGN, DETAILED DESIGN, BID PHASE AND CONSTRUCTION PHASE SERVICES

##### I. BACKGROUND

The City of Midwest City, herein referenced as OWNER, requests and authorizes Plummer Associates, Inc. (ENGINEER) to perform BASIC ENGINEERING SERVICES for Operation Oscar identified below.

This project includes the design of approximately 4,000 linear feet of a primary waterline (assumed to be approximately 12-inches in diameter) and 6,000 linear feet of a secondary waterline (assumed to be approximately 8-inches in diameter) from the OWNER's existing water system to an industrial water meter vault located on the Centrillum Proteins Site. The project also includes the design of a sanitary sewer lift station, sanitary sewer meter vault, and force main to convey the sanitary sewer flows from Centrillum Proteins to the OWNER's Water Resource Reclamation Facility (WRRF). The project also includes minor piping modifications necessary to supply the potable water system at the OWNER's WRRF utilizing the OWNER's water system and removing the connection to the City of Oklahoma City's water system.

The PROJECT will generally consist of Project Management and Coordination, Preliminary Engineering Report (30% Design), Detailed Design, Bid Phase Services and Construction Phase Services.

##### II. BASIC SERVICES

Basic Services provided by the ENGINEER shall generally be covered under the following activities:

- a. Activity A – Project Management
- b. Activity B – Project Coordination
- c. Activity C – Data Review
- d. Activity D – Engineering Memo and Alignment Study (30% Design)
- e. Activity E – Data Collection
- f. Activity F – Detailed Design
- g. Activity G – Bid Phase Services
- h. Activity H – Construction Phase Services.

Specific tasks for each activity are identified in the following sections.

##### ACTIVITY A – PROJECT MANAGEMENT

###### Task A.1 – Project Management

Provide project management for the above activities A-H. Project management shall include maintaining communication and coordination with OWNER; tracking and managing internal schedules of work; monitoring and addressing issues related to the scope of work, budget and deliverables; preparing and processing monthly billings and schedule updates; management of subconsultants; providing labor resources necessary to fulfill scoped work; scheduling and participating in quality control reviews; and providing updates to the OWNER on a regular basis.

- a. ENGINEER will coordinate design efforts on project tasks identified below.
- b. ENGINEER will prepare a common monthly invoice for all services.
- c. Deliverables
  - Monthly Invoices



### **Task A.2 – Kickoff Meeting and Meeting Preparation**

ENGINEER will prepare for and participate in one Project kick-off meeting for the PROJECT. At the kick-off meeting ENGINEER will confirm with the OWNER the scope of work, deliverables, schedule and administrative protocols.

- a. The purpose of the kickoff meeting will be to:
  - Develop communication procedures
  - Review the work to be completed and discuss OWNER preferences of design, pump and valve type.
  - Review the project schedule, including identifying critical path tasks
  - Advise OWNER as to the necessity of OWNER providing or obtaining data or services from others.
  - Develop an Information Request Log and Action Item Log documenting meeting outcomes and OWNER requests.
- b. ENGINEER will prepare and distribute to the OWNER draft meeting notes for review. After receipt of comments, the meeting notes shall be finalized and distributed to the OWNER's and the ENGINEER's team in pdf format for record purposes.
- c. Deliverables:
  - Draft and Final Meeting Notes
  - Project Management Plan
  - Baseline Evaluation Schedule of Activities and Tasks

### **Task A.3 – Progress Meetings**

ENGINEER will coordinate, prepare for, and conduct progress meetings to review progress with the OWNER and stakeholders. Meetings shall take place at the OWNER's office in Midwest City. Two (2) progress meetings are assumed based on the preliminary schedule. These meetings shall be in addition to the quality control meetings which will be held at the 30% and 80% milestones, the Kickoff Meeting and any meetings during the construction phase. Additional progress meetings shall be provided as an ADDITIONAL SERVICE.

- a. ENGINEER will prepare for and moderate each meeting.
- b. ENGINEER will prepare and distribute draft meeting notes to the OWNER for review. After receipt of comments, the meeting notes shall be finalized and distributed to the OWNER and any sub-consultants in pdf format for record purposes.
- c. Deliverables:
  - Agendas
  - Draft and Final Meeting Notes

### **ACTIVITY B – PROJECT COORDINATION**

ENGINEER shall coordinate with the public utilities, private utilities, and stakeholders along the proposed waterline alignments, force main alignment and at lift station site.

#### **Task B.1 – Utility Coordination**

- a. ENGINEER shall coordinate with public and private utilities encountered along the PROJECT. The ENGINEER will coordinate and acquire permits required to cross existing utilities and easements as needed to construct the PROJECT. ENGINEER shall provide utilities with relevant project information to facilitate any design work necessary for relocation of existing utilities within the PROJECT area.
- b. ENGINEER will coordinate with the Electrical Utility to determine the size and access requirements for the new electrical service including redundancy options, available voltages, and service cost information. One (1) onsite coordination meeting with the Electrical Utility is included. Additional coordination meetings shall be an ADDITIONAL SERVICE.

- c. Deliverables:
  - Draft and Final Meeting Notes from Utility Coordination Meetings
  - Utility Crossing Permits (as needed)

### **ACTIVITY C – DATA REVIEW**

#### **Task C.1 – Review and Verification of Existing Data**

The OWNER shall provide the following information to the ENGINEER for review: existing Geographic Information Systems (GIS) information; existing geotechnical documents; existing environmental documents; record drawings from previous projects associated with the PROJECT; survey information; and utility information.

- a. ENGINEER will review the existing GIS information, record drawings, environmental documents, collection system master plans, hydraulic models, and any other information provided by the OWNER.

### **ACTIVITY D – ENGINEERING MEMO AND ALIGNMENT STUDY (30% DESIGN)**

#### **Task D.1 – Archaeological Services**

Based on conversations with the State Archaeologist Office, there is a high probability for Plains Village prehistoric sites and historic farmstead(s) on or within the boundaries of the project site. There is also a National Register archaeological site within the PROJECT boundaries. The scope below includes background research on the PROJECT area as well as a field study and report based on an approximate 23-acre area for the project.

- a. ENGINEER will review of the proposed project corridor for compliance with the Oklahoma Antiquities Law and Section 106 of the National Historic Preservation Act.
- b. ENGINEER will conduct the necessary field research based on the background information and prepare a report detailing the project location, physical features, identifying previously recorded surveys and newly recorded sites in the general location of the project area.
- c. ENGINEER will coordinate review of the report with the Oklahoma State Historic Officer to discern if further studies are required.

#### **Task D.2 – Potable Primary and Secondary Waterline Alignment Evaluation**

The ENGINEER will meet with the OWNER and develop the primary and secondary waterline alignments. Alignments will be based on GIS data, record drawings, aerial imagery, parcel information, available topographic data, land use, archaeological data, utility atlas maps, and other publicly available data.

- a. Include design details for a common meter vault for the waterlines to connect to and convey potable water through the meter to the Centrillum Proteins Facility.
- b. Include design details for necessary backflow prevention devices.
- c. For each of the alignments, if necessary, identify potential easement access locations.
- d. Perform a desktop review including USGS topographic maps, National Wetland Inventory maps, National Hydrography Data (NHD) set, soil survey maps and available aerial imagery to identify potential environmental issues associated with the pipeline alignment alternatives.
- e. Section 404 of the Clean Water Act Permit coordination including threatened and endangered species review and cultural resources review.
- f. Evaluate ROW needs for the proposed alignments and develop GIS based figures illustrating the ROW requirements including permanent and temporary easements.
- g. Prepare AACE Class IV level cost estimate for alignment.

### **Task D.3 – Lift Station Location and Force Main Alignment Evaluation**

The ENGINEER will meet with the OWNER and develop the lift station location and alignment recommendation. Alignment will be based on GIS data, record drawings, aerial imagery, parcel information, available topographic data, land use, other publicly available data.

- a. Include design details for a meter vault for metering of the wastewater flows. It is assumed that the meter vault will be located adjacent to the lift station.
- b. Identify potential easement access locations for the alignment, if necessary.
- c. Perform a desktop review including USGS topographic maps, National Wetland Inventory maps, National Hydrography Data (NHD) set, soil survey maps and available aerial imagery to identify potential environmental issues associated with the pipeline alignment alternatives.
- d. Section 404 of the Clean Water Act Permit coordination including threatened and endangered species review and cultural resources.
- e. Evaluate ROW needs for the proposed alignments and develop GIS based figures illustrating the ROW requirements including permanent and temporary easements.
- f. Prepare AACE Class IV level cost estimate for alignment.

### **Task D.4 – Pumping System Evaluation**

- a. ENGINEER will meet with OWNER and Stakeholders to develop anticipated wastewater flow rates, storage volumes and pumping volumes for wet well sizing.
- b. ENGINEER will work with the OWNER to evaluate pumping alternatives based on the OWNER's developed lift station layout details. Depending on the size and number of pumps, the evaluation will include the use of VFD's and/or soft starts.
- c. Develop preliminary lift station site drawings showing the potential site locations as well as effluent pipe routing. The drawings shall be GIS based. The influent pipe shall be extended to a point approximately 15 feet outside the perimeter of the sanitary sewer meter vault and capped. It is assumed that the meter vault will be directly adjacent to the lift station.

### **Task D.5 – Hydraulic Modeling and Coordination**

- a. Any hydraulic modeling for the project will be performed by another consultant and is not considered part of this project. Additional hydraulic modeling may be performed as an ADDITIONAL SERVICE.
- b. ENGINEER shall coordinate the necessary background information and obtain any hydraulic modeling results with the OWNER and hydraulic modeling consultant.

### **Task D.6 – Preliminary Engineering Memo**

- a. The ENGINEER will prepare a Draft Engineering Memo for the PROJECT. The Memo shall include a summary of the primary and secondary waterline alignment; summary of the lift station location and the force main alignment; hydraulic calculations and system sizing for the lift station; lift station dimensions, pump and valve layouts; utility coordination; Preliminary ROW needs; AACE Class IV level opinion of probable construction costs; and conclusions and recommendations for detailed design.
- b. The ENGINEER will prepare one (1) pdf electronic copy of the draft Engineering Memo. Present the draft to the OWNER for comments. The ENGINEER will meet with the OWNER to discuss any comments on the memo. Comments will be tracked and incorporated into the Final Engineering Memo.
- c. Deliverables:
  - Preliminary Engineering Memo

## **ACTIVITY E – DATA COLLECTION**

Data Collection will not begin until the ENGINEER has received an approved alignment from the OWNER.

### **Task E.1 – Topographic Survey and Legal Descriptions**

- a. Establish a minimum of two (2) control points for horizontal and vertical purposes in which 1 control point is derived from an OPUS solution of a GPS static session.
- b. Perform a profile survey of proposed alignments
- c. Topographic Data:
  - ENGINEER will pull topographic/LiDAR data from 3Dep
  - Check topo accuracies with profiled alignments
- d. Utilities: "OKIE811" will be contacted at least 72 hours prior to survey and the locations as marked will be obtained.
  - ENGINEER will contact members listed on the OKIE ticket, request utility atlas maps, and plot atlas maps as "per atlas map" if said maps are provided to ENGINEER by the Utility Owner.
  - Utility information will be placed in the Civil 3d and/or AutoCAD drawing.
- e. Storm sewer manholes, sanitary sewer manholes, water valves, and inverts will be measured for depth (to the connection outside of survey limits)
- f. Document Research
  - Research deeds, plats, and other documents from County Clerk's and Assessor office / websites or through an abstractor/title company
- g. Boundary Control Research
  - Research section lines and/or platted monuments to be able to sufficiently plot plats and any un-platted deeded properties
- h. Plot properties, right-of-way, and easements (if applicable) along alignments
- i. Easement Exhibit Preparation
  - Prepare legal descriptions and easement exhibits for the anticipated three (3) parcels that will require it.
  - All easement boundaries will be provided in Civil 3D or AutoCAD Format referenced to the profile alignments completed by the ENGINEER
- j. Deliverables
  - Civil 3D File and AutoCAD file of the above items
  - Easement Exhibits in PDF

### **Task E.2 – Geotechnical Engineering**

- a. Geotechnical investigation will occur on parcels where ROE has been obtained at the selected sites. OWNER will be responsible for ROE. Soil borings will be advanced in selected locations based on an approved alignment from the OWNER, pre-existing geotechnical data and other factors. Samples will be acquired, and laboratory tests will be conducted to provide engineering data necessary for the design. Laboratory tests for each sample collected are anticipated to include:
  - Standard Proctor
  - Unified Soil Classification
  - Dry Bulk Density
  - Moisture Content
  - Cohesion/Internal Soil Friction Angle

- Unified Soils Classifications
- b. The geotechnical budget allowance is based on eight (8) soil borings up to 50 feet total depth (TD) each. The borings will be backfilled using cuttings and bentonite chips. Actual work required will be refined as the PROJECT progresses. Billing will be based on actual work performed by the geotechnical subcontractor. Additional borings may be performed as an ADDITIONAL SERVICE.
- c. Deliverables:
- Certified Laboratory Report Copies
  - Draft Geotechnical Report
  - Final Geotechnical Report

### **Task E.3 –Subsurface Utility Engineering**

- a. Perform up to five (5) Level A SUE test holes as directed by the ENGINEER, to locate the existing utilities. Upon completion of each hole, complete and furnish the test hole data form including the GPS located Northing, Easting and elevation of the utility. Two pictures will be taken, one of the utility and one of the test hole board showing the depth. Additional test holes will be an ADDITIONAL SERVICE.
- b. Crossing utilities on the OWNER's Water Resource Reclamation Facility will be located by the OWNER's staff or record drawings will be relied upon for detailed design.
- c. Deliverables:
- Test Hole Data for the Crossing Utilities

### **ACTIVITY F – DETAILED DESIGN**

Following the development of the recommended alignments and lift station location in the Engineering Memo, the survey and geotechnical tasks will be given Notice to Proceed and detailed design services shall be provided for the PROJECT as follows:

#### **Task F.1 – 80% Design of the Primary and Secondary Waterlines, Lift Station, Meters and Force Main**

- a. Prepare 80% detailed plans, specifications, and contract documents for:
- The design of approximately 4,000 linear feet of a 12-inch potable primary waterline and 6,000 linear feet of an 8-inch potable secondary waterline including the trenchless crossings of Crutch Creek. The primary and secondary waterlines will connect to the OWNER's existing water distribution system as shown in the Engineering Memo and terminate at a common meter vault. The design will also include any applicable backflow prevention vaults that are required to isolate the potable water supply from the OWNER's potable distribution system. The design will consist of plan and profile sheets at a 1-inch equals 40-foot scale unless deemed otherwise necessary by the ENGINEER to show greater detail. The alignment shall be based on the alignment detailed in the Engineering Memo. The design will include the necessary connection details.
  - The design of a new submersible lift station (lift station sizing will be verified under B.1). The design will consist of structural, mechanical, electrical, communications, instrumentation, and controls. The design will be based on variable frequency driven pumps, with the electrical and instrumentation equipment placed in a precast concrete electrical building. The control system will utilize Allen-Bradley PLC with communication to the WWTP via a cellular router. The WWTP Factorytalk system will be modified to allow monitoring and alarm of the lift station. The electrical distribution system will include a natural gas generator to provide standby power in the event of loss of utility power. Coordination with the power and natural gas companies will be performed to coordinate service to the site.
  - The design of approximately 1,500 linear feet of discharge force main including the trenchless crossing of Crutch Creek and connection to the existing WRRF headworks. The design will consist of plan and profile sheets at a 1-inch equals 40-foot scale unless deemed otherwise necessary by the ENGINEER to show greater detail. The alignment shall be based on the



- alignment detailed in the Engineering Memo. The design will include the necessary connection details.
- The ENGINEER will coordinate with the OWNER to develop an efficient means of connecting the existing WRRF potable water system to the secondary potable waterline detailed above. Hydraulic modeling of the required fire flows, available water supply, anticipated pressures and flows will be an ADDITIONAL SERVICE.
  - Coordination with regulatory agencies
- b. The ENGINEER will consult with the OWNER, public utilities, private utilities, the county and other facilities that have an impact or influence on the project. The ENGINEER will coordinate and acquire permits required to cross existing utilities and easements as needed to construct the PROJECT. Permits may include, but are not limited to the following:
- Private Utility Permits
  - City of Midwest City Floodplain Development Permit (if applicable)
- c. The ENGINEER will utilize OWNER furnished Bidding and Contract Forms.
- d. ENGINEER will furnish PDF copies of the 80% Plans, Specifications and an ACEC Class 2 Opinion of Probable Construction Cost (OPCC) to the OWNER approximately 14 days prior to the Quality Control meeting. ENGINEER shall provide a written record of OWNER comments and the ENGINEER's responses for the Quality Control Meeting.
- e. Deliverables:
- 80% Plans, Specifications and Contract Documents
  - 80% ACEC Class 2 OPCC
  - 80% Quality Control Comment Log

#### **Task F.2 – Final Design of the Primary and Secondary Waterlines, Lift Station and Force Main**

- a. Incorporate 80% OWNER design comments into the Plans, Specifications and OPCC. ENGINEER will seal and sign the documents and prepare them for submission to the ODEQ for a construction permit.
- b. Prepare ACEC Class I OPCC for the Project.

#### **Task F.3 – ODEQ Permit to Construct**

- a. ENGINEER shall complete and submit the Permit to Construct Request as required by the ODEQ.
- b. ENGINEER will incorporate ODEQ comments and furnish sealed Contract Documents for bid.
- c. Deliverables:
- ODEQ Permit to Construct
  - Final Contract Documents for Bid

#### **ACTIVITY G – BID PHASE SERVICES**

##### **Task G.1 – Pre-Bid Activities**

- a. Provide a Notice to Bidders to the OWNER for publication. The cost of publication will be paid by the OWNER.
- b. Respond to questions related to the distribution of documents, construction contract provisions, and bidding requirements and technical questions regarding the PROJECT.
- c. Prepare, print, and distribute addenda addressing deletions, modifications, or interpretations of the Contract Documents;
- d. Coordinate, attend and administer one pre-bid conference for the PROJECT.
- e. Bid Documents shall be posted CivCast for download by interested parties.

### **Task G.2 – Post-Bid Activities**

- a. Assist the OWNER in the opening and preparation of tabulation of bids for construction of the PROJECT.
- b. Verify CONTRACTOR references and prepare a Recommendation of Award to the OWNER.
- c. ENGINEER shall conform the contract documents including all addendum changes. The following contract document sets shall be provided:
  - One (1) electronic copy.
  - Four (4) conformed specification books for execution by the respective parties.
  - Electronic (PDF OCR) files of the conformed plans and specifications.
- d. Preparation of additional hard copies of the documents for the OWNER or other parties will be performed by the ENGINEER as an ADDITIONAL SERVICE.

### **ACTIVITY H – CONSTRUCTION PHASE SERVICES**

The presence or duties of ENGINEER's personnel at a construction site does not make ENGINEER or its personnel in any way responsible for those duties that belong to the OWNER and/or Construction Contractor or other entities, and does not relieve the Construction Contractor or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the contract documents and any health or safety precautions required by such construction work.

ENGINEER and its personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or safety precautions and have no duty for inspecting, noting, observing, correcting, or reporting on health or safety deficiencies of the construction contractor or other entity or any other persons at the site except ENGINEER's own personnel.

The presence of ENGINEER's personnel at a construction site is for the purpose of providing to ENGINEER and OWNER a greater degree of confidence that the completed work will conform generally to the contract documents and that the integrity of the design concept as reflected in the contract documents has been implemented and preserved. The ENGINEER neither guarantees the performance of the Construction Contractor nor assumes responsibility for Contractors' failure to perform their work in accordance with the contract documents.

The Engineer shall provide field and administrative services for one construction project totaling up to 12 months of construction. If the OWNER elects to divide the recommended improvements into separate construction projects the construction services for the additional projects shall be provided as an ADDITIONAL SERVICE.

Field activities identified below are limited to site visits and meetings attended by the project manager and design engineering support staff. Administrative activities include general contract administration, submittal review and record drawing preparation that typically occurs in the office of the ENGINEER.

#### **Task H.1 –Field Activities**

- a. Represent the OWNER in Non-Resident construction administration of the PROJECTS. In this capacity, the construction administration duties shall not place any responsibility on ENGINEER for the techniques, sequences, and methods of construction or the safety precautions incident thereto, and the ENGINEER will not be responsible or liable in any degree for the Contractor's failure to perform the construction work in accordance with the Contract Documents.
- b. Provide Engineering surveys in AutoCAD format to establish benchmarks and reference points for construction, one time only.

#### **Task H.2 –General Contract Administration and Submittal Review**

- a. Conduct a Pre-Construction conference with the CONTRACTOR, and review construction schedules prepared by the CONTRACTOR. Prepare and distribute meeting notes.
- b. Make up to three (3) Special Site Visits for specific contractor coordination or at the OWNER's request.
- c. Review samples, catalog data, shop drawings, laboratory, shop and mill test of material and equipment and other data pursuant to the General Conditions of the Construction Contract. Review of submittals and re-submittals are included as Basic Services. Review of excessive submittals and review of resubmittals beyond one resubmittal will be considered ADDITIONAL SERVICES and charged to the Contractor as part of the contract specifications. Incomplete submittals will not be reviewed.
- d. Interpret the intent of the plans and specification for the OWNER and CONTRACTOR, responding to Requests for Information. Investigations, analyses, and studies requested by the Contractor and approved by the OWNER, for substitutions of equipment and/or materials or deviations from the plans and specifications will be considered an ADDITIONAL SERVICE. NOTE: Such studies conducted by the ENGINEER, if determined to be inadequate, due to incompleteness of ENGINEER prepared plans and specifications will be revised without additional compensation. Any defective designs, plans or specifications furnished by the ENGINEER shall be promptly corrected by the ENGINEER at no cost to the OWNER.
- e. Prepare Proposed Contract Modifications (PCM's) and/or for use by the Contractor and OWNER.
- f. Accompany the OWNER in conducting the final completion inspection of the PROJECT for conformance with the design concept of the PROJECT and general compliance with the contract documents, and review and comment on the certificate of completion and the recommendation for final payment to the Contractor. Prepare a list of deficiencies to be corrected by the contractor before final payment is released.
- g. Revise the construction drawings in accordance with the information furnished by construction Contractor and the Resident Project Representative reflecting changes in the PROJECT made during construction. One set of reproducible prints of "Record Drawings" and PDF files shall be provided by the ENGINEER to the OWNER. Record Drawings shall be provided to the OWNER within 60 days of receipt of the as-built drawings from the CONTRACTOR.

### **Task H.3 – Limited Onsite Resident Project Representative (RPR) Services**

During construction of the sanitary sewer lift station associated with the Project, Plummer shall provide an onsite RPR, who shall observe the work of the construction contractor and report to the OWNER. The RPR shall provide observation of the work for conformance with the plans and specifications.

Plummer agrees to furnish the OWNER the following specific services:

- a. Construction Observation:
  - The RPR will provide field observation for conformance of the contractor's work with plans and specifications and notify the contractor and the OWNER of any observed nonconforming work and monitor the progress of the contractor's corrective actions. The RPR shall not be responsible for means, methods, techniques, sequences, or procedures of construction selected by the contractor or the safety precautions and programs incident to the work of the contractor.
  - The RPR shall have the responsibility and authority to reject work that does not conform to the contract documents. Whenever the RPR considers it necessary or advisable for implementation of the intent of the contract documents, the RPR will recommend additional observation or testing of the work in accordance with the provisions of the contract documents, whether or not such work is fabricated, installed, or completed. However, neither this authority of the RPR nor a decision made in good faith either to exercise or not exercise such authority shall give rise to a duty or responsibility of the RPR to the contractor, subcontractor, their agents, employees, or other persons performing portions of the work.

- b. The RPR will create daily construction reports for the sanitary sewer lift station associated with the Project, including monitoring and documenting the observed work in a field activity for each visit.
- c. The RPR will monitor the Contractor's actual progress relative to his planned construction schedule.
- d. The RPR will coordinate with the Contractor for the startup and testing of equipment and testing of piping and electrical systems as specified per the contract documents.
- e. The RPR will help coordinate and advise on field conditions for field changes and CMR's.
- f. The RPR will conduct, in the company of the City's representative, a substantial completion review of the sanitary sewer lift station for conformance with the design concept of the project and general compliance with the contract documents and provide a list of deficiencies to the contractor.
- g. The RPR will conduct, in the company of the City's representative, a final review of the sanitary sewer lift station for conformance with the design concept of the project and general compliance with the contract documents, verify that items identified on the deficiency list from the substantial completion review have been completed, and make recommendation for final payment to the contractor.
- h. The RPR will redline mark up the construction drawings in accordance with the information furnished by the construction contractor reflecting changes to the project made during construction and delivery to the City's project manager.
- i. The RPR will coordinate the work of testing laboratories and observation bureaus required for the testing or observation of materials, witnessed tests, factory testing, etc. for quality assurance.
- j. The RPR will inspect materials delivered to the site for defects.

### **III. ADDITIONAL SERVICES**

Additional Services are those services not included in General Services that may be required for the Project but cannot be defined sufficiently at this time to establish a Scope of Work. These include, but are not necessarily limited to the following:

- a. Identification of tree species along alignment for tree survey if required by City.
- b. Modifications to the design of improvements previously approved by the OWNER by acceptance without comment on conceptual, preliminary or detailed design progress submittals.
- c. Surveying beyond the scope of items included in Basic Services.
- d. Geotechnical Investigations beyond the scope of items included in Basic Services
- e. Easement acquisition assistance or aid in acquiring property in fee, including in house labor by the Engineer, subconsultant services or property appraisals.
- f. Hydraulic and Transient Modeling for the OWNER's system and the Project as it relates to the OWNER's system. It is understood that any necessary modeling will be performed by another firm. Hydraulic and Transient Modeling can be performed as an ADDITIONAL SERVICE.
- g. Archeological investigations not included in Basic or Special Services.
- h. GIS processing of geophysical and/or geotechnical data beyond the assumptions provided in Basic or Special Services.
- i. Preparation of storm water permits or pollution protection plans (SWPPP).
- j. Section 404 of the Clean Water Act Permit Coordination

ENGINEER will assist the OWNER in determining the impacts and regulatory permitting requirements as a result of the proposed project. A site investigation will be required to complete an aquatic resources delineation for the presence and potential impacts to waters of the U.S. regulated under Section 404 of the Clean Water Act. The purpose of the aquatic resources delineation is to identify and define limits of waters of the U.S. as defined in the U.S. Army Corps

of Engineers (USACE) Regulatory Program Regulations, Section 33 CFR 328.2 that may be impacted by the proposed project and to quantify impacted area.

- ENGINEER shall perform the following activities:
  1. Obtain background data for task: Floodplain maps, National Wetland Inventory maps, U.S. Geological Survey maps, current and historical aerial photographs, soil data maps, and other readily available data
  2. Conduct an on-site investigation to visually assess the site and to delineate the limits of aquatic resources, including wetlands, within the proposed corridor pursuant to current USACE guidelines including delineation of identified aquatic resources with a hand-held GPS device.
  3. Prepare an Aquatic Resources Delineation Report (ARDR), including maps of the identified aquatic resources, to conform with the 1987 U.S. Army Corps of Engineers (USACE) Wetland Delineation Manual and the Regional Supplement to the manual for the Great Plains Region.
  4. Provide with the ARDR an opinion of waters of the U.S. (jurisdictional waters) associated with the delineated aquatic resources.
  5. Identify and quantify impacts to waters of the U.S. including adjacent wetlands.
  6. Prepare a USACE Pre-construction Notification (PCN) for verification of authorization under appropriate Nationwide Permit if potential impacts exceed thresholds that would require notification to the USACE.
  7. Coordinate permit review for authorization of the proposed project under Nationwide Permit 58 (Utility Line Activities for Water and Other Substances) with the USACE, Tulsa District, Regulatory staff.
- k. Threatened and Endangered Species Review:
  - ENGINEER will assist the OWNER in determining the potential impacts with respect to federally listed threatened or endangered species and regulatory permitting requirements. ENGINEER will obtain background data and delineate the site in the United States Fish and Wildlife Service (USFWS) Information, Planning, and Conservation (IPAC) System, and review the state list of Threatened and Endangered (T&E) Species list for Oklahoma County, Oklahoma.
  - A pedestrian investigation required to complete a T&E species assessment to determine the presence of and/or the critical habitat necessary for any listed (T&E) species for Oklahoma County, Oklahoma will be conducted during the on-site investigation to delineate the limits of aquatic resources within the project area.
  - ENGINEER will prepare a letter report documenting the findings of the investigation for T&E species and/or designated critical habitat.
- l. Exhaustive or continuous on-site inspections by the Engineer to check quality or quantity of the work or material.
- m. Preparation for and attendance at monthly construction progress meetings and/or monthly site visits during Construction Phase Services
- n. Review and response to additional submittal packages and/or RFI's beyond those included in Basic or Special Services.
- o. Review of Contractor's Monthly Pay Applications.
- p. Observe factory witness manufacturing and testing of selected equipment.
- q. Review of testing laboratories' reports and inspection bureaus required for the testing or inspection of materials, factory testing, etc.
- r. Preparation of Field Orders and/or Change Orders.
- s. Preparing applications and supporting documents for grants, loans, or planning advances for providing data for detailed applications.



- t. Providing additional copies of reports, plans, specifications, OPCC's and contract documents beyond those specifically described in Basic and Special Services.
- u. Preparing environmental impact statements, storm water discharge permits, pre-application meetings with USACE staff and Section 404 and 408 permit applications except as specifically included in the Basic Engineering Services.
- v. Appearing before regulatory agencies or courts as an expert witness in any litigation with third parties other than condemnation proceedings arising from the development or construction of the Project, including the preparation of engineering data and reports for assistance to the OWNER.
- w. Payment of fees for permit applications and publication(s) of notices.
- x. Preparation of a Traffic Control Plan
- y. Formal Consultation with the U.S. Fish and Wildlife Service for Threatened or Endangered Species (Section 7 consultation)
- z. Preparation of additional documentation required for Tier II Section 401 CWA Water Quality Certification form
- aa. Design of other improvements not identified in Basic or Special Services or Services known to be required for completion of the PROJECT that the OWNER agrees are to be furnished by the ENGINEER or by a sub-consultant that cannot be defined sufficiently at this time to establish the maximum compensation.

#### IV. COMPENSATION

The OWNER will compensate ENGINEER on a lump sum basis for the SERVICES rendered. The lump sum fee is broken down below by task as defined in the Scope of Services:

Activity	Task Description	Lump Sum Amount
A	Project Management	\$5,214
B	Project Coordination	\$3,372
C	Data Review	\$1,945
D	Engineering Memo and Alignment Study (inc. Archaeological Coord.)	\$68,812
E	Data Collection (Survey, Geotechnical and SUE)	\$47,355
F	Detailed Design	\$102,162
G	Bid Phase Services	\$7,761
H	Construction Phase Services	\$55,963
RE	Reimbursable Expenses (Reproduction, Technology, and Mileage)	\$6,781
<b>Total</b>		<b>\$299,365</b>

The ENGINEER may submit interim statements, not to exceed one per month, for partial payment for SERVICES rendered. The statements to OWNER will be by task for the percentage of work actually completed. The OWNER shall make interim payments within 30 calendar days in response to ENGINEER's interim statements.

No budgetary allowance has established for Additional Services. Additional services must be authorized by amendment of the agreement.

**ATTACHMENT B  
PLUMMER ASSOCIATES, INC.  
HOURLY FEE SCHEDULE  
2022**

Staff Description	Staff Code	Range of Billing Rates
Admin Staff	A1-A3	\$ 85.00 - \$ 105.00
Senior Admin Staff	A4	\$ 90.00 - \$ 130.00
Designer/Technician	C1-C2	\$ 75.00 - \$ 115.00
Designer/Technician III	C3	\$ 100.00 - \$ 130.00
Senior Designer/Technician	C4	\$ 125.00 - \$ 160.00
Engineer/Scientist Intern	ES0	\$ 50.00 - \$ 95.00
Engineer-in-Training/Scientist-in-Training	ES1-ES2	\$ 95.00 - \$ 130.00
Engineer-in-Training/Scientist-in-Training III	ES3	\$ 115.00 - \$ 145.00
Project Engineer/Scientist	ES4	\$ 120.00 - \$ 155.00
Senior Project Engineer/Scientist	ES5	\$ 135.00 - \$ 195.00
Project Manager	ES6	\$ 180.00 - \$ 250.00
Senior Project Manager	ES7	\$ 225.00 - \$ 295.00
Principal I	ES8	\$ 250.00 - \$ 330.00
Principal II	ES9	\$ 290.00 - \$ 400.00
Electrical Engineer in Training I	EE1	\$ 85.00 - \$ 110.00
Electrical Engineer in Training II	EE2	\$ 100.00 - \$ 115.00
Electrical Engineer in Training III	EE3	\$ 120.00 - \$ 150.00
Electrical Specialist	EE4	\$ 130.00 - \$ 165.00
Programmer	EE5	\$ 135.00 - \$ 170.00
Programmer II	EE6	\$ 140.00 - \$ 175.00
Senior Electrical Engineer	EE7	\$ 260.00 - \$ 295.00

Billing rates are based on "salary cost" times a multiplier of 2.3.

Salary cost is based on direct payroll costs times 1.43. Salary cost includes direct payroll costs, payroll taxes, vacation, holiday, sick leave, employee insurance, and other fringe.

Range of billing rates shown may be adjusted by up to 4 percent annually (at the beginning of each calendar year) during the term of this agreement. The multipliers shown will not be adjusted.

A multiplier of 1.10 will be applied to all direct expenses.

A technology charge will be billed at \$5 per labor hour.

## **ATTACHMENT C**

### **SERVICE PROVIDER'S TEAM**

#### **OPERATION OSCAR**

##### **I. PLUMMER TEAM**

Principal-In-Charge – Clete Martin, PE (FTW Office)  
Project Manager – Alan Swartz, PE (OKC Office)  
Project Engineer (Water and Sewer Line Design) – Chris Ferguson, PE (OKC Office)  
Project Engineer (General) – Tayler Jensen, PE (OKC Office)  
Project Engineer (Lift Station Design) – Brian Wright, PE (FTW Office)  
Project Engineer (EI&C) – Patrick Moseley, PE (FTW Office)  
QA/QC – George Farah, PE; Clete Martin, PE (FTW Office)  
Technician – Forrest Cave (OKC Office)

##### **II. SUBCONSULTANTS**

Archaeological – Chris Cojeen, Cojeen Archaeological Services  
Geotechnical – Envirotech Engineering & Consulting  
Topographical Survey – Darren Smith, PLS; CEC Engineering  
Subsurface Utility Engineering – Sidewinder Utility Location  
Structural Engineering – Chris Snider, PE; CEC Engineering



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/18/2022

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> Risk Strategies 12801 North Central Expy. Suite 1725 Dallas, TX 75243	<b>CONTACT NAME:</b> Joe Bryant <b>PHONE (A/C. No. Ext):</b> (214) 323-4602 <b>E-MAIL ADDRESS:</b> certificatedallas@risk-strategies.com	<b>FAX (A/C. No.):</b> (214) 503-8899	
	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
<b>INSURED</b> Plummer Associates, Inc. 1320 South University Drive Ste. 300 Fort Worth TX 76107	<b>INSURER A :</b> XL Specialty Insurance Company		37885
	<b>INSURER B :</b> Hartford Underwriters Insurance Company		30104
	<b>INSURER C :</b> Hartford Accident and Indemnity Company		22357
	<b>INSURER D :</b> Hartford Insurance Co of the Midwest		37478
	<b>INSURER E :</b>		
	<b>INSURER F :</b>		

**COVERAGES**

CERTIFICATE NUMBER: 69286843

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	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> XCU Coverage <input checked="" type="checkbox"/> Contractual Liability GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	84SBWAH8X07	9/30/2021	9/30/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 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 Valuable Papers \$ 500,000				
C	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	84UEGAC4597	9/30/2021	9/30/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$				
B	<input checked="" 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	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	84SBWAH8X07	9/30/2021	9/30/2022	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$				
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 <table style="float: right; margin-left: 20px;"> <tr> <td>Y/N</td> <td></td> </tr> <tr> <td>N</td> <td>N/A</td> </tr> </table>	Y/N		N	N/A		<input checked="" type="checkbox"/>	84WEGAS4E8D	5/13/2022	5/13/2023	<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
Y/N											
N	N/A										
A	Professional Liability Pollution Liability		<input checked="" type="checkbox"/>	DPR9993421	5/9/2022	5/9/2023	Per Claim \$ 3,000,000 Annual Aggregate \$ 3,000,000				

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

The claims made professional liability coverage is the total aggregate limit for all claims presented within the annual policy period and is subject to a deductible. Thirty (30) day notice of cancellation in favor of certificate holder on all policies.  
 Re: Plummer #3435-003-01, Water & Sanitary Sewer Extension for Operation Oscar.

**CERTIFICATE HOLDER**

City of Midwest City  
 100 N. Midwest Blvd.,  
 Midwest City, OK 73110

**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

Joe Bryant

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ACORD 25 (2016/03)

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**Engineering and  
Construction Services**  
100 N Midwest Boulevard  
Midwest City, OK 73110  
Office 405.739.1220

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TO : Honorable Mayor and Council

FROM : Brandon Bundy, P.E., Director

DATE : July 26, 2022

SUBJECT : Discussion and consideration for entering into and approving, including any possible amendment for Professional Services with Freese and Nichols, Inc. in the amount of \$296,000 to provide services for the Eastside Sanitary Sewer Study.

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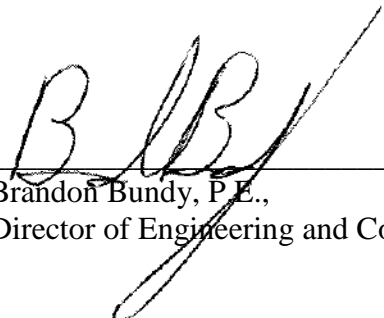
The City released a request for proposals (RFP) in June of this year for an upcoming project to study the sanitary sewer infrastructure on the east side of our City. Four proposals were received and after consulting with Public Works and Engineering Staff; Freese and Nichols Inc. was determined to be the most qualified. Negotiations then began with Freese and Nichols to define the scope and fee.

This project is in response to the continued development in the eastern portions of the City. Much of the sanitary sewer infrastructure was built in response to development 20-30 years ago and may no longer be adequate. There are a series of lift stations which pump the sanitary sewer over a number of ridgelines, ultimately going to one single lift station before gravity flowing to our treatment plant. The goals of this study are to understand our current capacity and to lay out a plan for future expansion and maintenance of this vital infrastructure.

The base fee of the project is \$265,915 with the option of \$30,085 fee for additional study of our lift stations. The additional study will not be known until a detailed analysis is done and in meeting with maintenance staff.

This contract will be funded in the FY 22-23 budget through project #442301 (Fund 188).

I am available for any additional questions.



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Brandon Bundy, P.E.,  
Director of Engineering and Construction Services



**PROFESSIONAL SERVICES AGREEMENT**  
**between**  
**Freese and Nichols, Inc.**  
**And**  
**THE CITY OF MIDWEST CITY**

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**THIS PROFESSIONAL SERVICES AGREEMENT** (hereinafter referred to as “**Agreement**”) is entered into by and among The City of Midwest City, a municipal corporation (hereinafter referred to as “**City**”), and Freese and Nichols, Inc., (hereinafter referred to as “**Service Provider**”) (**City**, and **Service Provider** being collectively referred to herein as the “**Parties**”) and is effective upon the date of execution by the last party hereto.

**WITNESSETH:**

**WHEREAS**, **City** is in need of the following professional services for: Assessment of the Current Sanitary Sewer System and Lift Station Infrastructure and Projection of Future Capacity Needs - Phase I; and

**WHEREAS**, **Service Provider** is in the business of providing professional services that is needed by the **City**; and

**WHEREAS**, the **City** and the **Service Provider** have reached an agreement for the **Service Provider** to provide the **City** the requested professional services; and

**WHEREAS**, **City** hereby retains **Service Provider** to provide professional services as an independent contractor; and

**WHEREAS**, **Service Provider** agrees to provide the **City** all services, in accordance with the standards exercised by experts in the field, necessary to provide the **City** services, products, solutions and deliverables that meet all the purposes and functionality requested or described in the RFP and in this Agreement.

**NOW, THEREFORE**, for and in consideration of the above premises and mutual covenants as set forth herein, the **City**, and **Service Provider** hereby agree as follows:

**1. SERVICES, PRODUCTS, SOLUTIONS AND DELIVERABLES TO BE PROVIDED**

Subject to the terms and conditions of this **Agreement**, the **City** retains the **Service Provider** as an independent contractor, to provide **City** all services, in accordance with the standards exercised by experts in the field, necessary to provide the **City** services, products,

**PROFESSIONAL SERVICES AGREEMENT**  
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solutions, and deliverables (collectively referred to as “Deliverables”) that meet all the purposes and functionality requested or described in this Agreement. The **City** shall meet with **Service Provider** to identify service needs on a project by project basis. **Service Provider** will provide a written proposal for the identified services in accord with the terms and conditions of this Agreement. The **City** may issue a purchase order for the identified services accompanied by **Service Provider’s** written proposal. Upon issuance of the purchase order, the **Service Provider** shall be responsible for timely providing the services authorized by the purchase order (“Project”). Upon completion of the Project (services in a purchase order), the **Service Provider** will issue an invoice to the **City** and, upon approval of the invoice, the **City** will pay the invoice. Upon completion of each Project and provision to the **City** of all Deliverables for that Project and payment of the invoice for that Project to the **Service Provider**, the **City** shall own all rights and license for the Deliverables and other work products related to that Project.

a) This **Agreement** governs the Scope of Services including, but not limited to, all Deliverables to be provided by **Service Provider** to the **City**. The Attachments are incorporated into this **Agreement** by reference and, should there be a conflict in language, terms, conditions, or provisions, shall have the priority and precedential value as set forth in this **Agreement**.

b) The text of this **Agreement** together with the Attachments constitutes the entire Agreement and the only understanding and agreement between the **City** and the **Service Provider** with respect to the services, products, solutions and deliverables to be provided by the **Service Provider** hereunder. This Agreement may only be amended, modified or changed in writing when signed by all parties, or their respective specifically authorized representatives, as set forth in this **Agreement**.

c) If there is a conflict in language, terms, conditions, or provisions, in this **Agreement** between the text of this document, and any language, term, condition, or provision in any Attachment, then the text of this document, shall govern and control over any conflicting language, term, condition, or provision in any Attachment. As among the Attachments any conflict in the language, terms, conditions, or provisions shall be governed in the following order of priority and

**PROFESSIONAL SERVICES AGREEMENT**  
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precedence:

- Attachment “A” (“Scope of Services”)
- Attachment “B” (“Schedule of Fees / Rate Card”),
- Attachment “C” (“**Service Provider’s Team**”),
- Attachment “D” (“Insurance”).

**2. RETENTION OF SERVICES PROVIDER AND SCOPE OF SERVICES**

A. **Service Provider** is solely responsible for the actions, non-action, omissions, and performance of **Service Provider’s** employees, agents, contractors, and subcontractors (herein collectively included in the term “Service Provider’s Project Team”) and to ensure the timely provision of each Project, timely performance of the Scope of Services, and the timely performance of each Project and the provision of all Deliverables as each are defined in **Attachment “A” (“Scope of Services”)** or the Project.

B. **Service Provider** will be solely responsible to ensure the **Service Provider’s Project Team** fully understands each Project, the Scope of Services, the Deliverables, the schedule for performance, and **City’s** goals and purposes. **Service Provider** will be solely responsible to ensure the **Service Provider’s Team**, specifically assigned to work on the Project for the City, is adequately trained, instructed, and managed so that **Service Provider** timely provides each Project task and satisfies the **Service Provider’s** obligations under this Agreement. The **Service Provider** may not change the **Service Provider’s Team**, for the services to be provided as set forth on Attachment “C” (“**Service Provider’s Team**”) without the prior written consent of the **City**.

C. **Service Provider** shall comply with all applicable federal, state and local laws, standards, codes, ordinances, administrative regulations and all amendments and additions thereto, pertaining in any manner to the performance or services provided under this **Agreement**. **Service Provider** shall obtain all patents, licenses and any other permission required to provide all Deliverables and for use of all Deliverables by the **City**.

**PROFESSIONAL SERVICES AGREEMENT**  
**between**  
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**3. CONSIDERATION**

A. The **City** shall pay the **Service Provider** the compensation after completion of Projects or Deliverables as specified in Attachment “B” (“Schedule of Fees / Rate Card”).

B. The **City** and the **Service Provider** acknowledge that the compensation to be paid the **Service Provider** pursuant to this **Agreement** has been established at an amount reasonable for the availability and services of the **Service Provider and the Service Provider’s Team**.

**4. INDEPENDENT CONTRACTOR STATUS**

The parties hereby acknowledge and covenant that:

A. **Service Provider** is an independent contractor and will act exclusively as an independent contractor is not an agent or employee of the **City** in performing the duties in this Agreement.

1. The parties do not intend, and will not hold out that there exists, any corporation, joint venture, undertaking for a profit or other form of business venture or any employment relationship among the parties other than that of an independent contractor relationship.

2. All payments to **Service Provider** pursuant to this **Agreement** shall be due and payable in the State of Oklahoma, even if services of **Service Provider** are performed outside the State of Oklahoma.

B. The **City** shall not withhold any social security tax, workmen’s compensation, Medicare tax, federal unemployment tax, federal income tax, or state income tax from any compensation paid to **Service Provider** as **Service Provider** is an independent contractor and the members of its **Service Provider’s Team**, assigned to work on the Project for the **City** are not employees of the **City**. Any such taxes, if due, are the responsibilities of **Service Provider** and will not be charged to the **City**.

C. **Service Provider** acknowledges that as an independent contractor it and **Service Provider’s Project Team**, assigned to work on the Project for the **City** are not eligible to

**PROFESSIONAL SERVICES AGREEMENT**  
**between**  
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participate in any health, welfare or retirement benefit programs provided by the **City** or its employees.

**5. TERM, TERMINATION AND STOP WORK**

A. This **Agreement** shall commence upon execution by the last party hereto and shall continue in effect for one-year from the date of execution, unless terminated by either party as provided for herein. This **Agreement** may be extended by mutual agreement of the **Parties** in one-year increments, until the Project is completed and accepted as provided herein.

B. The **City** issue notices of termination or suspension to the **Service Provider**. This **Agreement** may be terminated, with or without cause, upon written notice, at the option of **City**.

1. Upon receipt of a notice of termination for the *convenience* from the **City**, the **Service Provider** shall immediately discontinue all services and activities (unless the notice directs otherwise), and

2. Upon payment for products or services fully performed and accepted, **Service Provider** shall deliver to the **City** all licenses, work, products, deliverables, solutions, communication recommendations, plans, messaging strategies, style guides, design elements, internal and external messaging campaigns, documents, data analysis, reports, and other information and materials accumulated or created in performing this **Agreement**, whether same are complete or incomplete, unless the notice directs otherwise. Upon termination for the *convenience* by the **City**, the **City** shall pay **Service Provider** for completed Projects and Deliverables up to the time of the notice of termination for *convenience*, in accordance with the terms, limits and conditions of the **Agreement** and as further limited by the “not to exceed” amounts set out in this **Agreement**.

3. Upon notice of termination for *cause* from the **City**, the **Service Provider** shall not be entitled to any prior or future payments, including, but not limited to, any services,



**PROFESSIONAL SERVICES AGREEMENT**  
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performances, work, products, deliverables, solutions, costs, or expenses, and **Service Provider** shall release and waive any interest in any retainage. The **City** may hold any outstanding payments for prior completed Projects, Deliverables, Services or expenses and any retainage as security for payment of any costs, expenses, or damages incurred by the **City** by reason of **Service Provider's** breach or other cause. Provided, however, upon notice of termination for cause, the **Service Provider** shall deliver to the **City** services, products, solutions, and Deliverables including, but limited to, all communication recommendations, plans, messaging strategies, style guides, design elements, internal and external messaging campaigns, documents, data analysis, reports, and other information and materials accumulated or created in performing this **Agreement**, whether complete or incomplete, unless the notice directs otherwise.

4. The rights and remedies of the **City** provided in this paragraph are in addition to any other rights and remedies provided by law or under the **Agreement**. Termination herein shall not terminate or suspend any warranty, indemnification, insurance, or confidentiality required to be provided by **Service Provider** under this **Agreement**.

C. Upon notice to **Service Provider**, the **City** may issue a stop work order suspending any Projects, services, performances, work, products, Deliverables, or solutions under this **Agreement**. Any stop work order shall not terminate or suspend any warranty, indemnification, insurance, or confidentiality required to be provided by **Service Provider** under this **Agreement**. In the event the **City** issues a stop work order to **Service Provider**, the **City** will provide a copy of such stop work order to the **Service Provider**. Upon receipt of a stop work order issued from the **City**, the **Service Provider** shall suspend all work, services and activities except such work, services, and activities expressly directed by the **City** in the stop work order. Upon notice to the **Service Provider**, this **Agreement**, and any or all work, services, and activities thereunder, may be suspended up to thirty (30) calendar days by the **City**, without cause and without cost to the **City**; provided however, the **Service Provider** shall be entitled to an extension of all

**PROFESSIONAL SERVICES AGREEMENT**  
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subsequent deadlines for a period equal to the suspension periods for those suspended work, services, and activities only.

**D. Obligation upon Termination for *Convenience*.**

1. In the event this **Agreement** is terminated for convenience hereunder, the **City** shall pay **Service Provider** for such properly documented invoices, if any, in accordance with the provisions of this **Agreement** above, through the date of termination for *convenience* and the period set forth in the notice, and thereafter the **City** shall have no further liability under this **Agreement** to **Service Provider** and **Service Provider** shall have no further obligations to the **City**.

2. Upon termination for *convenience* of the Project and the providing to the **City** of all Deliverables for the Project and payment of the invoice for the Project to **Service Provider**, the **City** shall own all rights and license for the Deliverables and other work products related to that Project.

**6. WARRANTIES**

A. **Service Provider** warrants that the Projects performed and Deliverables provided under this **Agreement** shall be performed consistent with generally prevailing professional standards and expertise. **Service Provider** shall maintain during the course of this **Agreement** said standard of care, expertise, skill, diligence and professional competency for any and all such services, products, solutions and deliverables. **Service Provider** agrees to require all members of the **Service Provider's Team**, also including FTEs assigned to work on the Project, to provide any and all services, products, solutions and Deliverables at said same standard of care, expertise, skill, diligence and professional competence required of **Service Provider**.

B. During the term of this **Agreement**, the **City's** initial remedy for any breach of the above warranty shall be to permit **Service Provider** one additional opportunity to perform the work, services, and activities or provide the Projects and Deliverables without additional cost to the **City**. If the **Services Provider** cannot perform the work, services, and activities or provide

**PROFESSIONAL SERVICES AGREEMENT**  
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the products, solutions and deliverables according to the standards and requirements set forth in this **Agreement** within thirty (30) calendar days of the original performance date, the **City** shall be entitled to recover, should the **City** so determine to be in their best interest, any fees paid to the **Service Provider** for previous payments, including, but not limited to, work, services, activities services, Projects and Deliverables and **Service Provider** shall make reimbursement or repayment within thirty (30) calendar days of a demand by the **City**. Should the **Service Provider** fail to reimburse the **City** within thirty (30) calendar days of demand, the **City** shall also be entitled to interest at 1.5% percent per month on all outstanding reimbursement and repayment obligations.

C. The **Service Provider** also acknowledges and agrees to provide all express and implied, warrants required or provided for by Oklahoma statutory and case law. This warrant is in addition to other warranties provided in or applicable to this **Agreement** and may not be waived by any other provision, expressed or implied, in this **Agreement** or in any **Attachment** hereto.

## **7. INSURANCE**

A. **Service Provider** must provide and maintain at all times throughout the term of this **Agreement**, and any renewal hereof, such *commercial general insurance with a limit of \$1,000,000 per occurrence for bodily injury and property damage and \$5,000,000 general aggregate* protecting the **City** from claims for bodily injury (*including death*) and or property damage arising out of or resulting from the **Service Provider**, and its employees, use and occupancy of the premises and the activities conducted thereon . The insurance coverage required in this paragraph must include the **City** as additional insureds as their interest may appear under this **Agreement** under the policy or policies.

B. A certificate of insurance evidencing the coverage required herein shall be provided to the **City** within five (5) days of the execution of this **Agreement**.

C. **Service Provider** shall require any contractor or subcontractor to obtain and

**PROFESSIONAL SERVICES AGREEMENT**  
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maintain substantially the same coverage as required of **Service Provider** including the **City** as an additional insured as their interest may appear under this **Agreement**.

D. The insurance requirements set forth herein must not be deemed to limit, affect, waive, or define any obligations of the **Service Provider** in any other paragraph of this **Agreement** or any indemnification or insurance requirement in any other paragraph of this **Agreement**. This paragraph must continue in full force and affect for any act, omission, incident or occurrence occurring or commencing during the term of this **Agreement**. Further, the insurance coverage required by this paragraph will survive revocation, non-renewal, termination and expiration of this **Agreement** for any occurrence or event occurring, initiated, or commencing prior to such revocation, non-renewal, termination and expiration or during the period in which the **Service Provider** is services under the **Agreement**.

E. Provided, however, should the **Service Provider** or its officers, invitees, representatives, contractors, employees or agents carry any additional, different or other insurance or insurance coverage of any kind or nature, the provisions of this paragraph must not in any way limit, waive or inhibit the **City** from making a claim or recovering under such insurance or insurance coverage.

F. Notwithstanding any other provision to the contrary, upon termination or lapse of insurance coverage required hereunder, this **Agreement** may be terminated. Termination of this **Agreement** pursuant to this paragraph must take precedence and supersede any other paragraph establishing the term of this **Agreement**, establishing a procedure for revocation or termination, or requiring notice and/or providing an opportunity to cure a breach.

G. The insurance limits in this paragraph in no way act or will be deemed to define or limit the right of **City** to recover damages, expenses, losses or for personal injuries, death or property damage pursuant to applicable law or the indemnification provisions or under any other paragraph or provision in this **Agreement**.

**PROFESSIONAL SERVICES AGREEMENT**  
**between**  
**Freese and Nichols, Inc.**  
**And**  
**THE CITY OF MIDWEST CITY**

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**8. INDEMNIFICATION**

A. **Service Provider** agrees to indemnify, defend, and hold harmless the **City** from and against all liability for: (a) injuries or death to persons; (b) costs, losses, and expenses; (c) legal fees, legal expenses, and court costs; and (d) damages, loss to property, which are caused by the negligent performance of **Service Provider**, its officers, representatives, agents, contractors, and employees except to the extent such injuries, losses, damages and/or costs are caused by the negligence or willful misconduct of the indemnified party. The **Service Provider** must give the **City** prompt and timely notice of any claim or suit instituted which in any way, directly or indirectly, contingently or otherwise, affects or might affect the **City**, provided, however, such notice will not be a precondition to indemnification hereunder. The rights granted by this paragraph will not limit, restrict, or inhibit the rights of the **City** under any other paragraph, including but not limited to any insurance provision or requirement in this **Agreement**. For professional liability claims, Service Provider shall reimburse City for all reasonable costs of their defense in the same proportion Service Provide is found liable.

B. The provisions of this paragraph shall survive the expiration of this **Agreement**. It is understood that these indemnities and hold harmless provisions are not limited or defined by the insurance required under the insurance provisions of this **Agreement**.

**9. BONDS**

**Service Provider** shall provide all bonds required by the RFP/Bid. All Performance Bonds shall be on forms provided by the **City**. The **City** shall be the beneficiary of the Performance Bond. The Performance Bond shall be underwritten by a company that has filed and has registered to do business with the Oklahoma Secretary of State.

**10. CONFIDENTIALITY**

**Service Provider** acknowledges that in the course of training and providing other services to the **City**, the **City** may provide **Service Provider** with access to valuable information of a confidential and proprietary nature including but not limited to information relating to the **City's**



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employees, customers, marketing strategies, business processes and strategies, security systems, data and technology. **Service Provider** agrees that during the time period this **Agreement** is in effect, and thereafter, neither **Service Provider** nor **Service Provider's Team**, without the prior written consent of the **City**, shall disclose to any person, other than to the **City**, any information obtained by **Service Provider**. **Service Provider** shall require and maintain adequate confidentiality agreements with its employees, agents, contractors, and subcontractors.

**11. NOTICES**

A. Notices and other communications to the **City** pursuant to the provisions hereof will be sufficient if sent by first class mail, postage prepaid, return receipt required, or by a nationally recognized courier service, addressed to:

The City of Midwest City, City Clerk  
100 N. Midwest Boulevard  
Midwest City, OK 73110

respectively, and notices or other communications to the **Service Provider** pursuant to the provisions hereof will be sufficient if by first class mail, postage prepaid, return receipt required, or by a nationally recognized courier service, addressed to:

Clay Herndon  
Freese and Nichols, Inc.  
3600 NW 138<sup>th</sup> Street, Suite 202  
Oklahoma City, Oklahoma 73134

B. Any party hereto may change the address or addressee for the giving of notice to it by thirty (30) days prior written notice to the other parties hereto as provided herein. Unless otherwise specified in this **Agreement**, notice will be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to this paragraph.

**PROFESSIONAL SERVICES AGREEMENT**  
**between**  
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**12. ABIDES BY LAW**

The **Service Provider** must abide by the conditions of this **Agreement**, the ordinances of the **City**, and all laws and regulations of the State of Oklahoma and the United States of America (“Laws”), applicable to **Service Provider’s** activities. **Service Provider** will be responsible for securing any license, permits and/or zoning which may be required prior to commencement of the Project.

**13. ASSIGNMENT AND SUBLEASE**

**Service Provider** may not assign or sublease its interest under this **Agreement** without the prior written consent of the **City**. Any assignment or sublease shall become effective upon receipt of a request signed by authorized and empowered officers/agents of the **Service Provider** and sublessee and provision by the sublessee of a certificate of insurance evidencing the insurance required by this **Agreement** and upon approval of such sublease by **City**. The **City** may, but not required, to execute a letter approving either the assignment or sublease as provided herein on behalf of **City**. Upon approval of such assignment or sublease, **Service Provider** will not be relieved of future performance, liabilities, and obligations under this **Agreement**. **City** shall be provided with a copy of each written sublease agreement, and all amendments thereto, entered into by **Service Provider** within forty-five (45) days after the entering into of same.

**14. COMPLETE AGREEMENT AND AMENDMENT**

This is the complete agreement between the parties and no additions, amendments, alterations, or changes in this **Agreement** shall be effective unless reduced to writing and signed by all parties hereto. Additionally, no statements, discussions, or negotiations shall be deemed or interpreted to be included in this **Agreement**, unless specifically and expressly provided herein.

**15. TIME OF ESSENCE**

For the purposes of this **Agreement**, time shall be deemed to be of the essence.

**PROFESSIONAL SERVICES AGREEMENT**  
**between**  
**Freese and Nichols, Inc.**  
**And**  
**THE CITY OF MIDWEST CITY**

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**16. MULTIPLE ORIGINALS**

This **Agreement** shall be executed in multiple counterparts, each of which shall be deemed an original.

**17. ANTI-COLLUSION**

**Service Provider** agrees that it has not been and shall not be a party to any collusion with any of their officials, trustees, or employees of the **City** as to the terms or conditions of this **Agreement**, and has not and will not exchange, give or donate money or other things of value for special consideration to any officials, trustees, or employees of the **City**, either directly or indirectly, in procuring and execution of this **Agreement**.

**18. BREACH AND DEFAULT**

A. A breach of any provision of this **Agreement** shall act as a breach of the entire **Agreement** unless said breach is expressly waived in writing by all other parties hereto. Failure to enforce or timely pursue any breach shall not be deemed a waiver of that breach or any subsequent breach. No waiver of any breach by any party hereto of any terms, covenants, or conditions herein contained shall be deemed a waiver of any subsequent breach of the same, similar, or different nature.

B. Further, except as otherwise specifically and expressly provided and any other paragraph hereto, should any party hereto fail to perform, keep or observe any of the terms, covenants, or conditions herein contained, this **Agreement** may be terminated by any party not in default thirty (30) days after receipt of written notice and opportunity to cure, less and except as such lesser time is provided in this **Lease**.

C. Should the **City** breach this **Agreement**, **Service Provider** may only recover that proportion of services provided prior to the breach. **Service Provider** may not collect or recover any other or additional damages, losses, or expenses.

**PROFESSIONAL SERVICES AGREEMENT**  
**between**  
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**19. THIRD PARTY BENEFICIARIES**

All parties expressly agree that no third-party beneficiaries, expressly or implicitly, are intended to be or shall be created or acknowledged by this **Agreement**. This **Agreement** is solely for the benefit of the **Service Provider** and the **City**, and none of the provisions hereof are intended to benefit any third parties.

**20. VENUE AND CHOICE OF LAW**

All parties hereto expressly agree that the venue of any litigation relating to or involving this **Agreement** and/or the rights, obligations, duties and covenants therein shall be in the appropriate court (state or federal) located in Oklahoma County, Oklahoma. All parties agree that this **Agreement** shall be interpreted and enforced in accordance with Oklahoma law and all rights of the parties shall be determined in accordance with Oklahoma law.

**21. VALIDITY**

The invalidity or unenforceability of any provision of this **Agreement** shall not affect the validity or enforceability of any other provisions of this **Agreement**, which shall remain in full force and effect.

**22. NO WAIVER**

The failure or neglect of either of the **Parties** hereto to insist, in any one or more instances, upon the strict performance of any of the terms or conditions of this **Agreement**, or waiver by any party of strict performance of any of the terms or conditions of this **Agreement**, shall not be construed as a waiver or relinquishment in the future of such term or condition, but such term or condition shall continue in full force and effect.

**23. NO EXTRA WORK**

No claims for extra work, product, services, solution, or deliverables of any kind or nature or character shall be recognized or paid by or be binding upon the **City** unless such services, work,

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product, solution, or deliverable is first requested and approved in writing by the **City** through a purchase order.

**24. AMENDMENT**

This **Agreement** may be amended by mutual agreement of the **Parties**, in writing and signed by both **Parties**. The **City** hereby delegates to the City Manager all amendments to this **Agreement** for approval and execution, unless the amendment would increase the contracted amount by more than ten percent (10%).

**25. EFFECTIVE DATE**

The Effective Date of this **Agreement** is the date approved by the **City** as the last party hereto.

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**PROFESSIONAL SERVICES AGREEMENT**  
**between**  
**Freese and Nichols, Inc.**  
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IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute and seal this **Agreement** on the dates set forth below.

**Service Provider:**

Freese and Nichols, Inc.

By:



Name:

Mazen H. Kawasmi, PE

Title:

Vice President

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**PROFESSIONAL SERVICES AGREEMENT**  
**between**  
**Freese and Nichols, Inc.**  
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**APPROVED** by the Council and **SIGNED** by the Mayor of The City of Midwest City this  
\_\_\_\_\_ day of \_\_\_\_\_, 2022.

**THE CITY OF MIDWEST CITY**

\_\_\_\_\_  
**MAYOR**

\_\_\_\_\_  
SARA HANCOCK, CITY CLERK

**REVIEWED** for form and legality.

\_\_\_\_\_  
DONALD D. MAISCH, CITY ATTORNEY

**SCOPE OF SERVICES AND RESPONSIBILITIES OF CITY****PROJECT UNDERSTANDING**

Freese and Nichols, Inc. (FNI) understands that the City of Midwest City (City) is interested in professional services related to the Assessment of the Current Sanitary Sewer System and Lift Station Infrastructure and Projection of Future Capacity Needs Phase I project (Master Plan). The master plan process will include developing land use assumptions, wastewater flow projections, a hydraulic wastewater model, and provide a Capital Improvements Plan (CIP). Phase I of the Wastewater Master Plan will focus on the assessment area located on the Eastern portion of the City, as described in the RFP and attached.

The project consists of installing and maintaining temporary flow monitors within the wastewater collection system, surveying (as needed), and hydraulic modeling. The purpose of the flow monitoring is to determine dry and wet weather flows, identify sources of infiltration and inflow (I/I), and to aid in hydraulic model calibration. The wastewater collection hydraulic model will evaluate the capacity of the existing sewer system, determine needs for future flows, and be used to develop a prioritized CIP.

**ARTICLE I**

**BASIC SERVICES:** FNI shall render the following professional services in connection with the development of the Project:

**TASK A: WASTEWATER MASTER PLAN PROJECT MANAGEMENT****A1. Project Kickoff Meeting**

FNI will conduct a project kickoff meeting with the City and the field inspection team to discuss the project scope and schedule. A data request memorandum will be presented and discussed.

**A2. Data Collection and Review**

FNI will prepare a data request memorandum summarizing data needs for the project. This includes but is not limited to the following:

- Previous Master Plan Reports or other planning documents
- Infiltration and Inflow (I/I) Studies
- GIS Information
- Flow Monitoring Data
- Lift station data
- Utility billing meter data
- SCADA and other operational data
- Existing and future land-use mapping

**A3. Project Management**

FNI will perform project management duties, including preparing and updating the project schedule, monthly invoicing, development of monthly progress reports, written summaries of meetings (minutes), and any informal project collaboration.

## **TASK B: FLOW MONITORING AND I/I CHARACTERIZATION**

### **B1. Temporary Flow Meter Site Selection**

FNI will identify eight (8) locations in the existing system to conduct flow monitoring and two (2) locations for rainfall monitoring to calibrate the hydraulic model. FNI will prepare maps showing the proposed locations to present to the City. FNI will update the mapping based on City comments before submitting it to the flow monitoring subconsultant.

### **B2. Temporary Flow Meter Basin Delineation**

FNI will finalize the temporary flow monitoring plan with the recommended site selection for each temporary flow monitor. FNI will update the delineation of the temporary flow monitoring basins.

### **B3. Temporary Flow Meter Installation, Calibration, and Data Collection**

FNI's flow monitoring subconsultant will furnish, install, and calibrate eight (8) temporary velocity/depth type flow meters and two (2) rainfall gauges at the agreed-upon locations. Temporary flow meters shall remain in place for sixty (60) days.

FNI's subconsultant will remove all the temporary flow meters after the monitoring period if adequate weather conditions have been observed (dry weather and wet weather conditions include at least two (2) storm events of different rainfall intensities). FNI will advise the City if adequate weather conditions have not been observed during the initial monitoring period to allow the City to consider funding an extended period for flow monitoring before removing the temporary flow meters.

### **B4. Analyze Flow Meter Data**

The flow and rainfall data will be collected at 15-minute intervals for both dry and wet weather flow periods.

- 1) Analyze flow data for sub-drainage basins and develop average daily dry weather flow diurnal curves and base flow peaking factors.
- 2) Develop hydrographs for dry and wet weather flow conditions.
- 3) Determine peak inflow rate for selected rainfall events and determine corresponding rainfall intensity for areas tributary to all flow monitoring locations
- 4) Determine peak infiltration rates during high groundwater conditions, if possible.

### **B5. I/I Characterization and Ranking**

Flow data will be compared with rainfall data to determine the amount of inflow and infiltration experienced during selected storm events. FNI will utilize the data to characterize the I/I in the wastewater collection system. Mapping will be developed for all the flow meter basins to characterize and rank the basins by the amount of I/I entering the collection system.

### **B6. Workshop with City to Discuss Flow Monitoring Results**

FNI will meet with the City to discuss the results of temporary wastewater flow monitoring.

## **TASK C: POPULATION AND WASTEWATER FLOW PROJECTIONS**

### **C1. Develop Residential Population and Non-Residential Estimates**

Develop updated population and non-residential estimates and projections to allocate across the sewer basins for each future planning period. Sewer basin delineation developed for model calibration will be utilized for this task by using land use data, sewer basin, and subbasin information.

### **C2. Develop Design Criteria for Wastewater Flow Projections**

Based on a review of historical wastewater flow data, FNI will review existing flow projection methodologies, including those previously developed for all the sewer basins and sub-basins, to provide recommendations to update the design criteria for flow projections. FNI will develop base flow rates, per-capita flow rates, non-residential usage factors, infiltration and inflow (I/I) allowances based on flow monitoring data, rehabilitation work, and work order data (stoppages, blockages, etc.).

### **C3. Wastewater Flow Projections**

FNI will utilize the updated wastewater flow design criteria for each basin and sub-basin to allocate future residential and non-residential loads. FNI will allocate population and non-residential estimates and flow projections across the sewer basins and sub-basins for each planning period.

### **C4. Workshop to Discuss Population, Non-Residential Estimates, and Flow Projections**

FNI will attend a meeting with the City staff to discuss the results of sewer basin flow projections and distribution. FNI will address comments on the distribution of the population and non-residential estimates as well as the wastewater load projections.

## **TASK D: WASTEWATER MODEL DEVELOPMENT AND CALIBRATION**

### **D1. Wastewater System Model Development**

FNI will develop the City's wastewater collection system hydraulic model in the Innowyze® InfoWorks ICM® software from the most current GIS. The model will consist of all pipelines 10-inches and larger in addition to all smaller pipelines for which invert elevation data is available. The model will represent the volume of all pipelines in the collections system through a process called "pruning." FNI will review as-built drawings and operational data provided by the City to obtain physical data (wet well dimensions, pump curves, force main material and pressure rating, etc.) and develop initial controls for the model. This task will include the determination of additional data needed to properly define special hydraulic structures such as siphons, split flow manholes, weirs, junction boxes, and other interconnections between parallel lines. FNI will populate this information within the wastewater model.

### **D2. Update Detailed Lift Station Data**

Lift station and force main as-built information provided by the City will be entered into the model. FNI will review as-built drawings and operational data provided by the City to obtain physical data (wet well dimensions, pump curves, force main material and pressure rating, etc.) and develop initial controls for the model. FNI will identify missing lift station data needing field verification, including physical dimensions, pump performance data, and any missing force main information. FNI will utilize institutional knowledge from the City staff regarding the operational complexities of the wastewater system.



### **D3. Field Verification/Surveying of Critical Missing Data**

The field inspection and GPS/conventional surveying will be used to collect all critical needed physical data not included in the GIS. The field inspections will be done in conjunction with City staff for access to manholes and will focus on the following:

- GPS surveying of critical manholes to obtain X and Y coordinates and measure downs to obtain inverts for up to 140 GPS shots.

FNI will review raw field data and convert it into GIS format for input into the model database and provide revised GIS data to the City.

### **D4. Sewer Basin Delineation and Subcatchment Generation**

Review and update sewer basin delineation using GIS Shapefile and ground contour mapping. Develop sewer subbasin delineation representing meter areas and geographical areas within each sewer basin. Generate subcatchments for each sewer subbasin showing which areas feed into each sewer manhole within their respective flow meter basins. FNI shall prepare detailed mapping and meet with the City to review sewer basin, subbasin, and subcatchment mapping results.

### **D5. Distribute Updated Wastewater Flow in the Model**

Geocoded water billing data and the population and non-residential flow projections will be used to assign flows to the subcatchments for wastewater system analysis. Large customers will be located and allocated as a point load. FNI will assign residential and non-residential diurnal patterns to each subcatchment based on the flow meter data and the flow meter basins.

### **D6. Dry Weather Calibration**

Select dry weather calibration event to isolate projected flows as primarily domestic contributed flows. Develop a flow meter schematic showing which sewer basin and metered subbasins feed into each sewer interceptor for model analysis and data output review. Perform dry weather calibration on selected dry weather flow period using calibrated flow volume by adjusting antecedent conditions, per capita flows, diurnal curves, and dry weather infiltration. Dry weather calibration should match field data within 10%. Adjust lift station parameters based on system response observed during calibration event using SCADA records and meter responses.

FNI will prepare mapping and profiles at selected calibration points showing metered vs. modeled dry weather calibration flows, depths, and velocities and meet with the City to present dry weather calibration results. Selected calibration points will consist of the flow monitoring locations and any other locations where flow or level data is available through SCADA.

### **D7. Wet Weather Calibration**

Review flow meter data and select one (1) wet weather calibration storm events, if available. Perform wet weather calibration on selected wet weather flow event using calibrated peak I/I. Calibrate to within 15%. Adjust model parameters to calibrate flow velocity and flow depth. Adjust lift station parameters based on system response observed during calibration events using SCADA records and meter responses. Prepare mapping showing metered vs. modeled wet weather calibration results and meet with the City to present wet weather calibration results for the selected two wet weather calibration events.

## **D8. Workshop to Discuss the Wastewater Model Development and Calibration**

FNI will attend a meeting with the City staff to discuss the results of wastewater model development and Calibration.

## **TASK E. WASTEWATER SYSTEM PERFORMANCE ANALYSIS**

### **E1. Design Criteria Evaluation**

FNI will evaluate and recommend wastewater system planning criteria, including design flows, minimum and maximum pipeline velocities, DEQ requirements, and surcharging guidelines. The criteria will be based on the desired Level of Service and will determine what surcharging, if any, is allowed, minimum and maximum velocity constraints, etc. Criteria will be developed for overall master planning purposes, development reviews, and environmentally sensitive areas.

### **E2. Design Storm Evaluation**

FNI will develop recommendations on design storms using return period and storm intensity analysis for individual sewer basins, interceptors, and system-wide storms for the wastewater facilities, based on the Level of Service recommendations using existing available data.

### **E3. Existing System Evaluation**

FNI will run the calibrated wastewater model with the selected design storm and identify existing surcharging and overflow locations and other capacity restriction issues. FNI will evaluate the impacts of critical elements (special structure) and lift station modifications on the existing system evaluation results. FNI will prepare mapping and model results showing all surcharging and overflow locations by magnitude and locations. FNI will categorize manholes by overflow amounts during design storm and sewer line surcharging by amounts during design event.

### **E4. Develop Future Model Scenarios**

FNI will utilize 5-year, 10-year, and 20-year wastewater model scenarios under design storm conditions to determine the system response for surcharging and overflow events. FNI will conduct an evaluation of special structures and lift stations under design storm conditions for each planning period. FNI will utilize the future system model scenarios to analyze the impact of future growth and redevelopment on the wastewater collection system. FNI will apply the selected design storm(s) to the future system models to locate potential future system deficiencies based on specified design criteria.

### **E5. Develop System Improvements Alternatives for the 5-, 10-, and 20-year Planning Periods**

Using the results of future models, develop improvements to eliminate excessive surcharging and overflows in the system resulting from increased wastewater flow from projected future development and redevelopment. Develop improvements alternatives for gravity lines, lift stations, force mains, and special structures. Improvements needed to correct existing deficiencies will also be included. Utilize model results to develop improvements to serve areas that are currently not developed. Develop mapping showing improvements required for the 5-year, 10-year, and 20-year planning periods as well as improvements needed to correct existing deficiencies.

## **TASK F. CAPITAL IMPROVEMENTS PLAN AND WASTEWATER MODELING SERVICES REPORT**

### **F1. Develop Draft Capital Improvement Plan (CIP) Costs, Schedule, and Mapping**

FNI will develop a Capital Improvements Plan based on growth needs. Costs for each proposed project will be developed in Year 2023 dollars, including engineering and contingencies. Large-scale system-wide maps will be produced showing proposed projects, costs, and recommended in-service dates of proposed projects. FNI will also prepare a one-page summary for each project, including but not limited to a detailed description, issue, project map with planning level alignment, cost, proposed dates, and justification.

### **F2. Meet to Review Draft Capital Improvement Plan**

FNI will meet with the City to discuss the draft CIP, project phasing, and analyze alternative completion dates as necessary.

### **F3. Prepare Draft Wastewater Master Plan Report**

FNI will prepare a draft Wastewater Master Plan Report summarizing wastewater flow projections, model calibration, existing and future system analysis, and CIP development. FNI will deliver one (1) electronic PDF file of the draft report to the City.

### **F4. Meet to Review Draft Report**

FNI will meet with the City to discuss the draft report. FNI will solicit comments to be incorporated into the final report.

### **F5. Revise Wastewater Master Plan Report to Incorporate Comments**

FNI will revise the report based on comments from the City and submit one (1) final hard copies and one (1) electronic copy in PDF format of the Wastewater Master Plan Report.

## **SUMMARY OF DELIVERABLES:**

- Wastewater System Capital Improvements Program
- Draft Wastewater Master Plan Report
- Final Wastewater Master Plan Report
- Calibrated Wastewater Model
- All electronic project files

## **ARTICLE II**

**SPECIAL SERVICES:** FNI shall render the following professional services, which are not included in the Basic Services described above, in connection with the development of the Project:

## **TASK G. LIFT STATION SITE VISIT ASSESSMENTS**

### **G1. Assess Condition of Wastewater Facilities Using Site Visits**

FNI will conduct up to 3 site visits with City staff in order to assess the condition of wastewater facilities, collect data on existing facilities, including motors, motor control centers (MCC), piping, valves, vaults and buildings. The data collection will only include any information that can be provided by the City and visual observations. No physical testing of any piping, valves, or equipment is included. FNI will compile notes and scoring from facility site visits and develop a condition summary sheet for each facility including photos, data, and condition scoring results.

### ARTICLE III

**ADDITIONAL SERVICES:** Any services performed by FNI that are not included in the Basic Services or Special Services described above are Additional Services. N/A

### ARTICLE IV

**TIME OF COMPLETION:** FNI is authorized to commence work on the Project upon execution of this Agreement and agrees to complete the services in 10 months from Notice to Proceed.

If FNI's services are delayed through no fault of FNI, FNI shall be entitled to adjust contract schedule consistent with the number of days of delay. These delays may include but are not limited to delays in City or regulatory reviews, delays on the flow of information to be provided to FNI, governmental approvals, etc. These delays may result in an adjustment to compensation as outlined on the face of this Agreement.

### ARTICLE V

**RESPONSIBILITIES OF CITY:** City shall perform the following in a timely manner so as not to delay the services of FNI:

- A. Designate in writing a person to act as City's representative with respect to the services to be rendered under this Agreement. Such person shall have contract authority to transmit instructions, receive information, interpret and define City's policies and decisions with respect to FNI's services for the Project.
- B. Assist FNI by placing at FNI's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.
- C. Arrange for access to and make all provisions for FNI to enter upon public and private property as required for FNI to perform services under this Agreement.
- D. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by FNI, obtain advice of an attorney, insurance counselor and other consultants as City deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay, or cause rework in, the services of FNI.
- E. Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project, such legal services as City may require or FNI may reasonably request with regard to legal issues pertaining to the Project including any that may be raised by Contractor(s), such auditing service as City may require to ascertain how or for what purpose any Contractor has used the moneys paid under the construction contract, and such inspection services as City may require to ascertain that Contractor(s) are complying with any law, rule, regulation, ordinance, code or order applicable to their furnishing and performing the work.
- F. Give prompt written notice to FNI whenever City observes or otherwise becomes aware of any development that affects the scope or timing of FNI's services, or any defect or nonconformance of the work of any Contractor.
- G. Bear all costs incident to compliance with the requirements of this Article V.

ARTICLE VI

**DESIGNATED REPRESENTATIVES:** FNI and City designate the following representatives:

CITY's Primary Contact

Name: Brandon Bundy  
Address: 100 N Midwest Blvd.  
Midwest City, OK 73110  
Phone: 405-739-1213  
Email: BBundy@MidwestCityOK.org

CITY's Accounting Contact

Name: Patrick Menefee  
Address: 100 N Midwest Blvd.  
Midwest City, OK 73110  
Phone: 405-739-1215  
Email: PMenefee@MidwestCityOK.org

FNI's Primary Contact

Name: Clay Herndon  
Address: 3600 NW 138th Street, Suite 202,  
Oklahoma City, OK 73134  
Phone: 405-252-5934  
Email: wch@freese.com

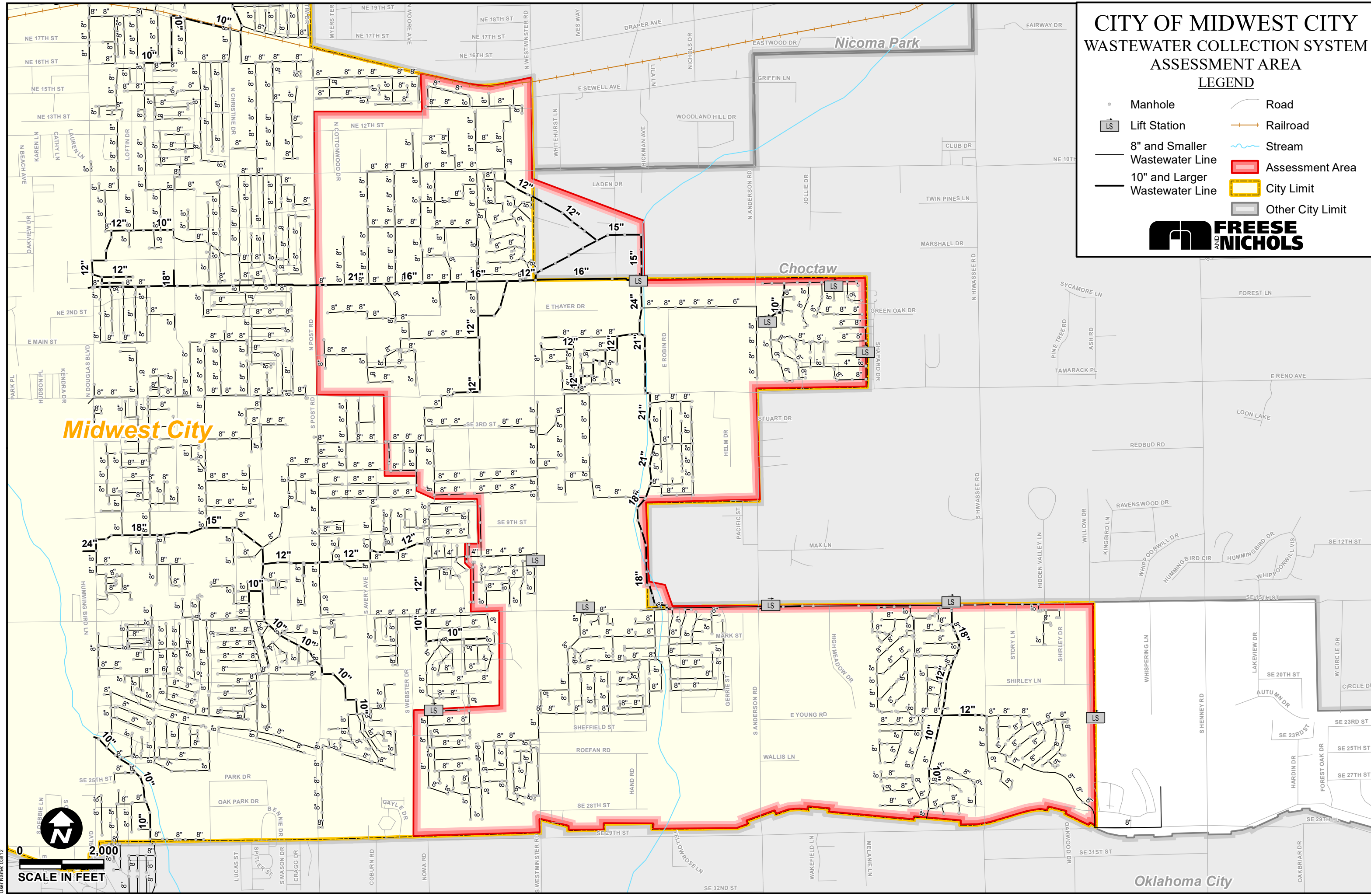
FNI's Accounting Contact

Name: Jana Collier  
Address: 801 Cherry St, Suite 2800,  
Fort Worth, TX 76102  
Phone: 817-905-1205  
Email: jvc@freese.com



# CITY OF MIDWEST CITY WASTEWATER COLLECTION SYSTEM ASSESSMENT AREA LEGEND

- Manhole
- LS Lift Station
- 8" and Smaller Wastewater Line
- 10" and Larger Wastewater Line
- Road
- Railroad
- Stream
- Assessment Area
- City Limit
- Other City Limit



Created By Freese and Nichols, Inc.  
 Job No.: 0FFZ2041  
 Location: H:\Client\OklahomaCity\_of\_Midwest\_City\DELIVERABLES\Existing\_Wastewater\_System\Figure\_1\_Existing\_Wastewater\_System.mxd  
 Updated: Friday, July 15, 2022 12:09 PM  
 User Name: 03612

Oklahoma City

**PROFESSIONAL SERVICES AGREEMENT**  
**between**  
**Freese and Nichols, Inc.**  
**And**  
**THE CITY OF MIDWEST CITY**

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**ATTACHMENT “B”**


The scope of work for Tasks A – G will be completed for a **LUMP SUM** fee of **\$296,000 INCLUSIVE of EXPENSES**. Additional Services will be provided upon request from the Owner and authorized in writing before commencing work.

**Fee Breakdown by Task**

<b>Task</b>	<b>Description</b>	<b>Total Fee</b>
<b>Basic Services</b>		
A	WASTEWATER MASTER PLAN PROJECT MANAGEMENT	<b>\$14,627</b>
B	FLOW MONITORING AND I/I CHARACTERIZATION	<b>\$114,105</b>
C	POPULATION AND WASTEWATER FLOW PROJECTIONS	<b>\$15,949</b>
D	WASTEWATER MODEL DEVELOPMENT AND CALIBRATION	<b>\$73,546</b>
E	WASTEWATER SYSTEM PERFORMANCE ANALYSIS	<b>\$16,034</b>
F	CAPITAL IMPROVEMENTS PLAN AND WASTEWATER MODELING SERVICES REPORT	<b>\$31,654</b>
<b>Sub-total: Basic Services</b>		<b>\$265,915</b>
<b>Special Services</b>		
G	LIFT STATION SITE VISIT ASSESSMENTS	<b>\$30,085</b>
<b>Sub-total: Special Services</b>		<b>\$30,085</b>
<b>Grand Total</b>		<b>\$296,000</b>

# ORGANIZATIONAL CHART



 Subconsultant  
\* Licensed in other states



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/14/2022

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> <b>Ames &amp; Gough</b> 8300 Greensboro Drive Suite 980 McLean, VA 22102	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): <b>(703) 827-2277</b>	FAX (A/C, No): <b>(703) 827-2279</b>	
	<b>E-MAIL ADDRESS:</b> <b>admin@amesgough.com</b>		
<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>	
<b>INSURED</b>  <b>Freese and Nichols, Inc.</b> 801 Cherry Street, Suite 2800 Fort Worth, TX 76102	<b>INSURER A : Hartford Underwriters Insurance Company A+ (XV)</b>		<b>30104</b>
	<b>INSURER B : Twin City Fire Insurance Company A+ (XV)</b>		<b>29459</b>
	<b>INSURER C : Hartford Casualty Insurance Company A+ (XV)</b>		<b>29424</b>
	<b>INSURER D : Hartford Accident and Indemnity Company A+ (XV)</b>		<b>22357</b>
	<b>INSURER E : Continental Casualty Company (CNA) A, XV</b>		<b>20443</b>
<b>INSURER F :</b>			

**COVERAGES** **CERTIFICATE NUMBER:** **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>A</b>	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b>			<b>42UUNOL5238</b>	<b>10/23/2021</b>	<b>10/23/2022</b>	EACH OCCURRENCE	\$ <b>1,000,000</b>
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ <b>1,000,000</b>
	<input checked="" type="checkbox"/> <b>Contractual Liab.</b>						MED EXP (Any one person)	\$ <b>10,000</b>
	GEN'L AGGREGATE LIMIT APPLIES PER:							PERSONAL & ADV INJURY
	<input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC						GENERAL AGGREGATE	\$ <b>2,000,000</b>
	OTHER:						PRODUCTS - COMP/OP AGG	\$ <b>2,000,000</b>
								\$
<b>B</b>	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b>			<b>42UENOL5558</b>	<b>10/23/2021</b>	<b>10/23/2022</b>	COMBINED SINGLE LIMIT (Ea accident)	\$ <b>1,000,000</b>
	<input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY	<input type="checkbox"/> SCHEDULED AUTOS					BODILY INJURY (Per person)	\$
	<input type="checkbox"/> HIRED AUTOS ONLY	<input type="checkbox"/> NON-OWNED AUTOS ONLY					BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
							\$	
							\$	
<b>C</b>	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b>	<input checked="" type="checkbox"/> OCCUR		<b>42 XHU OL 5747</b>	<b>10/23/2021</b>	<b>10/23/2022</b>	EACH OCCURRENCE	\$ <b>10,000,000</b>
	<input type="checkbox"/> EXCESS LIAB	<input type="checkbox"/> CLAIMS-MADE					AGGREGATE	\$ <b>10,000,000</b>
	DED <input checked="" type="checkbox"/>	RETENTION \$ <b>10,000</b>						\$
<b>D</b>	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>			<b>42WBOL6H3F</b>	<b>10/23/2021</b>	<b>10/23/2022</b>	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input checked="" type="checkbox"/> Y <input type="checkbox"/> N	<input type="checkbox"/> N/A				E.L. EACH ACCIDENT	\$ <b>1,000,000</b>
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	\$ <b>1,000,000</b>
							E.L. DISEASE - POLICY LIMIT	\$ <b>1,000,000</b>
<b>E</b>	<b>Professional Liab.</b>			<b>AEH008214422</b>	<b>10/23/2021</b>	<b>10/23/2022</b>	<b>Per Claim</b>	<b>5,000,000</b>

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
**PROFESSIONAL LIABILITY AGGREGATE LIMIT: \$10,000,000**

The City of Midwest City, its officers, representatives, agents, contractors, and employees are included as Additional Insured with respect to General Liability, Auto Liability, and Umbrella Liability when required by written contract. General Liability, Auto Liability and Umbrella Liability are primary and non-contributory over any existing insurance and limited to liability arising out of the operations of the named insured and when required by written contract. General Liability, Auto Liability, Umbrella Liability and Workers Compensation policies include a Waiver of Subrogation in favor of the Additional Insured where permissible by state law and when required by written contract. Umbrella Liability coverage sits excess over General Liability, Auto Liability and Employer's Liability coverage.

**CERTIFICATE HOLDER** **CANCELLATION**

<b>The City of Midwest City</b> City Clerk 100 N. Midwest Boulevard Midwest City, OK 73110	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 



**City Attorney, Donald D. Maisch**

100 N. Midwest Boulevard  
Midwest City, OK 73110  
DMaisch@midwestcityok.org  
Office: 405.739.1203  
[www.midwestcityok.org](http://www.midwestcityok.org)

## MEMORANDUM

To: Mayor and City Council Members

From: Donald D. Maisch, City Attorney

Date: July 26, 2022

RE: Public hearing, presentation and discussion of proposed amendments to Chapter 14, Elections; Section 14-1, Wards created; boundaries of the City Ordinances for the City of Midwest City that create and define the ward boundaries for the six wards in Midwest City. (D. Maisch – City Attorney).

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The proposed amendments to Chapter 14, Elections; Section 14-1, Wards created; boundaries, would modify the current ward boundaries for the six wards in the City of Midwest City. The changes to the boundaries of the wards is being undertaken pursuant to the City Charter and state law, both of which require review of ward boundaries and ward populations after every decennial census.

Article II, Section 1 of the City Charter requires a review of the boundaries of wards within two (2) years of the certification of the national census. State law requires that the population of each ward be substantially equal in population (which has been interpreted to mean no more than a 10% population variation between the largest and smallest ward) and that the wards be formed with compact and contiguous boundaries. After the certification of the 2020 census, there is between an 11%-12% population variation between the largest and smallest wards. The proposed ward changes will keep the wards contiguous and as compact as possible with a population variation of less than 8%.

Public Notice was published in the Midwest City Beacon on July 20, 2022. The proposed changes are on the agenda for the July 26, 2022, City Council meeting for discussion and presentation to the public. The proposed ward boundary changes have been and currently are made available to the public on the City of Midwest City's web page and at the City Clerk's Office.

In accordance with state law, a resolution on the proposed changes and a public hearing on the proposed changes will be held at the August 23, 2022, City Council Meeting, for final approval and adoption.

Respectfully submitted,

Donald D. Maisch, City Attorney



1 **ORDINANCE NO. \_\_\_\_\_**

2  
3 AN ORDINANCE AMENDING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER 14,  
4 ELECTIONS; SECTION 14-1, WARDS CREATED; BOUNDARIES; AND PROVIDING FOR  
5 REPEALER AND SEVERABILITY.

6  
7 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDWEST CITY, OKLAHOMA:

8  
9 **ORDINANCE**

10  
11 **Section 1.** That the Midwest City Municipal Code, Chapter 14, Elections; Section 14-1, Wards  
12 created; boundaries are hereby amended to read as follows:

13  
14 Sec. 14-1. – Wards created; boundaries.

15  
16 The city is hereby divided into six (6) wards, to be bounded as follows:

17  
18 (1) *WARD 1.* All the land areas lying within the municipal limits of Midwest City of the  
19 following sections:

20  
21 Section 9, Township 11 North, Range 2 West,

22  
23 Section 10, Township 11 North, Range 2 West,

24  
25 that land area within the municipal limits of the City of Midwest City, located in Section 15,  
26 Township 11 North, Range 2 West, and

27  
28 that land area within Section 4, Township 11 North, Range 2 West lying south of the centerline  
29 of the right-of-way of the A.T. & S.F. Railroad, and

30  
31 that land area within Section 3, Township 11 North, Range 2 West lying south of the centerline  
32 of the right-of-way of the A.T. & S.F. Railroad.

33  
34 (2) *WARD 2.* All the land areas within the municipal limits of Midwest City of the following  
35 sections:

36  
37 Section 1, Township 11 North, Range 2 West,

38  
39 Section 2, Township 11 North, Range 2 West,

40  
41 ~~Section 3, Township 11 North, Range 2 West,~~

42  
43 Section 11, Township 11 North, Range 2 West, ~~and~~

44  
45 ~~that land area of Section 12, Township 11 North, Range 2 West lying south of a line from the~~  
46 ~~centerline of South Douglas Boulevard along the north boundary of the Orchard Addition, the~~



1 ~~Orchard 2nd Addition, and the Orchard 2nd Addition Phase II, thence south 251.67 feet along~~  
2 ~~the east boundary of the Orchard 2nd Addition Phase II, thence 89.84 feet N84°13'30"W to the~~  
3 ~~southwest corner of Santa Fe Crossing Section Two, continuing easterly along the south~~  
4 ~~boundary of Santa Fe Crossing Section Two and Santa Fe Crossing Phase I to the centerline of S.~~  
5 ~~Post Road, and~~

6  
7 that land area within the municipal limits of the City of Midwest City lying within Section 14,  
8 Township 11 North, Range 2 West, and

9  
10 that land area lying within Section 3, Township 11 North, Range 2 West, that is lying north of  
11 the Centerline of the right-of-way of the A.T. & S.F. Railroad and is east of the following  
12 description: north Key Boulevard from East Reno Avenue south to east Jarmin Drive; east  
13 Jarmin Drive, east to Felix Place; and south on Felix Place to the center line of the A.T. & S.F.  
14 Railroad.

15  
16 (3) *WARD 3.* All the land areas lying within the municipal limits of Midwest City of the  
17 following sections:

18  
19 Section 35, Township 12 North, Range 2 West,

20  
21 Section 36, Township 12 North, Range 2 West,

22  
23 Section 31, Township 12 North, Range 1 West,

24  
25 that land area within the municipal limits of the City of Midwest City, located in the south half  
26 of Section 32., Township 12 North, Range 1 West, and

27  
28 that land area within the municipal limits of the City of Midwest City, located in the southeast  
29 southwest quarter of Section 33, Township 12 North, Range 1 West,

30  
31 ~~Section 5, Township 12 North, Range 1 West and~~

32 ~~that land area within Section 35, Township 12 North, Range 2 West that lies east of the~~  
33 ~~centerline of the channel of Soldier Creek as existing on the date of this ordinance, crossing the~~  
34 ~~centerline of East Reno Avenue at approximately 2,470 feet east of the centerline of Midwest~~  
35 ~~Boulevard and crossing the centerline of North Midwest Boulevard at approximately 223 feet~~  
36 ~~south of the centerline of NE 10<sup>th</sup> Street.~~

37  
38 (4) *WARD 4.* All the land areas lying within the municipal limits of Midwest City of the  
39 following sections:

40  
41 ~~Section 21, Township 12 North, Range 2 West, Section 28, Township 12 North, Range 2 West,~~

42  
43 Section 33, Township 12 North, Range 2 West,

44  
45 Section 34, Township 12 North, Range 2 West,

46

1 ~~that land area within Section 35, Township 12 North, Range 2 West that lies west of the~~  
2 ~~centerline of the channel of Soldier Creek as existing on the date of this ordinance, crossing the~~  
3 ~~centerline of East Reno Avenue at approximately 2,470 feet east of the centerline of Midwest~~  
4 ~~Boulevard and crossing the centerline of North Midwest Boulevard at approximately 223 feet~~  
5 ~~south of the centerline of NE 10<sup>th</sup> Street, and that land area within Section 4, Township 11~~  
6 ~~North, Range 2 West lying north of the centerline of the right-of-way of the A.T. & S.F.~~  
7 ~~Railroad, and~~

8  
9 that land area lying within Section 3, Township 11 North, Range 2 West, that is lying north of  
10 the Centerline of the right-of-way of the A.T. & S.F. Railroad and is west of the following  
11 description: north Key Boulevard from East Reno Avenue south to east Jarmin Drive; east  
12 Jarmin Drive, east to Felix Place; and south on Felix Place to the center line of the A.T. & S.F.  
13 Railroad.

14  
15 (5) *WARD 5.* All the land area lying within the municipal limits of Midwest City of the  
16 following sections:

17  
18 that land area within the municipal limits of the City of Midwest City lying within Section 21,  
19 Township 12 North, Range 2 West,

20  
21 that land area within the municipal limits of the City of Midwest City lying within Section 28,  
22 Township 12 North, Range 2 West,

23  
24 that land area within the municipal limits of the City of Midwest City lying within Section 15,  
25 Township 12 North, Range 2 West,

26  
27 that land area within the municipal limits of the City of Midwest City lying within Section 22,  
28 Township 12 North, Range 2 West,

29  
30 that land area within the municipal limits of the City of Midwest City lying within Section 24,  
31 Township 12 North, Range 2 West,

32  
33 Section 25, Township 12 North, Range 2 West,

34  
35 Section 26, Township 12 North, Range 2 West,

36  
37 Section 27, Township 12 North, Range 2 West, and

38  
39 that land area within the municipal limits of the City of Midwest City lying within Section 30,  
40 Township 12 North, Range 1 West.

41  
42 (6) *WARD 6.* All the land area lying within the municipal limits of Midwest City of the  
43 following sections:

44  
45 that land area within the municipal limits of the City of Midwest City lying within Section 5,  
46 Township 12 North, Range 1 West,

1  
2 Section 6, Township 11 North, Range 1 West,

3  
4 Section 7, Township 11 North, Range 1 West,

5  
6 that land area within the municipal limits of the City of Midwest City lying within Section 8,  
7 Township 11 North, Range 1 West,

8  
9 that land area within the municipal limits of the City of Midwest City lying within Section 9,  
10 Township 11 North, Range 1 West, and

11  
12 that land area within the municipal limits of the City of Midwest City lying within Section 10,  
13 Township 11 North, Range 1 West, and

14  
15 ~~that land area of Section 12, Township 11 North, Range 2 West lying north of a line from the~~  
16 ~~centerline of South Douglas Boulevard along the north boundary of the Orchard Addition, the~~  
17 ~~Orchard 2nd Addition, and the Orchard 2nd Addition Phase II, thence south 25 L67 feet along~~  
18 ~~the east boundary of the Orchard 2nd Addition Phase II, thence 89.84 feet N84°13'30"W to the~~  
19 ~~southwest corner of Santa Fe Crossing Section Two, continuing easterly along the south~~  
20 ~~boundary of Santa Fe Crossing Section Two and Santa Fe Crossing Phase I to the centerline of~~  
21 ~~South Post Road.~~

22  
23 **Section 2.** REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby  
24 repealed.

25  
26 **Section 3.** SEVERABILITY. If any section, sentence, clause, or portion of this ordinance is for  
27 any reason held to be invalid, such decision shall not affect the validity of the remaining provisions  
28 of the ordinance.

29  
30 PASSED AND APPROVED by the Mayor and the Council of the City of Midwest City,  
31 Oklahoma, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

32  
33 **THE CITY OF MIDWEST CITY, OKLAHOMA**

34  
35  
36 \_\_\_\_\_  
37 MATTHEW D. DUKES, II, Mayor

38 ATTEST:

39  
40 \_\_\_\_\_  
41 SARA HANCOCK, City Clerk

42 Approved as to form and legality this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

43  
44 \_\_\_\_\_  
DONALD D. MAISCH, City Attorney



1  
2 that land area lying within Section 3, Township 11 North, Range 2 West, that is lying north of  
3 the Centerline of the right-of-way of the A.T. & S.F. Railroad and is east of the following  
4 description: north Key Boulevard from East Reno Avenue south to east Jarmin Drive; east  
5 Jarmin Drive, east to Felix Place; and south on Felix Place to the center line of the A.T. & S.F.  
6 Railroad.

7  
8 (3) *WARD 3*. All the land areas lying within the municipal limits of Midwest City of the  
9 following sections:

10  
11 Section 35, Township 12 North, Range 2 West,

12  
13 Section 36, Township 12 North, Range 2 West,

14  
15 Section 31, Township 12 North, Range 1 West,

16  
17 that land area within the municipal limits of the City of Midwest City, located in the south half  
18 of Section 32., Township 12 North, Range 1 West, and

19  
20 that land area within the municipal limits of the City of Midwest City, located in the southwest  
21 quarter of Section 33, Township 12 North, Range 1 West.

22  
23 (4) *WARD 4*. All the land areas lying within the municipal limits of Midwest City of the  
24 following sections:

25  
26 Section 33, Township 12 North, Range 2 West,

27  
28 Section 34, Township 12 North, Range 2 West,

29  
30 that land area within Section 4, Township 11 North, Range 2 West lying north of the centerline  
31 of the right-of-way of the A.T. & S.F. Railroad, and

32  
33 that land area lying within Section 3, Township 11 North, Range 2 West, that is lying north of  
34 the Centerline of the right-of-way of the A.T. & S.F. Railroad and is west of the following  
35 description: north Key Boulevard from East Reno Avenue south to east Jarmin Drive; east  
36 Jarmin Drive, east to Felix Place; and south on Felix Place to the center line of the A.T. & S.F.  
37 Railroad.

38  
39 (5) *WARD 5*. All the land area lying within the municipal limits of Midwest City of the  
40 following sections:

41  
42 that land area within the municipal limits of the City of Midwest City lying within Section 21,  
43 Township 12 North, Range 2 West,

44  
45 that land area within the municipal limits of the City of Midwest City lying within Section 28,  
46 Township 12 North, Range 2 West,

1  
2 that land area within the municipal limits of the City of Midwest City lying within Section 15,  
3 Township 12 North, Range 2 West,

4  
5 that land area within the municipal limits of the City of Midwest City lying within Section 22,  
6 Township 12 North, Range 2 West,

7  
8 that land area within the municipal limits of the City of Midwest City lying within Section 24,  
9 Township 12 North, Range 2 West,

10  
11 Section 25, Township 12 North, Range 2 West,

12  
13 Section 26, Township 12 North, Range 2 West,

14  
15 Section 27, Township 12 North, Range 2 West, and

16  
17 that land area within the municipal limits of the City of Midwest City lying within Section 30,  
18 Township 12 North, Range 1 West.

19  
20 (6) *WARD 6*. All the land area lying within the municipal limits of Midwest City of the  
21 following sections:

22  
23 that land area within the municipal limits of the City of Midwest City lying within Section 5,  
24 Township 12 North, Range 1 West,

25  
26 Section 6, Township 11 North, Range 1 West,

27  
28 Section 7, Township 11 North, Range 1 West,

29  
30 that land area within the municipal limits of the City of Midwest City lying within Section 8,  
31 Township 11 North, Range 1 West,

32  
33 that land area within the municipal limits of the City of Midwest City lying within Section 9,  
34 Township 11 North, Range 1 West, and

35  
36 that land area within the municipal limits of the City of Midwest City lying within Section 10,  
37 Township 11 North, Range 1 West.

38  
39 **Section 2.** REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby  
40 repealed.

41  
42 **Section 3.** SEVERABILITY. If any section, sentence, clause, or portion of this ordinance is for  
43 any reason held to be invalid, such decision shall not affect the validity of the remaining provisions  
44 of the ordinance.  
45



1 PASSED AND APPROVED by the Mayor and the Council of the City of Midwest City,  
2 Oklahoma, this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

3  
4  
5  
6  
7  
8  
9

**THE CITY OF MIDWEST CITY, OKLAHOMA**

\_\_\_\_\_  
MATTHEW D. DUKES, II, Mayor

10 ATTEST:

11  
12

\_\_\_\_\_  
SARA HANCOCK, City Clerk

13  
14  
15

Approved as to form and legality this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
DONALD D. MAISCH, City Attorney

**RESOLUTION NO. 2022-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDWEST CITY AUTHORIZING THE CHANGING OF WARD BOUNDARIES AS REQUIRED BY TITLE 11 OF THE OKLAHOMA STATUTES, SECTION 20-102 (A).**

**WHEREAS**, in February of 2022, the United States Census Bureau certified and released the 2020 Census results; and

**WHEREAS**, pursuant to Article II, Section 1 of the City Charter for the City of Midwest City, a review of the ward boundaries for the six (6) wards shall occur within two (2) years of the certification of the census; and

**WHEREAS**, the six (6) wards for the City of Midwest City are defined and described in Section 14-1 of the City Ordinances for the City of Midwest City; and

**WHEREAS**, pursuant to Title 11 of the Oklahoma Statutes, Section 20-102, proposed ward changes shall occur either by resolution or by initiative petition; and

**WHEREAS**, pursuant to Title 11 of the Oklahoma Statutes, Section 20-101, the ward changes shall be formed of compact and contiguous territory and shall be substantially equal in population; and

**WHEREAS**, the phrase “substantially equal in population” has been defined within Oklahoma law to mean no more than a 10% population differential between the largest ward in population and the smallest ward in population; and

**WHEREAS**, the City of Midwest City is proposing changes to the defined and described six (6) wards in Section 14-1 of the City Ordinances of the City of Midwest City that meet the requirements of Title 11 of the Oklahoma Statutes, Section 20-101; and

**WHEREAS**, the proposed changes to Section 14-1 of the City Ordinances for the City of Midwest City would have a less than 8% population differential between the most populous ward and the least populous ward; and

**WHEREAS**, pursuant to Title 11 of the Oklahoma Statutes, Section 20-103, thirty (30) days’ notice must be given for the proposed changes, the proposed changes shall be published at least once and the proposed changes must be adopted by a two-thirds (2/3) vote of its members.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL MEMBERS OF THE MIDWEST CITY COUNCIL, AS FOLLOWS:**

**THAT** the proposed changes to the boundaries of the six (6) wards as described and defined in Section 14-1 of the City Ordinances for the City of Midwest City shall be hereby approved.

PASSED AND APPROVED by the Mayor and Members of the Midwest City Council  
this 23<sup>rd</sup> day of August, 2022.

CITY OF MIDWEST CITY

---

Matthew D. Dukes II,  
Mayor

ATTEST:

---

Sara Hancock, City Secretary

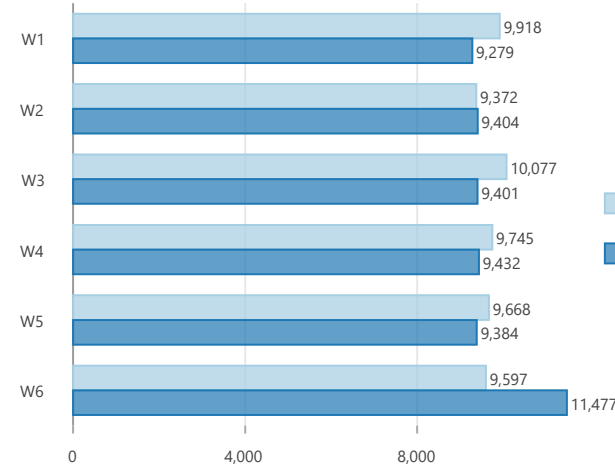
APPROVED as to form and legality this \_\_\_\_\_ day of August, 2022.

---

Donald D. Maisch, City Attorney

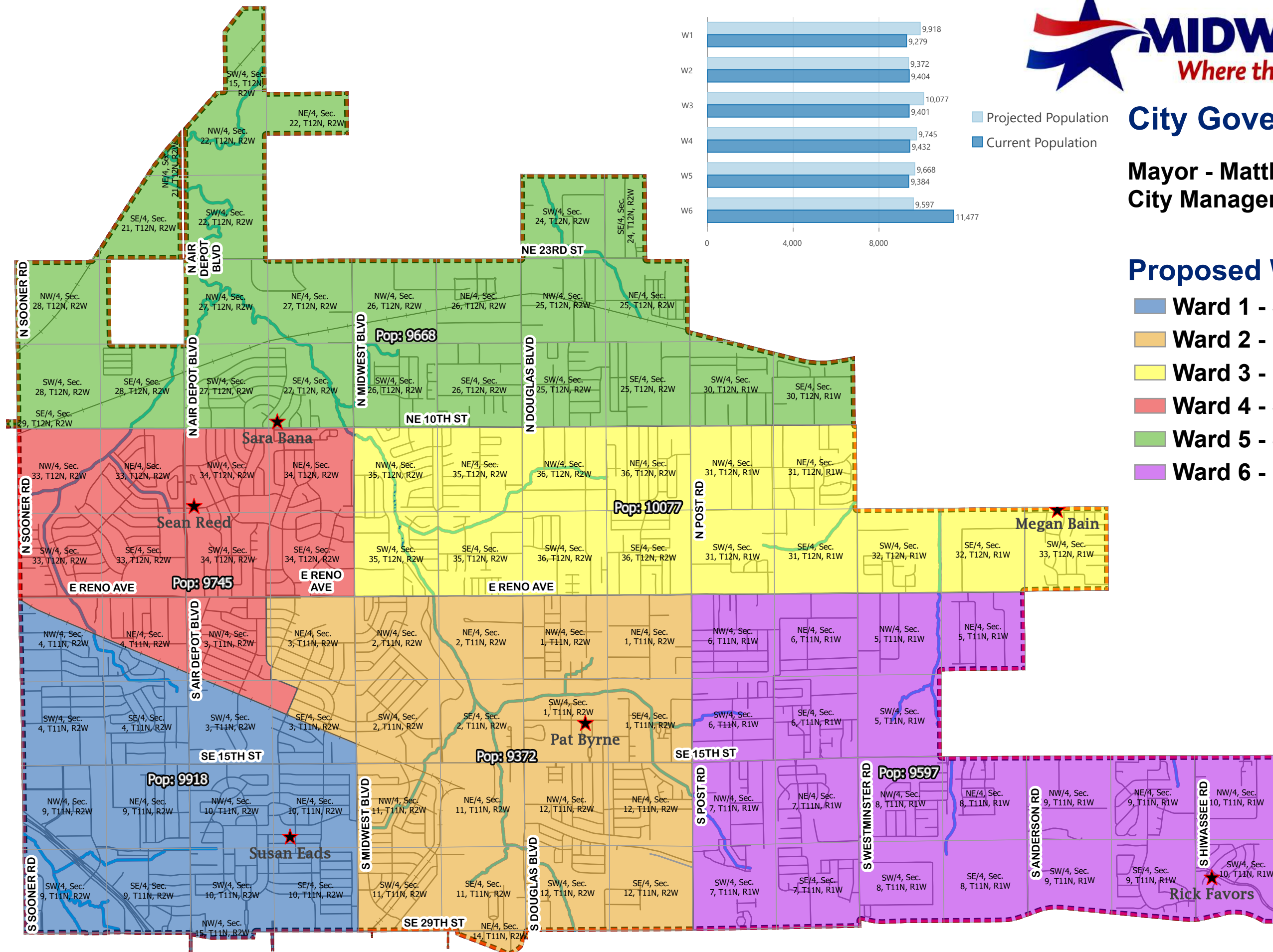
## City Government

Mayor - Matthew D. Dukes, II  
City Manager - Tim Lyon



## Proposed Ward Boundaries

- Ward 1 - Susan Eads
- Ward 2 - Pat Byrne
- Ward 3 - Megan Bain
- Ward 4 - Sean Reed
- Ward 5 - Sara Bana
- Ward 6 - Rick Favors



1 in = 3,000 ft

when printed actual size  
on 11"x17" paper

### DISCLAIMER

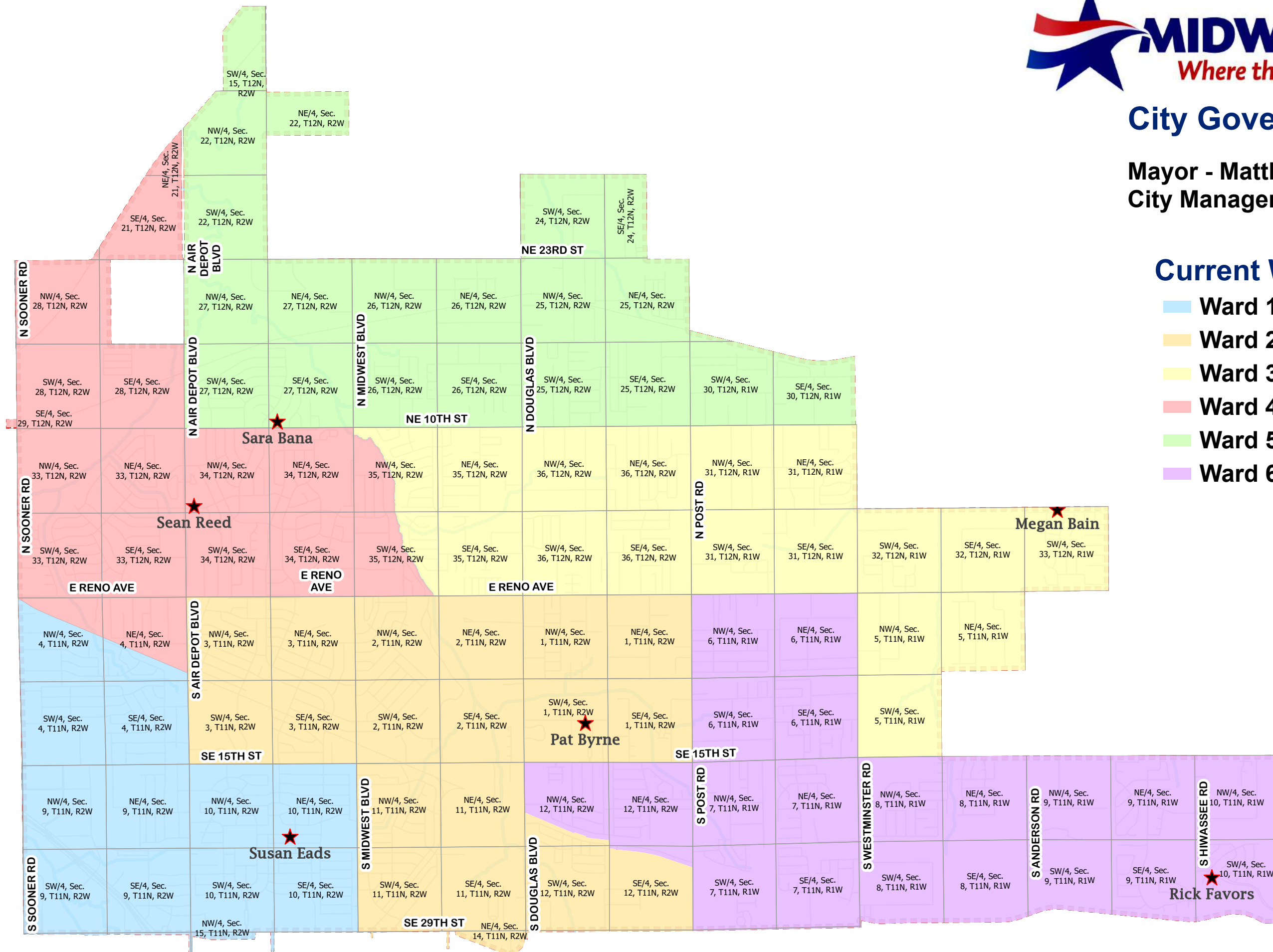
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## City Government

Mayor - Matthew D. Dukes, II  
City Manager - Tim Lyon

### Current Ward Boundaries

- Ward 1 - Susan Eads
- Ward 2 - Pat Byrne
- Ward 3 - Megan Bain
- Ward 4 - Sean Reed
- Ward 5 - Sara Bana
- Ward 6 - Rick Favors



1 in = 3,000 ft

when printed actual size  
on 11"x17" paper

#### DISCLAIMER

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EXECUTIVE SESSION







**City Manager**  
100 N. Midwest Boulevard  
Midwest City, OK 73110  
[tlyon@midwestcityok.org](mailto:tlyon@midwestcityok.org)  
Office: 405.739.1201  
[www.midwestcityok.org](http://www.midwestcityok.org)

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: Tim Lyon, City Manager

DATE: July 26, 2022

SUBJECT: Discussion and consideration of 1) entering into executive session, as allowed under Title 25 Section 307 (B)(4) to discuss confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest; and 2) in open session, authorizing the City Manager to take action as appropriate based on the discussion in executive session.

---

Appropriate information will be dispersed during executive session.

  
\_\_\_\_\_  
Tim L. Lyon, City Manager



DISCUSSION ITEMS  
CONTINUED





**City Attorney, Donald D. Maisch**

100 N. Midwest Boulevard  
Midwest City, OK 73110  
DMaisch@midwestcityok.org  
Office: 405.739.1203  
[www.midwestcityok.org](http://www.midwestcityok.org)

**MEMORANDUM**

To: Mayor and Members of the City Council

From: Donald D. Maisch, City Attorney

Date: July 26, 2022

RE: Discussion and consideration for approval, a resolution approving the proposed settlement agreement with the following opioid distributors: Cardinal Health, McKesson Corporation and AmerisourceBergen Corporation. (D. Maisch – City Attorney).

---

The City of Midwest City is a party with seventy-nine (79) other Oklahoma State Litigating Subdivisions (Litigation Subdivisions) that have brought various suits against various manufacturers and distributors of opioids. Three such distributors are: Cardinal Health, McKesson Corporation and AmerisourceBergen Corporation. You may recall that earlier this year the City Council approved allowing the Oklahoma Attorney General to attempt to negotiate a settlement with these three opioid distributors.

The Attorney General's negotiations have led to a proposed settlement. In the proposed settlement the most that can be recovered under the settlement agreement is approximately \$293,000,000. The litigating subdivisions will get 25% of the recovery less fees. In order to recover the full amount, we will need full participation from the litigating subdivisions and 39 non-litigating subdivisions that have populations over 10,000. The 80 litigating subdivisions and the 39 non-litigating subdivisions are considered primary subdivisions that we need to achieve maximum payout. The State is responsible for getting the participation of the necessary non-litigating subdivisions. The maximum amount the litigating subdivisions can receive is approximately \$73,000,000. We will be sending you the entire Settlement Agreement which incorporates the Global Settlement by the Distributors as an exhibit, and is over 500 pages. Exhibit I is over 700 pages and a hard copy is available upon request.

Respectfully submitted,

Donald D. Maisch  
City Attorney

**RESOLUTION NO. 2022-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDWEST CITY APPROVING PARTICIPATION IN THE DISTRIBUTORS OKLAHOMA SETTLEMENT AGREEMENT**

**WHEREAS**, pharmaceutical opioids have harmed the City of Midwest City, Oklahoma and its citizens; and

**WHEREAS**, this harm was created and exacerbated by the misconduct and illegal activities of opioid manufacturers and distributors, including McKesson Corporation, Cardinal Health, Inc., and AmerisourceBergen (collectively “Settling Distributors”); and

**WHEREAS**, the City of Midwest City, Oklahoma, with other litigating governments in the State of Oklahoma, filed suit to address and seek recovery for the harms cause to it and its citizens, which suit is Case No. CJ-2019-1596, filed in the District Court of Oklahoma County, State of Oklahoma on March 22, 2019; and

**WHEREAS**, the Settling Distributors have agreed to settle the claims of the State of Oklahoma and certain Oklahoma subdivisions in the Distributors Oklahoma Settlement Agreement; and

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE MIDWEST CITY COUNCIL, AS FOLLOWS:**

**THAT** that the City of Midwest City, Oklahoma hereby elects to, and approves its participation in, the Distributors Oklahoma Settlement Agreement, authorizes its Mayor, or Vice Mayor, to execute the Settlement Participation Form contained in the Distributors Oklahoma Settlement Agreement as Exhibit G.

**THAT** the City of Midwest City, Oklahoma further elects to, and approves, its participation in the Memorandum of Understanding Regarding Certain Opioid Litigation Proceeds with the State of Oklahoma (“Sharing Agreement”) and Addendum to the Sharing Agreement Regarding Certain Opioid Litigation Proceeds, and further ratifies its prior actions of legal counsel in executing documents necessary for the City of Midwest City, Oklahoma to participate in the Distributors Oklahoma Settlement Agreement, the Sharing Agreement, and the Addendum to the Sharing Agreement.

PASSED AND APPROVED by the Acting Mayor and Members of the Midwest City Council this 26<sup>th</sup> day of July, 2022.

CITY OF MIDWEST CITY

---

Pat Byrne,  
Vice Mayor

ATTEST:

---

Sara Hancock, City Secretary

APPROVED as to form and legality this \_\_\_\_\_ day of July, 2022.

---

Donald D. Maisch, City Attorney

**ADDENDUM TO THE SHARING AGREEMENT  
REGARDING CERTAIN OPIOID LITIGATION PROCEEDS**

WHEREAS, the people of the State of Oklahoma (the “State”) and its communities have been harmed by conduct committed by certain Pharmaceutical Supply Chain Participants which caused or contributed to the opioid crisis within Oklahoma (“Opioid Crisis”); and

WHEREAS, the State of Oklahoma and certain Litigating Political Subdivisions are separately engaged in litigation seeking to hold Pharmaceutical Supply Chain Participants accountable for the damage caused by their misconduct; and

WHEREAS, the State and Litigating Political Subdivisions entered into a Sharing Agreement relating to the allocation and use of the proceeds from any Settlement entered into with McKesson, Cardinal Health and/or AmerisourceBergen (collectively, the “Distributor Defendants”) on February 28, 2022 (the “Sharing Agreement”);

WHEREAS, during negotiations with the Distributor Defendants, the Distributor Defendants have indicated that Counsel for the Litigating Political Subdivisions will be able to apply for reimbursement of certain costs and attorneys’ fees over a period of 7 years by applying for such fees and costs through the Contingency Fee Fund application process outlined in the Distributor Global Settlement Agreement;

WHEREAS, while neither the State nor the Litigating Political Subdivisions intend to join the Distributor Global Settlement Agreement, they would like to pursue recovery of such fees and expenses in order to maximize the portion of the proceeds from any Settlement entered into with the Distributor Defendants available to abate the opioid crisis;

WHEREAS, in light of certain provisions set forth in the Distributor Global Settlement Agreement, the State and Litigating Political Subdivisions believe it is necessary to enter into a State Back-stop Agreement, as that term is defined under the Distributor Global Settlement Agreement;

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledge, the Oklahoma Attorney General, on behalf of the State of Oklahoma, and the undersigned counsel for the Litigating Political Subdivisions, are entering into this Oklahoma-Subdivision State Back-stop Agreement (“Back-stop Agreement”):

1. The Parties to this Back-stop Agreement intend this Agreement to constitute a State Back-Stop Agreement as that term is defined in Exhibit R to the Distributor Global Settlement Agreement.
2. Pursuant to this Back-Stop Agreement, the State agrees that the Litigating Political Subdivisions may use any funds allocated to them under any Settlement entered into with any of the Distributor Defendants to first pay a contingent fee to their counsel in the amount of 15 percent. Any payment received from the Global Contingency Fee Fund will be used to offset or reimburse



the Litigating Political Subdivisions so that, the fee payments to the Litigating Political Subdivisions' counsel, together with any contingency fees that counsel may receive from the Global Contingency Fee Fund established by Exhibit R to the Distributor Global Settlement Agreement, shall not exceed a total contingency fee of 15% of the total gross recovery of the Litigating Political Subdivisions from any Settlement with the Distributors.

3. Pursuant to this Back-stop Agreement, the State guarantees that counsel for the Litigating Political Subdivisions will receive attorneys' fees and costs equal to 15% of the amount allocated to the Litigating Political Subdivisions (25 %) under any Settlement reached collectively by the State and Litigating Political Subdivisions with the Distributors. This 15% contingency fee will be paid out of the amount allocated to the Litigating Political Subdivisions (25%) under any Settlement reached collectively.

4. This Back-stop Agreement does not prejudice the Litigating Political Subdivisions' counsel's ability to apply for and receive any amounts allocated to the Oklahoma Litigating Political Subdivisions' counsel through the Global Contingency Fee Fund.

5. To be entitled to the 15% contingency fee discussed in Section 3, there is no requirement that the Litigating Political Subdivisions seek to recover any portion of their contingency fee from the Global Contingency Fee Fund before receiving payment of fees directly from the Litigating Political Subdivisions' allocation of any Settlement reached. In the event that the Litigating Political Subdivisions elect first to recover their fees from the Litigating Political Subdivisions' allocation, and later recover fees from the Global Contingency Fee Fund such that the total fees recovered by counsel for the Litigating Political Subdivisions exceeds 15% of the total gross recovery of the Litigating Political Subdivisions, the amount recovered in excess of 15% shall be credited to the Litigating Political Subdivisions.

6. Further, had the State and Litigating Political Subdivisions participated in the Distributor Global Settlement Agreement, Outside Counsel for the State and Outside Counsel for the Litigating Political Subdivisions would have been entitled to receive their attorney fees over an abbreviated time span as set forth in that Agreement. Further, in order for the Distributor Defendants to enter into any settlement agreement with the State, the Distributor Defendants will require that no less than 85% of any settlement amount be used for abatement purposes as defined in the Distributor Global Settlement Agreement, which, in turn, may mean that Outside Counsel for the State and Outside Counsel for the Litigating Political Subdivisions may not be able to recover the full amount of fees and expenses to which they may be entitled under their respective contingency fee agreements. Further, the State obtained certain documents and information from the Plaintiffs' Executive Committee in the MDL ("PEC") pursuant to a cost sharing agreement wherein the State owes a total of 1% of its cash recovery to the PEC as a reimbursement of reasonable and necessary litigation costs. The State has obtained an agreement from the PEC that, in exchange for receiving payment in two annual installments, (a) the PEC will accept payment of 1% based solely upon the State's allocation of funds under the Sharing Agreement and (b) the PEC will not seek any recovery of any common benefit or other fees from the Litigating Political Subdivisions.

7. After the State makes the required payments listed in paragraph 6 above, there may not be a sufficient amount available from the 15% non abatement amount of the State's gross recovery to also pay the State's Outside Counsel's reimbursable expenses, which are considerable. Outside Counsel has agreed to waive reimbursement of such expenses in an effort to facilitate consummation of the proposed settlement with the Distributor Defendants.

8. Accordingly, in consideration of the foregoing, the State agrees that Outside Counsel for the State and Litigating Political Subdivisions may recover fees and costs over a seven (7) year period as set forth in the tables below and Outside Counsel for the State and the Litigating Political Subdivisions' counsel agree that the total amount of fees and expenses for which they will be reimbursed will not exceed 15% of the gross amount recoverable under any Settlement with the Distributors. It is understood that the amounts recoverable from the Global Contingency Fee Fund may differ from the amounts stated in the table above such that more or less funds may need to be held back from the allocations to the Litigating Political Subdivisions to ensure payment of the guaranteed 15% contingency fee is made to counsel for the Litigating Political Subdivisions in seven years.

**Political Subdivisions Fee Table**

Payment Year	Abatement Amount	Political Subdivisions 25%	Atty Fees Paid by PS*	Atty Fees Paid by MDL Fund	Total Paid to PS Attorneys	Atty Fees Payable	Net to Political Subdivisions by Year
0						\$ 11,015,257.77	
1	\$ 12,548,350.40	\$ 3,137,087.60	\$ 767,826.39	\$ 805,781.86	\$ 1,573,608.25	\$ 9,441,649.52	\$ 2,369,261.21
2	\$ 13,187,704.53	\$ 3,296,926.13	\$ 679,630.75	\$ 893,977.50	\$ 1,573,608.25	\$ 7,868,041.26	\$ 2,617,295.38
3	\$ 13,187,704.53	\$ 3,296,926.13	\$ (0.00)	\$ 1,604,081.19	\$ 1,604,081.19	\$ 6,263,960.07	\$ 3,296,926.13
4	\$ 16,506,280.34	\$ 4,126,570.09	\$ 478,386.91	\$ 1,087,603.11	\$ 1,565,990.02	\$ 4,697,970.06	\$ 3,648,183.18
5	\$ 16,506,280.34	\$ 4,126,570.09	\$ 478,386.91	\$ 1,087,603.11	\$ 1,565,990.02	\$ 3,131,980.04	\$ 3,648,183.18
6	\$ 16,506,280.34	\$ 4,126,570.09	\$ 478,386.91	\$ 1,087,603.11	\$ 1,565,990.02	\$ 1,565,990.02	\$ 3,648,183.18
7	\$ 16,506,280.34	\$ 4,126,570.09	\$ 478,386.91	\$ 1,087,603.11	\$ 1,565,990.02	\$ -	\$ 3,648,183.18
8	\$ 19,413,374.39	\$ 4,853,343.60	\$ -	\$ -	\$ -	\$ -	\$ 4,853,343.60
9	\$ 19,413,374.39	\$ 4,853,343.60	\$ -	\$ -	\$ -	\$ -	\$ 4,853,343.60
10	\$ 19,413,374.39	\$ 4,853,343.60	\$ -	\$ -	\$ -	\$ -	\$ 4,853,343.60
11	\$ 16,318,900.40	\$ 4,079,725.10	\$ -	\$ -	\$ -	\$ -	\$ 4,079,725.10
12	\$ 16,318,900.40	\$ 4,079,725.10	\$ -	\$ -	\$ -	\$ -	\$ 4,079,725.10
13	\$ 16,318,900.40	\$ 4,079,725.10	\$ -	\$ -	\$ -	\$ -	\$ 4,079,725.10
14	\$ 16,318,900.40	\$ 4,079,725.10	\$ -	\$ -	\$ -	\$ -	\$ 4,079,725.10
15	\$ 16,318,900.40	\$ 4,079,725.10	\$ -	\$ -	\$ -	\$ -	\$ 4,079,725.10
16	\$ 16,318,900.40	\$ 4,079,725.10	\$ -	\$ -	\$ -	\$ -	\$ 4,079,725.10
17	\$ 16,318,900.40	\$ 4,079,725.10	\$ -	\$ -	\$ -	\$ -	\$ 4,079,725.10
18	\$ 16,318,900.40	\$ 4,079,725.10	\$ -	\$ -	\$ -	\$ -	\$ 4,079,725.10
Totals	\$ 293,740,207.19	\$ 73,435,051.80	\$ 3,361,004.78	\$ 7,654,253.00	\$ 11,015,257.77	\$ -	\$ 70,074,047.02

\* The Litigating Political Subdivisions may first recover the full 15% contingency fee from the Litigating Political Subdivisions' allocation of any Settlement, and may later credit back to the Litigating Political Subdivisions any portion of their contingency fee recovered from the MDL Fund.

**State Attorneys' Fees Table**

Payment Year	Abatement Amount	Oklahoma 75%	Atty Fees Paid by OK	Defendants' Fee Contributions (2)	Total Atty Fees	Atty Fees Payable	MDL Expense	Net to State of Oklahoma
0						\$ 33,045,773.30		(1)
1	\$ 12,548,350.40	\$ 9,411,262.80	\$ 0	\$ 3,180,625.42	\$ 3,180,625.42	\$ 29,865,147.88	\$ 1,070,000.00	\$ 8,341,262.80
2	\$ 13,187,704.53	\$ 9,890,778.40	\$ 0	\$ 3,021,327.84	\$ 3,021,327.84	\$ 26,843,820.04	\$ 1,070,000.00	\$ 8,820,778.40
3	\$ 13,187,704.53	\$ 9,890,778.40	\$ 3,296,926.13	\$ 407,201.40	\$ 3,704,127.53	\$ 23,139,692.51	-	\$ 6,593,852.27
4	\$ 16,506,280.34	\$ 12,379,710.26	\$ 4,126,570.09		\$ 4,126,570.09	\$ 19,013,122.42	-	\$ 8,253,140.17
5	\$ 16,506,280.34	\$ 12,379,710.26	\$ 4,126,570.09		\$ 4,126,570.09	\$ 14,886,552.34	-	\$ 8,253,140.17
6	\$ 16,506,280.34	\$ 12,379,710.26	\$ 4,126,570.09		\$ 4,126,570.09	\$ 10,759,982.25	-	\$ 8,253,140.17
7	\$ 16,506,280.34	\$ 12,379,710.26	\$ 4,126,570.09		\$ 4,126,570.09	\$ 6,633,412.17	-	\$ 8,253,140.17
8	\$ 19,413,374.39	\$ 14,560,030.79	\$ 4,853,343.60		\$ 4,853,343.60	\$ 1,780,068.57	-	\$ 9,706,687.20
9	\$ 19,413,374.39	\$ 14,560,030.79	\$ 1,780,068.57		\$ 1,780,068.57	\$ -	-	\$ 12,779,962.22
10	\$ 19,413,374.39	\$ 14,560,030.79	\$ -		\$ -	\$ -	-	\$ 14,560,030.79
11	\$ 16,318,900.40	\$ 12,239,175.30	\$ -		\$ -	\$ -	-	\$ 12,239,175.30
12	\$ 16,318,900.40	\$ 12,239,175.30	\$ -		\$ -	\$ -	-	\$ 12,239,175.30
13	\$ 16,318,900.40	\$ 12,239,175.30	\$ -		\$ -	\$ -	-	\$ 12,239,175.30
14	\$ 16,318,900.40	\$ 12,239,175.30	\$ -		\$ -	\$ -	-	\$ 12,239,175.30
15	\$ 16,318,900.40	\$ 12,239,175.30	\$ -		\$ -	\$ -	-	\$ 12,239,175.30
16	\$ 16,318,900.40	\$ 12,239,175.30	\$ -		\$ -	\$ -	-	\$ 12,239,175.30
17	\$ 16,318,900.40	\$ 12,239,175.30	\$ -		\$ -	\$ -	-	\$ 12,239,175.30
18	\$ 16,318,900.40	\$ 12,239,175.30	\$ -		\$ -	\$ -	-	\$ 12,239,175.30
Totals	\$ 293,740,207.19	\$ 220,305,155.39	\$ 26,436,618.64	\$ 6,609,154.66	\$ 33,045,773.30	\$ -	\$ 2,140,000.00	\$ 191,728,536.75

(1) State of Oklahoma 75% share of abatement, less Atty Fees (15% of OK), less MDL Expense = Net to State of Oklahoma.

(2) Years 1 and 2 of Defendants' Fee Contributions may be paid in a lump sum in 2022.

9. To the extent the terms of this Agreement would not permit the Litigating Political Subdivisions' counsel to apply for and receive funds from the Global Contingency Fee Fund, and the Litigating Political Subdivisions' counsel desire to amend this Agreement to cure any deficiency, the State agrees that it will work with the counsel for the Litigating Political Subdivisions to amend this Agreement such that the counsel for the Litigating Political Subdivisions can cure any deficiency and apply to the Global Contingency Fee Fund.

**Authorized and agreed to by:**

Dated: 6.24.22

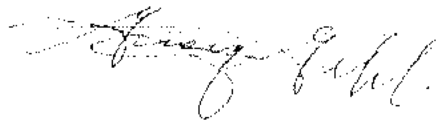
STATE OF OKLAHOMA

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

  
JOHN M. O'CONNOR  
ATTORNEY GENERAL

**ON BEHALF OF THE LITIGATING POLITICAL SUBDIVISIONS:**

[A separate signature page will be executed by Counsel of Record for each Litigating Political Subdivision who signed the original Sharing Agreement and attached hereto]



---

GEORGE GIBBS  
GIBBS ARMSTRONG BOROCHOFF  
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(918) 582-5504 fax  
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ON BEHALF OF THE FOLLOWING COUNTIES:

1. Tulsa County
2. Pawnee County
3. Ottawa County
4. Osage County
5. Garvin County
6. Delaware County
7. McClain County; and
8. Seminole County
9. Okfuskee County



---

Bradford D. Barron, OBA #17571  
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(918)515-4691 Fax  
[bbarron@barronlawfirmok.com](mailto:bbarron@barronlawfirmok.com)

On behalf of the following Oklahoma Counties:

Washington County  
Nowata County  
Craig County  
Rogers County  
Mayer County  
Okmulgee County  
Creek County



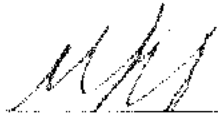


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TONY G. PUCKETT, OBA #13336  
TODD A. COURT, OBA #19438  
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[todd.court@mcafeetaft.com](mailto:todd.court@mcafeetaft.com)

**ATTORNEYS FOR:**

*City of Ada*  
*City of Altus*  
*City of Bethany*  
*City of Collinsville*  
*City of Edmond*  
*City of Elk City*  
*City of Enid*  
*City of Guthrie*  
*City of Jenks*  
*City of Midwest City*  
*City of Mustang*  
*City of Oklahoma City*  
*City of Owasso*  
*City of Ponca City*  
*City of Seminole*  
*City of Shawnee*  
*City of Stillwater*  
*City of Tulsa*  
*City of Yukon*



MATTHEW J. SILL, OBA #21547  
HARRISON C. LUJAN, OBA #30154  
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Phone/Fax: 405-510-0077  
[msill@fulmersill.com](mailto:msill@fulmersill.com)  
[hlujan@fulmersill.com](mailto:hlujan@fulmersill.com)

**ATTORNEYS FOR:**

<i>Atoka County</i>	<i>Roger Mills County</i>
<i>Beckham County</i>	<i>Stephens County</i>
<i>Caddo County</i>	<i>Texas County</i>
<i>Choctaw County</i>	<i>Tillman County</i>
<i>Cimarron County</i>	<i>Woodward County</i>
<i>Cleveland County</i>	<i>City of El Reno</i>
<i>Coal County</i>	<i>City of Muskogee</i>
<i>Comanche County</i>	
<i>Custer County</i>	
<i>Dewey County</i>	
<i>Grady County</i>	
<i>Greer County</i>	
<i>Harmon County</i>	
<i>Harper County</i>	
<i>Haskell County</i>	
<i>Jackson County</i>	
<i>Jefferson County</i>	
<i>Johnston County</i>	
<i>Kay County</i>	
<i>Kiowa County</i>	
<i>Latimer County</i>	
<i>LeFlore County</i>	
<i>Lincoln County</i>	
<i>Logan County</i>	
<i>Love County</i>	
<i>Major County</i>	
<i>McCurtain County</i>	
<i>Muskogee County</i>	
<i>Noble County</i>	
<i>Oklahoma County</i>	
<i>Payne County</i>	
<i>Pittsburg County</i>	
<i>Pottawatomie County</i>	

**DISTRIBUTORS OKLAHOMA**  
**SETTLEMENT AGREEMENT**

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## DISTRIBUTORS OKLAHOMA SETTLEMENT AGREEMENT

### I. Overview

This Distributors Oklahoma Settlement Agreement (the “*Agreement*”) sets forth the terms and conditions of a settlement agreement between and among the State of Oklahoma, McKesson Corporation (“*McKesson*”), Cardinal Health, Inc. (“*Cardinal*”) and AmerisourceBergen Corporation (“*Amerisource*”) (collectively, the “*Agreement Parties*”) to resolve opioid-related Claims against McKesson, Cardinal, and/or Amerisource (collectively, the “*Settling Distributors*”).

By entering into this Agreement and except as otherwise provided for in this Agreement, the State of Oklahoma and its Participating Subdivisions agree to be bound by all terms and conditions of Exhibit I.<sup>1</sup> The Settling Distributors agree to treat the State of Oklahoma for all purposes as if it were a Settling State under Exhibit I and its Participating Subdivisions for all purposes as if they were Participating Subdivisions under Exhibit I, except as specifically otherwise set forth in this Agreement. Unless stated otherwise in this Agreement, the terms of this Agreement are intended to be consistent with the terms of Exhibit I and shall be construed accordingly. Unless otherwise defined in this Agreement, all capitalized terms in this Agreement shall be defined as they are in Exhibit I.

The Settling Distributors have agreed to the below terms for the sole purpose of settlement, and nothing herein, including in any exhibit to this Agreement, may be taken as or construed to be an admission or concession of any violation of law, rule, or regulation, or of any other matter of fact or law, or of any liability or wrongdoing, or any misfeasance, nonfeasance, or malfeasance, all of which the Settling Distributors expressly deny. No part of this Agreement, including its statements and commitments, and its exhibits, shall constitute or be used as evidence of any liability, fault, or wrongdoing by the Settling Distributors. Unless the contrary is expressly stated, this Agreement is not intended for use by any third party for any purpose, including submission to any court for any purpose.

### II. Conditions to Effectiveness of Agreement

#### A. *Exhibit I Conditions to Effectiveness.*

1. The Agreement Parties acknowledge that certain deadlines set forth in Section VIII of Exhibit I passed before the execution of this Agreement. For that reason, (a) Settling Distributors agree to treat the State of Oklahoma as satisfying the deadlines set forth in Section VIII of Exhibit I provided that the State of Oklahoma satisfies its obligations set

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<sup>1</sup> Exhibit I was last updated on May 27, 2022. Further updates to Exhibit I shall be deemed incorporated into this Agreement as appropriate and consistent with the terms of this agreement, and shall supersede all earlier versions of the updated provisions where appropriate.

forth in this Section II, and (b) the State of Oklahoma agrees to treat Settling Distributors as having satisfied all notice obligations under Section VIII.B of Exhibit I as to the State of Oklahoma.

2. The State of Oklahoma shall deliver all signatures and releases required by the Agreement to be provided by the Settling States to the Settling Distributors by September 30, 2022. This Section II.A.2 supersedes the deadline for delivering those signatures and releases set forth in Section VIII.A.1 of Exhibit I.

B. *Participation by Subdivisions.* This Agreement shall become effective upon one of the following conditions being satisfied:

1. One hundred percent (100%) of Litigating Subdivisions and Non-Litigating Primary Subdivisions in the State of Oklahoma must become Participating Subdivisions by September 23, 2022. For the avoidance of doubt, all Subdivisions in the State of Oklahoma that are General Purpose Governments with a population greater than 10,000 must become Participating Subdivisions by such date.

2. If the condition set forth in Section II.B.1 is not met, the Settling Distributors shall have sole discretion to accept the terms of this Agreement, which shall become effective upon notice provided by the Settling Distributors to the State of Oklahoma. If the condition set forth by Section II.B.1 is not met and Settling Distributors do not exercise discretion to accept this Agreement, this Agreement will have no further effect and all releases and other commitments or obligations contained herein will be void.

C. *Dismissal of Claims.* Provided that the conditions in Sections II.B have been satisfied, the State of Oklahoma shall file the Consent Judgment described in Section I.N of Exhibit I and attached hereto as Exhibit H ("*Oklahoma Consent Judgment*") with the District Court of Bryan County, State of Oklahoma ("*Oklahoma Court*") on or before November 1, 2022. This Section II.C supersedes the deadline for filing a Consent Judgment set forth in Section VIII.B of Exhibit I. In the event that the Court declines to enter the Oklahoma Consent Judgment, each Settling Distributor shall be entitled to terminate the Agreement as to itself and shall be excused from all obligations under the Agreement, and if a Settling Distributor terminates the Agreement as to itself, all releases and other commitments or obligations contained herein with respect to that Settling Distributor will be null and void. The date of the entry of the Oklahoma Consent Judgment shall be the effective date of this Agreement ("*Oklahoma Effective Date*").

### III. Participation by Subdivisions

A. *Notice.* The Office of the State of Oklahoma Attorney General shall send individual notice of the opportunity to participate in this Agreement and the requirements for participation to all Subdivisions eligible to participate who have not returned an executed Subdivision Settlement Participation Form within fifteen (15) days of the execution of this Agreement. The Office of the State of Oklahoma Attorney General may also provide general notice reasonably calculated to alert Subdivisions, including publication and other standard forms of notification. Nothing contained herein shall preclude the State of Oklahoma from providing further notice to, or from contacting any of its Subdivision(s) about, becoming a Participating Subdivision.



B. *Trigger Date for Later Litigating Subdivisions.* Notwithstanding Sections I.EE and I.GGGG of Exhibit I, as to the State of Oklahoma, Settling Distributors and the State of Oklahoma agree to treat the Trigger Date for Primary Subdivisions as September 23, 2022 and the Trigger Date for all other Subdivisions as June 24, 2022.

C. *Initial and Later Participating Subdivisions.* Notwithstanding Sections I.BB, I.CC, I.FF, VII.D and VII.E of Exhibit I, any Participating Subdivision in Oklahoma that meets the applicable requirements for becoming a Participating Subdivision set forth in Section VII.B or Section VII.C of Exhibit I on or before September 23, 2022 shall be considered an Initial Participating Subdivision. Participating Subdivisions that are not Initial Participating Subdivisions but meet the applicable requirements for becoming Participating Subdivisions set forth in Section VII.B or Section VII.C of Exhibit I after September 23, 2022 shall be considered Later Participating Subdivisions.

D. *Subdivision Settlement Participation Forms.* Each Subdivision Settlement Participation Form submitted by a Participating Subdivision from the State of Oklahoma shall be materially identical to Exhibit G to this Agreement. Nothing in Exhibit G is intended to modify in any way either the terms of this Agreement or the terms of Exhibit I, both of which the State of Oklahoma and Participating Subdivisions agree to be bound. To the extent that any Subdivision Settlement Participation Form submitted by any Participating Subdivision is worded differently from Exhibit G to this Agreement, or interpreted differently from Exhibit I and this Agreement in any respect, the Exhibit I and this Agreement control.

#### IV. Settlement Payments

A. *Schedule.* Annual Payments under this Agreement shall be calculated as if the State of Oklahoma were a Settling State under Exhibit I and shall be made pursuant to the terms of Section IV of Exhibit I except that, as to the State of Oklahoma, the Payment Date for Payment Year 1 shall be December 1, 2022 and the Payment Date for Payment Year 2 shall be December 1, 2022. For the avoidance of doubt, the sole component of the State of Oklahoma's Annual Payment is the portion of the Net Abatement Amount allocated to the State of Oklahoma under Exhibit I ("*Oklahoma Abatement Amount*"). The maximum possible Oklahoma Abatement Amount is \$293,740,207.19, which, if all incentives are met, would be paid consistent with the schedule set forth on Exhibit C.

B. *Use of Payment.* The Oklahoma Abatement Amount paid under this Agreement shall be used as provided for in Section V.B. of Exhibit I. In addition, at least eighty-five percent (85%) of the total amount paid under this Agreement, including amounts paid under Section IV.A and amounts paid under Section V, shall be used for Opioid Remediation. Nothing herein shall affect the allocation of the Oklahoma Abatement Amount payments between the State and its Participating Subdivisions, which shall be governed by a separate State-Subdivision Agreement.

C. *Nature of Payment.* The State of Oklahoma and its Participating Subdivisions agree that payments made to the State of Oklahoma and its Participating Subdivisions under this Agreement are properly characterized as described in Section V.F of Exhibit I.

## V. Plaintiffs' Attorneys' Fees and Costs

A. *Interaction with Exhibit I.* Notwithstanding any contrary provision in Exhibit I, payments to cover attorneys' fees and costs under this Agreement shall be made pursuant to this Section V.

B. *State Fees and Costs.* Settling Distributors shall pay the \$6,609,154.66 Fixed Amount for the State of Oklahoma on the schedule set forth in Exhibit C; *provided, however*, that the Payment Dates for Payment Years 1 and 2 shall be December 1, 2022.

C. *Participating Litigating Subdivisions' Attorneys' Fees and Costs.* \$7,654,253.00 is the estimated share of the Contingency Fee Fund amount described in Section II.D of Exhibit R of the Global Settlement allocable to Litigating Subdivisions in the State of Oklahoma (the "Estimated Oklahoma Contingency Fee Allocation"). This reflects the Global Settlement Contingency Fee Fund model's current estimate for the allocation to Oklahoma's Litigating Subdivisions in the Global Settlement Contingency Fee Fund. The actual amount may be greater or less. Within fourteen (14) days of the execution of this Agreement, the Distributors will take such action(s) necessary to obtain permission from the Fee Panel (including through extension of time for the date of application) for counsel for Oklahoma's Litigating Subdivisions to apply to the Contingency Fee Fund of the Global Settlement. Thereafter, attorneys engaged in Qualifying Representations of Participating Litigating Subdivisions who meet the criteria set forth in Section II.G of Exhibit R of the Global Settlement may apply for the Contingency Fee Fund as set forth in Exhibit R of the Global Settlement. Nothing in Exhibit R of the Global Settlement Agreement shall be interpreted to preclude the Litigating Subdivisions from recovering fees and costs under a separate State Back-Stop Agreement with the State of Oklahoma.

## VI. Release

A. *Scope.* As of the Oklahoma Effective Date, Section XI of Exhibit I is fully binding on, and effective with respect to, all Releasers under this Agreement. Accordingly, as of the Oklahoma Effective Date, the Released Entities are hereby released and forever discharged from all Released Claims of Releasers, including the State of Oklahoma and its Participating Subdivisions.

## VII. Miscellaneous

A. *No Admission.* The Settling Distributors do not admit liability, fault, or wrongdoing. Neither this Agreement nor the Oklahoma Consent Judgment shall be considered, construed or represented to be (1) an admission, concession or evidence of liability or wrongdoing or (2) a waiver or any limitation of any defense otherwise available to the Settling Distributors. It is the understanding and intent of the Agreement Parties that no portion of the Agreement shall be entered into evidence in any other action against the Settling Distributors, among other reasons, because it is not relevant to such action. For the avoidance of any doubt, nothing herein shall prohibit a Settling Distributor from entering this Agreement into evidence in any litigation or arbitration concerning a Settling Distributor's right to coverage under an insurance contract.

B. *Tax Cooperation and Reporting.* The State of Oklahoma and its Participating Subdivisions will be bound by Section V.F and Section XIV.F of Exhibit I, except (1) as set forth in the final sentence of this Section VII.B and (2) that the State of Oklahoma shall be its own Designated State and shall designate its own “appropriate official” within the meaning of Treasury Regulations Section 1.6050X-1(f)(1)(ii)(B). The IRS Forms 1098-F to be filed with respect to this Agreement are attached as Exhibit D, Exhibit E, and Exhibit F. The State of Oklahoma and its Participating Subdivisions agree that any return, amended return, or written statement filed or provided pursuant to Section XIV.F.4 of Exhibit I with respect to this Agreement, and any similar document, shall be prepared and filed in a manner consistent with reporting each Settling Distributor’s portion of the aggregate amount of payments paid or incurred by the Settling Distributors hereunder as the “Total amount to be paid” pursuant to this Agreement in Box 1 of IRS Form 1098-F, each Settling Distributor’s portion of the amount equal to the aggregate amount of payments paid or incurred by the Settling Distributors hereunder less the Compensatory Restitution Amount as the “Amount to be paid for violation or potential violation” in Box 2 of IRS Form 1098-F and each Settling Distributor’s portion of the Compensatory Restitution Amount as “Restitution/remediation amount” in Box 3 of IRS Form 1098-F, as reflected in Exhibit D, Exhibit E, and Exhibit F.

C. *No Third-Party Beneficiaries.* Except as expressly provided in this Agreement, no portion of this Agreement shall provide any rights to, or be enforceable by, any person or entity that is not the State of Oklahoma or a Released Entity. The State of Oklahoma may not assign or otherwise convey any right to enforce any provision of this Agreement.

D. *Cooperation.* Each Agreement Party and each Participating Subdivision agrees to use its best efforts and to cooperate with the other Agreement Parties and Participating Subdivisions to cause this Agreement to become effective, to obtain all necessary approvals, consents and authorizations, if any, and to execute all documents and to take such other action as may be appropriate in connection herewith. Consistent with the foregoing, each Agreement Party and each Participating Subdivision agrees that it will not directly or indirectly assist or encourage any challenge to this Agreement or the Oklahoma Consent Judgment by any other person, and will support the integrity and enforcement of the terms of this Agreement and the Oklahoma Consent Judgment.

E. *Enforcement.* All disputes between Settling Distributors and the State of Oklahoma and/or the Participating Subdivisions in the State of Oklahoma shall be handled as specified in Section VI of Exhibit I, including the referral of relevant disputes to the National Arbitration Panel.

F. *No Violations of Applicable Law.* Nothing in this Agreement shall be construed to authorize or require any action by Settling Distributors in violation of applicable federal, state, or other laws.

G. *Modification.* This Agreement may be modified by a written agreement of the Agreement Parties. For purposes of modifying this Agreement or the Oklahoma Consent Judgment, Settling Distributors may contact the Oklahoma Attorney General for purposes of coordinating this process. The dates and deadlines in this Agreement may be extended by written agreement of the Agreement Parties, which consent shall not be unreasonably withheld.

H. *No Waiver.* Any failure by any Agreement Party to insist upon the strict performance by any other party of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions of this Agreement, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement.

I. *Entire Agreement.* This Agreement, including all Exhibits, represents the full and complete terms of the settlement entered into by the Agreement Parties, except as provided herein. In any action undertaken by the Agreement Parties, no prior versions of this Agreement and no prior versions of any of its terms may be introduced for any purpose whatsoever.

J. *Counterparts.* This Agreement may be executed in counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect as, an original signature.

K. *Notice.* All notices or other communications under this Agreement shall be provided to the following via email and overnight delivery to:

*Copy to AmerisourceBergen Corporation's attorneys at:*

Michael T. Reynolds  
Cravath, Swaine & Moore LLP  
825 8th Avenue  
New York, NY 10019  
mreynolds@cravath.com

*Copy to Cardinal Health, Inc.'s attorneys at:*

Elaine Golin  
Wachtell, Lipton, Rosen & Katz  
51 West 52<sup>nd</sup> Street  
New York, NY 10019  
epgolin@wlrk.com

*Copy to McKesson Corporation's attorneys at:*

Thomas J. Perrelli  
Jenner & Block LLP  
1099 New York Avenue, NW, Suite 900  
Washington, DC 20001-4412  
TPerrelli@jenner.com

*Copy to the State of Oklahoma at:*

Dawn Cash  
Office of Oklahoma Attorney General  
313 NE 21st Street  
Oklahoma City, OK 73105  
dawn.cash@oag.ok.gov

Michael Burrage

Whitten Burrage LLC  
512 N. Broadway Avenue, Suite 300  
Oklahoma City, OK 73102  
mburrage@whittenburrage.com

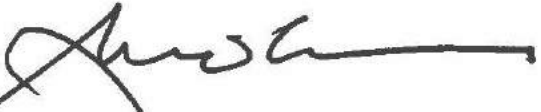
Brad Beckworth  
Nix Patterson LLP  
8701 Bee Cave Road  
Building I, Suite 500  
Austin, TX 78746  
bbeckworth@nixlaw.com

[Signatures begin on next page.]

Authorized and agreed to by:

Dated: 6.24.22

STATE OF OKLAHOMA

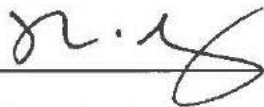
By:   
\_\_\_\_\_  
JOHN M. O'CONNOR  
ATTORNEY GENERAL



**Authorized and agreed to by:**

Dated: 6/22/2022

CARDINAL HEALTH, INC.

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

Name: Jessica L. Mayer

Title: Chief Legal and Compliance Officer

**Authorized and agreed to by:**

Dated: 6/23/2022

MCKESSON CORPORATION

By: DocuSigned by:  
Saralisa Brau  
473840D7A75846A

Name: Saralisa Brau

Title: Corporate Secretary

**Authorized and agreed to by:**

Dated: June 24, 2022

**AMERISOURCEBERGEN CORPORATION**



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

**Elizabeth Campbell**  
**Executive Vice President and Chief Legal Officer**

**Exhibit A**  
**Primary Subdivisions**<sup>2</sup>

- |                        |                       |
|------------------------|-----------------------|
| 1. Ada City            | 40. Haskell County    |
| 2. Adair County        | 41. Hughes County     |
| 3. Altus City          | 42. Jackson County    |
| 4. Ardmore City        | 43. Jenks City        |
| 5. Atoka County        | 44. Johnston County   |
| 6. Bartlesville City*  | 45. Kay County*       |
| 7. Beckham County      | 46. Kingfisher County |
| 8. Bethany City        | 47. Latimer County    |
| 9. Bixby City          | 48. Lawton City*      |
| 10. Broken Arrow City* | 49. Le Flore County*  |
| 11. Bryan County*      | 50. Lincoln County*   |
| 12. Caddo County       | 51. Logan County*     |
| 13. Canadian County*   | 52. Love County       |
| 14. Carter County*     | 53. Marshall County   |
| 15. Cherokee County*   | 54. Mayes County*     |
| 16. Chickasha City     | 55. Mcalester City    |
| 17. Choctaw City       | 56. McClain County*   |
| 18. Choctaw County     | 57. Mccurtain County* |
| 19. Claremore City     | 58. Mcintosh County   |
| 20. Cleveland County*  | 59. Miami City        |
| 21. Comanche County*   | 60. Midwest City*     |
| 22. Coweta City        | 61. Moore City*       |
| 23. Craig County       | 62. Murray County     |
| 24. Creek County*      | 63. Muskogee City*    |
| 25. Custer County      | 64. Muskogee County*  |
| 26. Del City           | 65. Mustang City      |
| 27. Delaware County*   | 66. Newcastle City    |
| 28. Duncan City        | 67. Noble County      |
| 29. Durant City        | 68. Norman City*      |
| 30. Edmond City*       | 69. Nowata County     |
| 31. El Reno City       | 70. Okfuskee County   |
| 32. Elk City           | 71. Oklahoma City*    |
| 33. Enid City*         | 72. Oklahoma County*  |
| 34. Garfield County*   | 73. Okmulgee City     |
| 35. Garvin County      | 74. Okmulgee County*  |
| 36. Glenpool City      | 75. Osage County*     |
| 37. Grady County*      | 76. Ottawa County*    |
| 38. Guthrie City       | 77. Owasso City*      |
| 39. Guymon City        | 78. Pawnee County     |

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<sup>2</sup> Entities denoted with an asterisk (\*) indicate a population of greater than 30,000 for purposes of the definition of Primary Subdivision as it relates to Incentive Payment C.

- 79. Payne County\*
- 80. Pittsburg County\*
- 81. Ponca City
- 82. Pontotoc County\*
- 83. Pottawatomie County\*
- 84. Pushmataha County
- 85. Rogers County\*
- 86. Sand Springs City
- 87. Sapulpa City
- 88. Seminole County
- 89. Sequoyah County\*
- 90. Shawnee City\*
- 91. Stephens County\*

- 92. Stillwater City\*
- 93. Tahlequah City
- 94. Texas County
- 95. Tulsa City\*
- 96. Tulsa County\*
- 97. Wagoner County\*
- 98. Warr Acres City
- 99. Washington County\*
- 100. Washita County
- 101. Weatherford City
- 102. Woodward City
- 103. Woodward County
- 104. Yukon City

**Exhibit B**  
**Agreed List of Litigating Subdivisions**

- |                       |                         |
|-----------------------|-------------------------|
| 1. Ada City           | 42. Lincoln County      |
| 2. Altus City         | 43. Logan County        |
| 3. Anadarko City      | 44. Love County         |
| 4. Atoka County       | 45. Major County        |
| 5. Beckham County     | 46. Mayes County        |
| 6. Bethany City       | 47. McClain County      |
| 7. Broken Arrow City  | 48. McClurtain County   |
| 8. Burns Flat Town    | 49. Midwest City        |
| 9. Caddo County       | 50. Muskogee City       |
| 10. Choctaw County    | 51. Muskogee County     |
| 11. Cimarron County   | 52. Mustang City        |
| 12. Cleveland County  | 53. Noble County        |
| 13. Coal County       | 54. Nowata County       |
| 14. Collinsville City | 55. Okfuskee County     |
| 15. Comanche County   | 56. Oklahoma City       |
| 16. Craig County      | 57. Oklahoma County     |
| 17. Creek County      | 58. Okmulgee County     |
| 18. Custer County     | 59. Osage County        |
| 19. Delaware County   | 60. Ottawa County       |
| 20. Dewey County      | 61. Owasso City         |
| 21. Edmond City       | 62. Pawnee County       |
| 22. El Reno City      | 63. Payne County        |
| 23. Elk City          | 64. Pittsburg County    |
| 24. Enid City         | 65. Ponca City          |
| 25. Garvin County     | 66. Pottawatomie County |
| 26. Grady County      | 67. Roger Mills County  |
| 27. Greer County      | 68. Rogers County       |
| 28. Guthrie City      | 69. Seminole City       |
| 29. Harmon County     | 70. Seminole County     |
| 30. Harper County     | 71. Shawnee City        |
| 31. Haskell County    | 72. Stephens County     |
| 32. Hughes County     | 73. Stillwater City     |
| 33. Jackson County    | 74. Texas County        |
| 34. Jefferson County  | 75. Tillman County      |
| 35. Jenks City        | 76. Tulsa City          |
| 36. Johnston County   | 77. Tulsa County        |
| 37. Kay County        | 78. Washington County   |
| 38. Kiowa County      | 79. Woods County        |
| 39. Latimer County    | 80. Woodward County     |
| 40. Lawton City       | 81. Yukon City          |
| 41. Le Flore County   |                         |



**Exhibit C**  
**Oklahoma Payment Schedule**

<b>Payment Year</b>	<b>Abatement Amount<sup>3</sup></b>	<b>State Fees and Costs<sup>4</sup></b>	<b>Subdivision Fees and Costs<sup>5</sup></b>	<b>Annual Total<sup>6</sup></b>
1	\$12,548,350.40	\$3,180,625.42	\$805,781.86	\$16,534,757.68
2	\$13,187,704.53	\$3,021,327.84	\$893,977.50	\$17,103,009.87
3	\$13,187,704.53	\$407,201.40	\$1,604,081.19	\$15,198,987.12
4	\$16,506,280.34	\$0.00	\$1,087,603.11	\$17,593,883.45
5	\$16,506,280.34	\$0.00	\$1,087,603.11	\$17,593,883.45
6	\$16,506,280.34	\$0.00	\$1,087,603.11	\$17,593,883.45
7	\$16,506,280.34	\$0.00	\$1,087,603.11	\$17,593,883.45
8	\$19,413,374.39	\$0.00	\$0.00	\$19,413,374.39
9	\$19,413,374.39	\$0.00	\$0.00	\$19,413,374.39
10	\$19,413,374.39	\$0.00	\$0.00	\$19,413,374.39
11	\$16,318,900.40	\$0.00	\$0.00	\$16,318,900.40
12	\$16,318,900.40	\$0.00	\$0.00	\$16,318,900.40
13	\$16,318,900.40	\$0.00	\$0.00	\$16,318,900.40
14	\$16,318,900.40	\$0.00	\$0.00	\$16,318,900.40
15	\$16,318,900.40	\$0.00	\$0.00	\$16,318,900.40
16	\$16,318,900.40	\$0.00	\$0.00	\$16,318,900.40
17	\$16,318,900.40	\$0.00	\$0.00	\$16,318,900.40
18	\$16,318,900.40	\$0.00	\$0.00	\$16,318,900.40
<b>Totals</b>	<b>\$293,740,207.19</b>	<b>\$6,609,154.66</b>	<b>\$7,654,253.00</b>	<b>\$308,003,614.85</b>

<sup>3</sup> The Oklahoma Abatement Amount is the maximum that the State of Oklahoma and its Participating Subdivisions may receive if the conditions for all Incentive Payments are satisfied.

<sup>4</sup> The amounts in this column are the state fees and costs described in Section V.B.

<sup>5</sup> The amounts in this column are estimates of the Participating Litigating Subdivisions' share of the Contingency Fee Fund described in Section V.C. Pursuant to Section V.C., these amounts shall be paid from the Contingency Fee Fund established by the Global Settlement, and the actual amount shall be as determined by the Fee Panel for the Global Settlement.

<sup>6</sup> The State of Oklahoma has indicated that the total amounts paid each year by Settling Distributors may be allocated among the State's abatement fund and counsel for the State of Oklahoma and its Participating Litigating Subdivisions differently than stated in this Exhibit C. For the avoidance of doubt, any allocation shall be consistent with the requirements of Section IV.B of this Agreement.

**Exhibit D**  
**ABC IRS Form 1098-F**

0303     VOID     CORRECTED

FILER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.  [APPROPRIATE OFFICIAL] The State of Oklahoma [ADDRESS]		<b>1</b> Total amount required to be paid <b>\$ 95,481,120.62</b>	OMB No. 1545-2284  <b>Form 1098-F</b> (Rev. January 2022)	<b>Fines, Penalties, and Other Amounts</b>
<b>2</b> Amount to be paid for violation or potential violation <b>\$ 4,421,656.37</b>		<b>3</b> Restitution/remediation amount <b>\$ 91,059,464.24</b>	For calendar year 20 <u>22</u>	
<b>FILER'S TIN</b> XX-XXXXXXX	<b>PAYER'S TIN</b> 23-3079390	<b>4</b> Compliance amount <b>\$</b>	<b>5</b> Date of order/agreement XX XX 2022	<b>Copy A</b> <b>For Internal Revenue Service Center</b> <b>File with Form 1096.</b>  <b>For Privacy Act and Paperwork Reduction Act Notice, see the current General Instructions for Certain Information Returns.</b>
<b>PAYER'S name</b> AmersourceBergen Corporation		<b>6</b> Court or entity <small>Print the Court, District Court and jurisdiction of order (i.e., United States Tax Court and Agreement entered into by the Settling Debtor(s) in violation of such a provision and the amount paid to the Debtor(s)).</small>	<b>7</b> Case number <small>Case No. (EJ, 2024) and other case control codes for Settlement Agreement entered into by the Settling Debtor(s) (as defined in such agreement) and Ombudsman dated as of [ ]</small>	
<b>Street address (including apt. no.)</b> 1 West First Avenue		<b>8</b> Case name or names of parties to suit, order, or agreement <small>List all the names of the parties to the suit, order, or agreement, and the names of the parties to the settlement agreement entered into by the Settling Debtor(s) in violation of such a provision and the amount paid to the Debtor(s).</small>		
<b>City or town, state or province, country, and ZIP or foreign postal code</b> Conshohocken, PA 19428		<b>9</b> Code A, B		

**Exhibit E**  
**Cardinal Health IRS Form 1098-F**

0303       VOID       CORRECTED

FILER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.  [APPROPRIATE OFFICIAL] State of Oklahoma [ADDRESS]		<b>1</b> Total amount required to be paid <b>\$</b> 95,173,117.00	OMB No. 1545-2284  <b>Form 1098-F</b> (Rev. January 2022)	<b>Fines, Penalties, and Other Amounts</b>
FILER'S TIN XX-XXXXXX		<b>2</b> Amount to be paid for violation or potential violation <b>\$</b> 4,407,392.97	For calendar year 20 <u>22</u>	
PAYER'S TIN 31-0958666		<b>3</b> Restitution/remediation amount <b>\$</b> 90,765,724.03	<b>4</b> Compliance amount <b>\$</b>	<b>Copy A</b> <b>For Internal Revenue Service Center</b> File with Form 1096. For Privacy Act and Paperwork Reduction Act Notice, see the current General Instructions for Certain Information Returns.
PAYER'S name Cardinal Health, Inc. and consolidated subsidiaries		<b>5</b> Date of order/agreement XX XX 2022	<b>6</b> Court or entity District Court of Bryan County, State of Oklahoma and jurisdictions of other cases settled under the Distributors Oklahoma Settlement Agreement, dated as of [ ]	
Street address (including apt. no.) 7000 Cardinal Place		<b>7</b> Case number Case No. CJ-2020-98 and other cases settled under the Distributors Oklahoma Settlement Agreement, dated as of [ ]	<b>8</b> Case name or names of parties to suit, order, or agreement State of Oklahoma v. Cardinal Health, Inc. and other cases settled under the Distributors Oklahoma Settlement Agreement, dated as of [ ]	
City or town, state or province, country, and ZIP or foreign postal code Dublin, Ohio 43017		<b>9</b> Code A B		

**Exhibit F**  
**McKesson IRS Form 1098-F**

0303       VOID       CORRECTED

FILER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.  [APPROPRIATE OFFICIAL] State of Oklahoma [ADDRESS]		1 Total amount required to be paid <b>\$ 117,349,377.27</b>	OMB No. 1545-2284  <b>Form 1098-F</b> (Rev. January 2022)	<b>Fines, Penalties, and Other Amounts</b>
2 Amount to be paid for violation or potential violation <b>\$ 5,434,358.32</b>		3 Restitution/remediation amount <b>\$ 111,915,018.95</b>		
FILER'S TIN XX-XXXXXX	PAYER'S TIN 23-3079390	4 Compliance amount <b>S</b>	5 Date of order/agreement XX XX 2022	<b>Copy A</b> <b>For Internal Revenue Service Center</b> <b>File with Form 1096.</b>  <b>For Privacy Act and Paperwork Reduction Act Notice, see the current General Instructions for Certain Information Returns.</b>
PAYER'S name McKesson Corporation		6 Court or entity: District Court of Bryan County, State of Oklahoma and certain, both of other cases settled under the Settlement Agreement entered into by the Settling Distributors (as defined in such agreements) and Oklahoma, dated as of [ ]		
Street address (including apt. no.) 6535 N. State Highway 161		7 Case number: Case No. CJ-2020-84 and other cases settled under the Settlement Agreement entered into by the Settling Distributors (as defined in such agreements) and Oklahoma, dated as of [ ]		
City or town, state or province, country, and ZIP or foreign postal code Irving, TX 75039		8 Case name or names of parties to suit, order, or agreement State of Oklahoma - McKesson Corp. and other cases settled under the Settlement Agreement entered into by the Settling Distributors (as defined in such agreements) and Oklahoma, dated as of [ ]		
		9 Code A B		

**Exhibit G**  
**Subdivision Settlement Participation Form**

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (the “*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated June 24, 2022 (the “*Distributors Oklahoma Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Distributors Oklahoma Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Distributors Oklahoma Settlement, including Exhibit I thereto, understands that all terms in this Participation Form have the meanings defined therein, and agrees that by signing this Participation Form, the Governmental Entity elects to participate in the Distributors Oklahoma Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall, within 14 days of October 1, 2022 and prior to the filing of the Consent Judgment, secure the dismissal with prejudice of any Released Claims that it has filed.
3. The Governmental Entity agrees to the terms of the Distributors Oklahoma Settlement pertaining to Subdivisions as defined therein.
4. By agreeing to the terms of the Distributors Oklahoma Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after December 1, 2022.
5. The Governmental Entity agrees to use any monies it receives through the Distributors Oklahoma Settlement solely for the purposes provided therein.
6. The Governmental Entity submits to the jurisdiction of the Oklahoma Court for purposes limited to that court’s role as provided in, and for resolving disputes to the extent provided in, the Distributors Oklahoma Settlement. The Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in the Distributors Oklahoma Settlement.
7. The Governmental Entity has the right to enforce the Distributors Oklahoma Settlement as provided therein.

8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Distributors Oklahoma Settlement, including, but not limited to, all provisions of Section XI of Exhibit I thereto, and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Distributors Oklahoma Settlement are intended by the Agreement Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Distributors Oklahoma Settlement shall be a complete bar to any Released Claim.
9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Distributors Oklahoma Settlement.
10. In connection with the releases provided for in the Distributors Oklahoma Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

**General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the date the Distributors Oklahoma Settlement becomes effective pursuant to Section II.B of the Distributors Oklahoma Settlement, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Distributors Oklahoma Settlement.
11. Nothing herein is intended to modify in any way the terms of the Distributors Oklahoma Settlement, to which the Governmental Entity hereby agrees. To the extent this Participation Form is worded differently from Exhibit G to the Distributors Oklahoma



Settlement or interpreted differently from the Distributors Oklahoma Settlement in any respect, the Distributors Oklahoma Settlement controls.

I have all necessary power and authorization to execute this Participation Form on behalf of the Governmental Entity.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Exhibit H**  
**Consent Judgment and Stipulation of Dismissal with Prejudice**

**IN THE DISTRICT COURT OF BRYAN COUNTY**  
**STATE OF OKLAHOMA**

STATE OF OKLAHOMA, *ex rel.*  
JOHN O'CONNOR,  
ATTORNEY GENERAL OF  
OKLAHOMA,

Plaintiff,

v.

MCKESSON CORPORATION;  
AMERISOURCEBERGEN CORP.;  
AMERISOURCEBERGEN DRUG  
CORP.; CARDINAL HEALTH INC.;  
CARDINAL HEALTH 105 INC.;  
CARDINAL HEALTH 108 LLC;  
CARDINAL HEALTH 110 LLC.

Defendants.

Case No. CJ-2020-86

Case No. CJ-2020-85

Case No. CJ-2020-84

Hon. Mark Campbell

FINAL CONSENT JUDGMENT AND  
DISMISSAL WITH PREJUDICE

**FINAL CONSENT JUDGMENT AND DISMISSAL WITH PREJUDICE**

The State of Oklahoma ("*State*") and McKesson Corporation, Cardinal Health, Inc., AmerisourceBergen Drug Corporation and AmerisourceBergen Corporation, together with the subsidiaries thereof (collectively, the "*Settling Distributors*," and each a "*Settling Distributor*") (together with the State, the "*Parties*," and each a "*Party*") have entered into a consensual resolution of the above-captioned litigation (the "*Action*") pursuant to a settlement agreement entitled Distributors Oklahoma Settlement Agreement, dated as of June 24, 2022 (the "*Oklahoma Agreement*"), a copy of which is attached hereto as Exhibit A. The Oklahoma Agreement shall become effective by its terms upon the entry of this Final Consent Judgment (the "*Judgment*") by the Court without adjudication of any contested issue of fact or law, and without finding or admission of wrongdoing or liability of any kind. By entering into the Oklahoma Agreement, the State of Oklahoma agrees to be bound by all terms and conditions of Exhibit B (together with the

Oklahoma Agreement, the “*Agreements*”) unless stated otherwise in the Oklahoma Agreement. Unless stated otherwise in the Oklahoma Agreement, the terms of the Oklahoma Agreement are intended to be consistent with the terms of Exhibit B and shall be construed accordingly.

#### I. RECITALS:

1. Each Party warrants and represents that it engaged in arm’s-length negotiations in good faith. In hereby executing the Agreements, the Parties intend to effect a good-faith settlement.

2. The State has determined that the Agreements are in the public interest.

3. The Settling Distributors deny the allegations against them and that they have any liability whatsoever to the State, its Subdivisions, and/or (a) any of the State’s or Subdivisions’ departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, including its Attorney General, and any person in his or her official capacity whether elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, (b) any public entities, public instrumentalities, public educational institutions, unincorporated districts, fire districts, irrigation districts, and other Special Districts, and (c) any person or entity acting in a *parens patriae*, sovereign, quasi-sovereign, private attorney general, *qui tam*, taxpayer, or other capacity seeking relief on behalf of or generally applicable to the general public.

4. The Parties recognize that the outcome of the Action is uncertain and a final resolution through the adversarial process likely will require protracted litigation.

5. The Parties agree to the entry of the injunctive relief terms pursuant to Exhibit P of Exhibit B.

6. Therefore, without any admission of liability or wrongdoing by the Settling Distributors or any other Released Entities (as defined in Exhibit B), the Parties now mutually consent to the entry of this Judgment and agree to dismissal of the claims with prejudice pursuant to the terms of the Agreements to avoid the delay, expense, inconvenience, and uncertainty of protracted litigation.

**NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

In consideration of the mutual promises, terms, and conditions set forth in the Agreements, the adequacy of which is hereby acknowledged by all Parties, it is agreed by and between the Settling Distributors and the State, and adjudicated by the Court, as follows:

1. The foregoing Recitals are incorporated herein and constitute an express term of this Judgment.

2. The Parties have entered into a full and final settlement of all Released Claims of Releasers against the Settling Distributors (including but not limited to the State) and the Released Entities pursuant to the terms and conditions set forth in the Agreements.

3. The “Definitions” set forth in Section I of Exhibit B are incorporated by reference into this Judgment. The State is a “Settling State” within the meaning of Exhibit B. Unless otherwise defined herein, capitalized terms in this Judgment shall have the same meaning given to them in Exhibit B, or, if not defined in Exhibit B, the same meaning given to them in the Oklahoma Agreement.

4. The Parties agree that the Court has jurisdiction over the subject matter of the Action and over the Parties with respect to the Action and this Judgment. This Judgment shall not be construed or used as a waiver of any jurisdictional defense the Settling Distributors or any other Released Entity may raise in any other proceeding.

5. The Court finds that the Agreements were entered into in good faith.

6. The Court finds that entry of this Judgment is in the public interest and reflects a negotiated settlement agreed to by the Parties. The Action is dismissed with prejudice, subject to a retention of jurisdiction by the Court as provided herein and in the Agreements.

7. By this Judgment, the Agreements are hereby approved by the Court, and the Court hereby adopts their terms as its own determination of this matter and the Parties’ respective rights and obligations.

8. The Court shall have authority to resolve disputes identified in Section VI.F.1 of Exhibit B, governed by the rules and procedures of the Court.

9. The Parties have satisfied the Conditions to Effectiveness of Agreement set forth in Section II.B of the Oklahoma Agreement as follows:

- a. All Litigating Subdivisions and Non-Litigating Primary Subdivisions in the State of Oklahoma became Participating Subdivisions by September 23, 2022.

10. The Parties have satisfied the Condition to Effectiveness of Agreement set forth in Section VIII of Exhibit B and the Release set forth in Sections XI.A, F, and G of Exhibit B, as follows:

- a. The Attorney General of the State exercised the fullest extent of his or her powers to release the Settling Distributors and all other Released Entities from all Released Claims pursuant to the release attached hereto as Exhibit C (the “AG Release”).
- b. The Settling Distributors have determined that there is sufficient State participation and sufficient resolution of the Claims of the Litigating Subdivisions in the Settling States to proceed with the Agreements.
- c. The Participation Form for each Initial Participating Subdivision in the State has been delivered to the Settling Distributors. As stated in the Participation Form, and for the avoidance of doubt, nothing in the Participation Form executed by the Participating Subdivisions is intended to modify in any way the terms of the Agreements to which the Participating Subdivisions agree. As stated in the Participation Form, to the extent the executed version of the Participation Form differs from Exhibit B in any respect, Exhibit B controls.
- d. Pursuant to Section VIII.B of Exhibit B, each Participating Subdivision in the State is dismissing with prejudice any Released Claims that it has filed against the Settling Distributors and the Released Entities.

11. Release. The Parties acknowledge that the AG Release, which is incorporated by reference herein, is an integral part of this Judgment. Pursuant to the Agreements and the AG Release and without limitation and to the maximum extent of the power of the State’s Attorney

General, the Settling Distributors and the other Released Entities are, as of the Effective Date, hereby released from any and all Released Claims of (a) the State and its Participating Subdivisions and any of their departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind and attorneys, including the State's Attorney General, and any person in his or her official capacity whether elected or appointed to serve any of the foregoing, and any agency, person, or other entity claiming by or through any of the foregoing, (b) any public entities, public instrumentalities, public educational institutions, unincorporated districts, fire districts, irrigation districts, and other Special Districts in the State, and (c) any person or entity acting in a *parens patriae*, sovereign, quasi-sovereign, private attorney general, *qui tam*, taxpayer, or other capacity seeking relief on behalf of or generally applicable to the general public with respect to the State or any Subdivision in the State, whether or not any of them participate in the Agreements. Pursuant to the Agreements and the AG Release and to the maximum extent of the State's power, the Settling Distributors and the other Released Entities are, as of the Effective Date, hereby released from any and all Released Claims of (1) the State, (2) all past and present executive departments, state agencies, divisions, boards, commissions and instrumentalities with the regulatory authority to enforce state and federal controlled substances acts, and (3) any of the State's past and present executive departments, agencies, divisions, boards, commissions and instrumentalities that have the authority to bring Claims related to Covered Conduct seeking money (including abatement and/or remediation) or revocation of a pharmaceutical distribution license. For the purposes of clause (3) above, executive departments, agencies, divisions, boards, commissions, and instrumentalities are those that are under the executive authority or direct control of the State's Governor. Further, the provisions set forth in Section XI of Exhibit B are incorporated by reference into this Judgment as if fully set forth herein. The Parties acknowledge, and the Court finds, that those provisions are an integral part of the Agreements and this Judgment, and shall govern the rights and obligations of all participants in the settlement. Any modification of those rights and obligations may be made based only on a writing signed by all affected parties and approved by the Court.



12. Release of Unknown Claims. The State expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

**General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

13. The State may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but the State expressly waived and fully, finally, and forever settled, released and discharged, through the Agreements and AG Release, any and all Released Claims that may exist as of the Effective Date but which the State does not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would have materially affected the State's decision to enter into the Agreements.

14. Costs and Fees. The Parties will bear their own costs and attorneys' fees except as otherwise provided in the Agreements.

15. No Admission of Liability. The Settling Distributors are consenting to this Judgment solely for the purpose of effectuating the Agreements, and nothing contained herein may be taken as or construed to be an admission or concession of any violation of law, rule, or regulation, or of any other matter of fact or law, or of any liability or wrongdoing, all of which the Settling Distributors expressly deny. None of the Settling Distributors or any other Released Entity admits that it caused or contributed to any public nuisance, and none of the Settling Distributors or any other Released Entity admits any wrongdoing that was or could have been alleged by the State, its Participating Subdivisions, or any other person or entity. No part of this Judgment shall constitute evidence of any liability, fault, or wrongdoing by the Settling Distributors or any other Released Entity. The Parties acknowledge that payments made under the Agreements are not a fine, penalty,

or payment in lieu thereof and are properly characterized as described in Section V.F of Exhibit B.

16. No Waiver. This Judgment is entered based on the Agreements without adjudication of any contested issue of fact or law or finding of liability of any kind. This Judgment shall not be construed or used as a waiver of any Settling Distributor's right, or any other Released Entity's right, to defend itself from, or make any arguments in, any other regulatory, governmental, private individual, or class claims or suits relating to the subject matter or terms of this Judgment. Notwithstanding the foregoing, the State may enforce the terms of this Judgment as expressly provided in the Agreements.

17. No Private Right of Action. This Judgment is not intended for use by any third party for any purpose, including submission to any court for any purpose, except pursuant to Section VI.A of Exhibit B. Except as expressly provided in the Agreements, no portion of the Agreements or this Judgment shall provide any rights to, or be enforceable by, any person or entity that is not a Settling State or Released Entity. The State shall allow Participating Subdivisions in the State to notify it of any perceived violations of the Agreements or this Judgment. No Settling State, including the State of Oklahoma, may assign or otherwise convey any right to enforce any provision of the Agreements.

18. Admissibility. It is the intent of the Parties that this Judgment not be admissible in other cases against the Settling Distributors or binding on the Settling Distributors in any respect other than in connection with the enforcement of this Judgment or the Agreements. For the avoidance of doubt, nothing herein shall prohibit a Settling Distributor from entering this Judgment or the Agreements into evidence in any litigation or arbitration concerning (1) a Settling Distributor's right to coverage under an insurance contract or (2) the enforcement of the releases provided for by the Agreements and this Judgment.

19. Preservation of Privilege. Nothing contained in the Agreements or this Judgment, and no act required to be performed pursuant to the Agreements or this Judgment, is intended to constitute, cause, or effect any waiver (in whole or in part) of any attorney-client privilege, work

product protection, or common interest/joint defense privilege, and each Party agrees that it shall not make or cause to be made in any forum any assertion to the contrary.

20. Mutual Interpretation. The Parties agree and stipulate that the Agreements were negotiated on an arm's-length basis between parties of equal bargaining power and was drafted jointly by counsel for each Party. Accordingly, the Agreements are incorporated herein by reference and shall be mutually interpreted and not construed in favor of or against any Party, except as expressly provided for in the Agreements.

21. Retention of Jurisdiction. The Court shall retain jurisdiction of the Parties for the limited purpose of the resolution of disputes identified in Section VI.F.1 of Exhibit B. The Court shall have jurisdiction over Participating Subdivisions in the State for the limited purposes identified in the Agreements.

22. Successors and Assigns. This Judgment is binding on each of the Settling Distributor's successors and assigns.

23. Modification. This Judgment shall not be modified (by the Court, by any other court, or by any other means) without the consent of the State and the Settling Distributors, or as provided for in Section XIV.U of Exhibit B.

So ORDERED this \_\_\_\_ day of \_\_\_\_\_ 2022.

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APPROVED, AGREED TO AND PRESENTED BY:

[SIGNATURE BLOCKS]

**Exhibit I**  
**Distributor Global Settlement Agreement**

*[This page intentionally left blank.]*

**Exhibit I**  
**Distributor Global Settlement Agreement**

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**MEMORANDUM OF UNDERSTANDING  
REGARDING CERTAIN OPIOID LITIGATION PROCEEDS**

WHEREAS, the people of the State of Oklahoma and its communities have been harmed by misconduct committed by certain Pharmaceutical Supply Chain Participants which caused or contributed to the opioid crisis within Oklahoma (“Opioid Crisis”); and

WHEREAS, the State of Oklahoma and certain Litigating Political Subdivisions are separately engaged in litigation seeking to hold Pharmaceutical Supply Chain Participants accountable for the damage caused by their misconduct; and

WHEREAS, the State and the Local Governments share a common desire to abate and alleviate the impacts of that misconduct throughout the State of Oklahoma; and

WHEREAS, while the State and the Local Governments recognize the sums which may be available from the aforementioned litigation will likely be insufficient to fully abate the public health crisis caused by the opioid crisis, they share a common interest in dedicating the most resources possible to the abatement effort; and

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the State and the undersigned counsel for the Litigating Political Subdivisions enter into this Memorandum of Understanding relating to the allocation and use of the proceeds from any Settlement entered into with any of the Distributors (the “Agreement”):

**A. Definitions:**

As used in this Agreement:

1. “Allocated Funds” means the monetary amount to be distributed to the Litigating Political Subdivisions from the Net Opioid Funds;
2. “Distributor(s)” means McKesson Corporation and its subsidiaries (collectively, “McKesson”), AmerisourceBergen and its subsidiaries (collectively, “ABDC”), and Cardinal Health, Inc. and its subsidiaries (collectively, “Cardinal”);

3. **“Effective Date of this Agreement”** means, as to each counsel for a Litigating Political Subdivision, the latter of the dates upon which this Agreement is signed by the Attorney General of Oklahoma and counsel for a Litigating Political Subdivision, as reflected by the dates set forth respectively next to the signatures of each counsel for Litigating Political Subdivision who sign this Agreement;
4. **“Gross Opioid Funds”** means monetary amounts obtained through a Settlement entered;
5. **“Litigating Political Subdivision”** or **“Litigating Political Subdivisions”** means counties, municipalities, or towns located within the geographical boundaries of the State listed on Exhibit A attached hereto;
6. **“Local Governments”** means Litigating Political Subdivisions and Non-Litigating Political Subdivisions;
7. **“Net Opioid Funds”** means the monetary amounts obtained through a Settlement less any costs and expenses incurred by the State in the investigation, preparation, prosecution, mediation, arbitration or settlement of the legal or equitable claims of the State against a Distributor, exclusive of attorneys’ fees;
8. **“Non-Litigating Political Subdivision”** or **“Non-Litigating Political Subdivisions”** means counties, municipalities or towns located within the geographical boundaries of the State which have not filed suit against any one or more of the Distributors and are not listed on Exhibit A as of the date this Agreement is first executed by the Attorney General in accordance with paragraph G.4 of this Agreement. No counsel for any Litigating Political Subdivision shall file a lawsuit on behalf of any Non-Litigating Political Subdivision after the Effective Date of this Agreement.
9. **“Opioid”** means those chemical compounds naturally found in the opium poppy plant, including synthetic analogies that interact with opioid receptors in the body and brain, and reduce the intensity of pain signals and feelings of pain;
10. **“Pharmaceutical Supply Chain”** means the process and channels through which Opioids are manufactured, marketed, promoted, distributed or dispensed;
11. **“Pharmaceutical Supply Chain Participant”** means any entity that engages in or has engaged in the manufacture, marketing, promotion, distribution or dispensing of an Opioid;
12. **“Settlement”** means the resolution after the Effective Date and during the term of this Agreement of legal or equitable claims of the State and any Litigating Political Subdivisions against any Distributor;

13. "State" means the State of Oklahoma acting by and through the Oklahoma Attorney General; and
14. "Term of this Agreement" means the period commencing on the Effective Date of this Agreement and ending on the earlier of the following dates: (i) the conclusion of settlement negotiations without a Settlement having been reached, as determined solely by the Oklahoma Attorney General; (ii) the distribution pursuant to this Agreement of the final payment received pursuant to a Settlement; (iii) the date selected by the mutual agreement in writing of all parties to this Agreement; or (iv) June 30, 2022 unless this Agreement is extended by the parties.

**B. Allocation of Opioid Funds Received through Settlement:**

1. Net Opioid Funds received from a Settlement with any of the Distributors shall be divided with 25% of the Net Opioid Funds going to Litigating Political Subdivisions and 75% of the Net Opioid Funds going to the State.
  - a. This Agreement applies to settlement negotiations and to any Settlement with any of the Distributors;
  - b. Gross Opioid Funds received from a Settlement with any of the Distributors shall be divided with 25% of the Net Opioid Funds going to Litigating Political Subdivisions and 75% of the Net Opioid Funds going to the State;
2. Should payment of Net Opioid Funds occur over a period of years under a Settlement, the State and Litigating Political Subdivisions shall each receive their proportionate percentage share of each year's payment as payments are made by a Distributor, including the payment of the State's and Litigating Political Subdivisions' respective attorney fees;
3. All Net Opioid Funds remaining after payment of attorneys' fees and costs incurred by the State or Litigating Political Subdivisions shall be used for the abatement of the Opioid crisis in the State and its political subdivisions and shall be utilized in a manner consistent with the definition of "approved purpose" or "approved purposes" as set forth in Section 30.5 of Title 74 of the Oklahoma Statutes.
4. The division of Allocated Funds paid to Litigating Political Subdivisions shall be allocated between the Litigating Political Subdivisions in the proportions set forth in Exhibit B, which is attached hereto (or Exhibit B may be added a later date) and incorporated herein by reference.
  - a. If the amount allocated to a Litigating Political Subdivision under Exhibit B is less than \$500, then the amount will instead be distributed to the county in which the Litigating Political Subdivision lies to maximize the use of Opioid Funds to abate

the opioid crisis in the county or region in which the Litigating Political Subdivision is geographically located;

- b. Any Litigating Political Subdivision allocated a share in Exhibit B may elect to have its share of current or future annual distributions of Allocated Funds instead directed to another Litigating or Non-Litigating Political Subdivision, such as but not limited to the county or counties in which a municipality is located;
5. Payments pursuant to this Agreement shall be made to the trust account of Whitten Burrage, LLP and shall be distributed as follows:
- a. Payments of fees and expenses, allocated to the State distributions, to outside counsel, Whitten Burrage and Nix Patterson;
  - b. Payment to an account or fund designated by the State for the remaining portion of the State's distribution;
  - c. Payment to the Litigating Political Subdivisions for their Allocated Funds, as designated in writing by legal counsel for the Litigating Political Subdivisions.

### **C. Settlement Negotiations**

1. All settlement negotiations involving the Distributors shall be negotiated solely by the State, through the Oklahoma Attorney General and the State's outside law firms<sup>1</sup> retained by the State to represent it in litigation involving Pharmaceutical Supply Chain Participants. Attorney George Gibbs may attend Formal Settlement Conferences, on behalf of the Litigating Political Subdivisions, but has no authority to alter the terms of this Agreement on behalf of counsel for the Litigating Political Subdivisions.
2. The costs and expenses of any settlement negotiations, including mediation, shall be borne exclusively by the State;
3. Counsel for each Litigating Political Subdivision provides its written consent for the State to represent to Distributors in any settlement negotiations between the State and any Distributor that a Litigating Political Subdivision receiving Allocated Funds under any Settlement agrees to be bound by the terms of the Settlement negotiated by the State. Provided further, that no attorney-client relationship is established by virtue of counsel for a Litigating Political Subdivision entering into this Agreement with the State; and

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<sup>1</sup> Pursuant to the Legal Services Agreement entered into between the Office of the Attorney General and Whitten Burrage on June 26, 2017, as amended, the law firms of Whitten Burrage and Nix Patterson represent the State of Oklahoma in investigations and litigation related to opioid manufacturers, distributors, and wholesalers.

4. If a Settlement is reached between the State and any Distributor, each Litigating Political Subdivision shall be provided the opportunity to opt-in to the Settlement agreement within thirty (30) days unless good cause is shown to join after that period; provided, however, that in no circumstance will the allocation of Opioid Funds Received through Settlement set forth in Paragraph B, above, be modified. If any Litigating Political Subdivision does not elect to opt-in to a Settlement under this provision, counsel for the Litigating Political Subdivision shall be obligated to reimburse the State for any such Litigating Political Subdivision(s)' share of any costs and expenses incurred during the mediation and settlement process after the Effective Date of this Agreement. Execution of this Agreement by counsel for a Litigating Political Subdivision does not bind a Litigating Political Subdivision to participate in any future settlement agreement reached between the State and a Pharmaceutical Supply Chain Participant.

**D. Payment of Counsel and Litigation Expenses**

1. Any litigation costs, expenses and fees incurred by a Litigating Political Subdivision shall be borne individually by the Litigating Political Subdivision and shall be deducted from the Litigating Political Subdivision's share of Allocated Funds as set forth on Exhibit B to this Agreement, provided:
  - a. In the event any Litigating Political Subdivision is required to pay any sum(s) of money related to any common benefit order or other claw back from the matter entitled *In re: National Prescription Opiate Litigation* (the "MDL") or any other source, each such Litigating Political Subdivision shall pay any such amounts from its share of any Allocated Funds and under no circumstance shall the State be responsible for any such sum(s) of money; and
  - b. In the event private attorneys for the Litigating Political Subdivisions have entered into agreement(s) with any lawyers or law firms or other person(s) related to the representation of the Litigating Political Subdivision in investigation or litigation involving Pharmaceutical Supply Chain Participants, any fees or costs associated with such agreements shall be paid solely by such private attorneys from the share of any Allocated Funds due to the Litigating Political Subdivision under this Agreement. Under no circumstances shall the State be responsible for any portion of fees and costs associated with such private attorneys or association agreements;
2. For the avoidance of doubt, any attorney fees related to representation of the State of Oklahoma shall not be paid from the Litigating Political Subdivisions' Allocated Funds, but shall be paid directly from the State's share of Net Opioid Funds or through other sources;
3. Should payment of Gross Opioid Funds occur over a period of years under a Settlement, outside law firms representing the State and private attorneys for the Litigating Political

Subdivisions shall not be entitled to their respective attorney fees until such time as and when their respective client(s) has received its distribution unless an agreement to the contrary is reached between the State and its outside counsel and/or any Litigating Political Subdivision and its outside counsel or, in the alternative, the Distributors agree to separately pay all or part of such fees as part of any Settlement. Upon receipt of a Settlement payment, outside law firms representing the State and private attorneys representing the Litigating Political Subdivisions shall each be paid their respective attorney fees percentage calculated from the payment received by their respective client(s) for each year that payment is made by a Distributor or upon such other terms as agreed to by the State, Litigating Political Subdivisions, private attorneys and/or any settling Distributors; and

4. Except as expressly stated in this Agreement, execution of this Agreement by the State and counsel for any Litigating Political Subdivisions does not change or alter the terms of any contracts for legal services entered into between such entities and private legal counsel.

**E. Multidistrict Litigation**

1. The State and counsel for the Litigating Political Subdivisions agree and represent that to the extent that a Litigating Political Subdivision has utilized any work product, pleadings, data, materials, testimony or any other type of information that could be subject to a common benefit claim by anyone from any work performed in the MDL, counsel for the Litigating Political Subdivision has not, and will not in the future, provide to the State, and that the State to date has not accepted, nor will it accept in the future, from any Litigating Political Subdivisions, any work product, pleadings, data, materials, testimony or any other type of information that could be subject to a common benefit claim by anyone from any work performed in the MDL; and

**F. Disclaimer of Reliance and Waiver of Claims.**

1. No party to this Agreement has relied upon any representation, promise, statement, data, information, analysis, expert analysis, report or opinion of any other party to this Agreement in connection with the decision to enter or perform this Agreement; and
2. Each party which enters into this Agreement acknowledges that the entry of this Agreement is not in any manner the assumption by the State of Oklahoma of a duty to prosecute the claims of any Litigating Political Subdivision relating in any manner to the opioid crisis. In the event this Agreement is terminated, no party shall have any claims in law or equity against any of the other parties' litigation against a Pharmaceutical Supply Chain Participant(s) or proceeds received in the same or under this Agreement.




**G. Miscellaneous**

1. This Agreement shall not apply to any settlements or judgments previously awarded, regardless of whether such judgment is final or not, or settlements previously entered into by the State, including but not limited to, judgments, settlements and/or litigation with Purdue Pharma and its related entities; the Dr. Mortimer and Raymond Sackler families and their related entities; Teva Pharmaceuticals and its related entities; Endo Pharmaceuticals and its related entities; McKinsey & Co. and its related entities; and/or Mallinckrodt and its related entities;
2. The Litigating Political Subdivisions' litigation against Pharmaceutical Supply Chain Participants and the State's litigation against Pharmaceutical Supply Chain Participants will continue to proceed separately and independently from each other. Neither the State nor the Litigating Political Subdivisions will interfere with the claims or litigation of the other in any way, or move to intervene, in the other party's litigation presently pending against a Pharmaceutical Supply Chain Participant. Neither participation in this Agreement or receipt of any Net Opioid Funds shall give either party or their counsel any rights or claims, either in law or equity, in the other party's litigation or proceeds received from the same;
3. The parties to this Agreement and their respective legal representatives agree to keep any discussions and information related to any settlement negotiations between the State and a Distributor, including internal discussions related to litigation strategy or terms of settlement, as strictly confidential and agree they shall not disclose any such information to a third party—including any counsel who is on any MDL committee(s) unless required by order from a court of competent jurisdiction.
4. The Oklahoma Attorney General will execute this Agreement once evidence has been provided to the Oklahoma Attorney General, to his satisfaction, that counsel for Litigating Political Subdivisions representing a minimum of ninety percent (90%) of the population of such total Litigating Political Subdivisions have approved of this Agreement;
5. No Litigating Political Subdivision shall be bound by the terms of this Agreement until it has approved of its terms by its governing body or an appropriate elected government official authorized to execute this Agreement.
6. This Agreement shall become effective on the Effective Date of this Agreement;
7. This Agreement and any of the rights, duties, or obligations of the parties hereunder shall not be assigned, transferred, or delegated without the express written consent and approval of the State. Any attempted assignment, transfer, or delegation thereof without such consent shall be void;

8. This Agreement, together with any exhibits or other addenda, constitutes the entire agreement between the parties hereto;
9. This Agreement may only be amended during the Term of this Agreement by the mutual written consent of the parties hereto;
10. This Agreement shall be construed and enforced in accordance with the laws of the State of Oklahoma, without regard to conflict of law principles. Should either party initiate a lawsuit or other dispute resolution proceeding over any matter relating to or arising out of this Agreement, such lawsuit or other proceeding shall be filed and conducted in Oklahoma County, State of Oklahoma;
11. This document and any discussions, information, or other documents created in reliance on this Agreement or from any resulting settlement negotiation shall not be admissible as evidence in any court of law, except for any proceeding(s) in law or equity to enforce this Agreement or any of its terms and conditions;
12. This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. An executed signature page of this Agreement delivered in .pdf format via email shall be as effective as an original executed signature page; and
13. Each counsel signing this Agreement represents it is counsel of record for the Litigating Political Subdivision and that the undersigned believes this Agreement is fair and reasonable.

IN WITNESS WHEREOF, the undersigned parties, intending to be bound, have executed this Agreement upon due authorization by their respective governing authorities.

ON BEHALF OF THE STATE:




---

John O'Connor  
Oklahoma Attorney General  
State of Oklahoma

ON BEHALF OF COUNSEL FOR THE LITIGATING POLITICAL SUBDIVISIONS:

[A separate signature page will be executed by each counsel for Litigating Political Subdivisions joining the MOU.]



---

**GEORGE GIBBS**  
**GIBBS ARMSTRONG BOROCHOFF**  
601 S. Boulder, Suite 500  
Tulsa, OK 74119  
(918) 587-3939 phone  
(918) 582-5504 fax  
ggibbs@gablawyers.com

**ON BEHALF OF THE FOLLOWING COUNTIES:**

1. Tulsa County
2. Pawnee County
3. Ottawa County
4. Osage County
5. Garvin County
6. Delaware County
7. McClain County; and
8. Seminole County
9. Okfuskee County



Bradford D. Barron, OBA #17571

The Barron Law Firm, PLLC

P.O. Box 369

Claremore, OK 74018

(918)341-8402 Phone

(918)515-4691 Fax

[bbarron@barronlawfirmok.com](mailto:bbarron@barronlawfirmok.com)

On behalf of the following Oklahoma Counties:

Washington County

Nowata County

Craig County

Rogers County

Mayes County

Oklmulgee County

Creek County



---

TONY G. PUCKETT, OBA #13336  
TODD A. COURT, OBA #19438  
MCAFEE & TAFT A PROFESSIONAL CORPORATION  
8<sup>th</sup> Floor, Two Leadership Square  
211 N. Robinson  
Oklahoma City, OK 73102  
405/235-9621; 405/235-0439 (FAX)  
[tony.puckett@mcafeetaft.com](mailto:tony.puckett@mcafeetaft.com)  
[todd.court@mcafeetaft.com](mailto:todd.court@mcafeetaft.com)

**ATTORNEYS FOR:**

*City of Ada*  
*City of Altus*  
*City of Bethany*  
*City of Collinsville*  
*City of Edmond*  
*City of Elk City*  
*City of Enid*  
*City of Guthrie*  
*City of Jenks*  
*City of Midwest City*  
*City of Mustang*  
*City of Oklahoma City*  
*City of Owasso*  
*City of Ponca City*  
*City of Seminole*  
*City of Shawnee*  
*City of Stillwater*  
*City of Tulsa*  
*City of Yukon*

MATTHEW J. SILL, OBA #21547  
HARRISON C. LUJAN, OBA #30154  
FULMER SILL LAW GROUP  
1101 N. Broadway Ave., Suite 102  
Oklahoma City, OK 73103  
Phone/Fax: 405-510-0077  
[msill@fulmersill.com](mailto:msill@fulmersill.com)  
[hlujan@fulmersill.com](mailto:hlujan@fulmersill.com)

**ATTORNEYS FOR:**

<i>Atoka County</i>	<i>Roger Mills County</i>
<i>Beckham County</i>	<i>Stephens County</i>
<i>Caddo County</i>	<i>Texas County</i>
<i>Choctaw County</i>	<i>Tillman County</i>
<i>Cimarron County</i>	<i>Woodward County</i>
<i>Cleveland County</i>	<i>City of El Reno</i>
<i>Coal County</i>	<i>City of Muskogee</i>
<i>Comanche County</i>	
<i>Custer County</i>	
<i>Dewey County</i>	
<i>Grady County</i>	
<i>Greer County</i>	
<i>Harmon County</i>	
<i>Harper County</i>	
<i>Haskell County</i>	
<i>Jackson County</i>	
<i>Jefferson County</i>	
<i>Johnston County</i>	
<i>Kay County</i>	
<i>Kiowa County</i>	
<i>Latimer County</i>	
<i>LeFlore County</i>	
<i>Lincoln County</i>	
<i>Logan County</i>	
<i>Love County</i>	
<i>Major County</i>	
<i>McCurtain County</i>	
<i>Muskogee County</i>	
<i>Noble County</i>	
<i>Oklahoma County</i>	
<i>Payne County</i>	
<i>Pittsburg County</i>	
<i>Pottawatomie County</i>	



S. Alex Yaffe

S. ALEX YAFFE, OBA #21053

FOSHEE & YAFFE LAW FIRM

12231 South May Ave.

Oklahoma City, OK 73170

Phone/Fax: 405-378-3033

[ay@fylaw.com](mailto:ay@fylaw.com)

**ATTORNEYS FOR:**

*Cleveland County*

**EXHIBIT A**  
**Political Subdivision Name**

Atoka County	Beckham County
Caddo County	Choctaw County
Cimarron County	Cleveland County
Coal County	Comanche County
Craig County	Creek County
Custer County	Delaware County
Dewey County	Garvin County
Grady County	Greer County
Harmon County	Harper County
Haskell County	Hughes County
Jackson County	Jefferson County
Johnston County	Kay County
Kiowa County	Latimer County
LeFlore County	Lincoln County
Logan County	Love County
Major County	Mayes County
McClain County	McCurtain County
Muskogee County	Noble County
Nowata County	Okfuskee County
Oklahoma County	Okmulgee County
Osage County	Ottawa County
Pawnee County	Payne County
Pittsburg County	Pottawatomie County
Roger Mills County	Rogers County
Seminole County	Stephens County
Texas County	Tillman County
Tulsa County	Washington County
Woods County	Woodward County
City of Ada	City of Altus
City of Anadarko	City of Bethany
City of Broken Arrow	City of Collinsville
City of Edmond	City of El Reno
City of Elk City	City of Enid
City of Guthrie	City of Jenks
City of Lawton	City of Midwest City
City of Muskogee	City of Mustang
City of Oklahoma City	City of Owasso
City of Ponca City	City of Seminole
City of Shawnee	City of Stillwater
City of Tulsa	City of Yukon

## Exhibit B

The initial allocations are shown on Table 1. Ten percent (10%) of funds received will be held back from this initial allocation to establish an Appeal Fund for any Participating Subdivision to appeal their allocation of settlement funds as set forth in this exhibit, and to pay administrative costs. Each participating subdivision will have six months after receipt of their allocation to appeal to a Special Master appointed to hear appeals. If all the money in the Appeal Fund is not distributed through the appeals process, it will be redistributed in accordance with Table 2 below. The allocations shown below will be further reduced for the payment of attorneys' fees and costs in accordance with each locality's representation agreement with their counsel.

Table 1: Opioid Settlement Allocation Shares to Litigating Oklahoma Counties, Cities and Towns,  
with 10% Holdback

Municipal Area	Area % of Total	Municipal Area	Area % of Total
City of Ada	1.150%	Lincoln County	0.358%
City of Altus	0.090%	Logan County	0.760%
City of Anadarko	0.320%	Love County	0.144%
Atoka County	0.283%	Major County	0.016%
Beckham County	0.252%	Mayes County	0.668%
City of Bethany	0.348%	McClain County	0.284%
City of Broken Arrow	2.831%	McCurtain County	0.624%
Caddo County	0.428%	City of Midwest City	1.917%
Choctaw County	0.295%	City of Muskogee	2.976%
Cimarron County	0.046%	Muskogee County	0.153%
Cleveland County	0.372%	City of Mustang	0.225%
Coal County	0.144%	Noble County	0.040%
City of Collinsville	0.173%	Nowata County	0.109%
Comanche County	3.101%	Okfuskee County	0.204%
Craig County	0.144%	City of Oklahoma City	20.187%
Creek County	1.137%	Oklahoma County	4.021%
Custer County	0.278%	Okmulgee County	0.305%
Delaware County	0.336%	Osage County	0.647%
Dewey County	0.017%	Ottawa County	0.258%
City of Edmond	2.051%	City of Owasso	1.034%
City of El Reno	0.279%	Pawnee County	0.316%
City of Elk City	0.448%	Payne County	0.513%
City of Enid	1.042%	Pittsburg County	0.140%
Garvin County	0.115%	City of Ponca City	0.626%
Grady County	1.418%	Pottawatomie County	0.705%
Greer County	0.059%	Roger Mills County	0.080%
City of Guthrie	0.298%	Rogers County	1.266%
Harmon County	0.042%	City of Seminole	0.344%
Harper County	0.057%	Seminole County	0.433%
Haskell County	0.224%	City of Shawnee	1.601%
Hughes County	0.172%	Stephens County	0.599%
Jackson County	0.696%	City of Stillwater	1.244%
Jefferson County	0.189%	Texas County	0.448%
City of Jenks	0.249%	Tillman County	0.132%
Johnston County	0.227%	City of Tulsa	16.441%
Kay County	0.437%	Tulsa County	7.121%
Kiowa County	0.155%	Washington County	0.510%
Latimer County	0.357%	Woods County	0.041%
City of Lawton	0.496%	Woodward County	0.198%
LeFlore County	1.135%	City of Yukon	0.421%

Table 2: Opioid Settlement Allocation Shares to Litigating Oklahoma Counties, Cities and Towns

Municipal Area	Area % of Total	Municipal Area	Area % of Total
City of Ada	1.278%	Lincoln County	0.398%
City of Altus	0.101%	Logan County	0.845%
City of Anadarko	0.356%	Love County	0.160%
Atoka County	0.315%	Major County	0.018%
Beckham County	0.280%	Mayes County	0.742%
City of Bethany	0.387%	McClain County	0.316%
City of Broken Arrow	3.146%	McCurtain County	0.694%
Caddo County	0.475%	City of Midwest City	2.130%
Choctaw County	0.328%	City of Muskogee	3.307%
Cimarron County	0.051%	Muskogee County	0.170%
Cleveland County	0.413%	City of Mustang	0.249%
Coal County	0.160%	Noble County	0.045%
City of Collinsville	0.192%	Nowata County	0.121%
Comanche County	3.445%	Okfuskee County	0.227%
Craig County	0.160%	City of Oklahoma City	22.430%
Creek County	1.263%	Oklahoma County	4.468%
Custer County	0.309%	Okmulgee County	0.339%
Delaware County	0.373%	Osage County	0.719%
Dewey County	0.019%	Ottawa County	0.287%
City of Edmond	2.279%	City of Owasso	1.148%
City of El Reno	0.310%	Pawnee County	0.351%
City of Elk City	0.498%	Payne County	0.570%
City of Enid	1.158%	Pittsburg County	0.155%
Garvin County	0.127%	City of Ponca City	0.695%
Grady County	1.575%	Pottawatomie County	0.783%
Greer County	0.066%	Roger Mills County	0.089%
City of Guthrie	0.331%	Rogers County	1.406%
Harmon County	0.046%	City of Seminole	0.382%
Harper County	0.063%	Seminole County	0.481%
Haskell County	0.249%	City of Shawnee	1.779%
Hughes County	0.191%	Stephens County	0.666%
Jackson County	0.773%	City of Stillwater	1.382%
Jefferson County	0.210%	Texas County	0.497%
City of Jenks	0.277%	Tillman County	0.147%
Johnston County	0.252%	City of Tulsa	18.267%
Kay County	0.486%	Tulsa County	7.912%
Kiowa County	0.172%	Washington County	0.566%
Latimer County	0.396%	Woods County	0.046%
City of Lawton	0.552%	Woodward County	0.220%
LeFlore County	1.261%	City of Yukon	0.468%

**Exhibit G**  
**Subdivision Settlement Participation Form**

<b>Governmental Entity:</b> City of Midwest City	<b>State:</b> Oklahoma
<b>Authorized Official:</b> Pat Byrne, Vice-Mayor	
<b>Address 1:</b> 100 North Midwest Boulevard	
<b>Address 2:</b>	
<b>City, State, Zip:</b> Midwest City, Ok 73110	
<b>Phone:</b> 405-739-1302	
<b>Email:</b> dmaisch@midwestcityok.org	

The governmental entity identified above (the "*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated June 24, 2022 (the "*Distributors Oklahoma Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the Distributors Oklahoma Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Distributors Oklahoma Settlement, including Exhibit I thereto, understands that all terms in this Participation Form have the meanings defined therein, and agrees that by signing this Participation Form, the Governmental Entity elects to participate in the Distributors Oklahoma Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall, within 14 days of October 1, 2022 and prior to the filing of the Consent Judgment, secure the dismissal with prejudice of any Released Claims that it has filed.
3. The Governmental Entity agrees to the terms of the Distributors Oklahoma Settlement pertaining to Subdivisions as defined therein.
4. By agreeing to the terms of the Distributors Oklahoma Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after December 1, 2022.
5. The Governmental Entity agrees to use any monies it receives through the Distributors Oklahoma Settlement solely for the purposes provided therein.
6. The Governmental Entity submits to the jurisdiction of the Oklahoma Court for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Distributors Oklahoma Settlement. The Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in the Distributors Oklahoma Settlement.
7. The Governmental Entity has the right to enforce the Distributors Oklahoma Settlement as provided therein.



8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Distributors Oklahoma Settlement, including, but not limited to, all provisions of Section XI of Exhibit I thereto, and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Distributors Oklahoma Settlement are intended by the Agreement Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Distributors Oklahoma Settlement shall be a complete bar to any Released Claim.
9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Distributors Oklahoma Settlement.
10. In connection with the releases provided for in the Distributors Oklahoma Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

**General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the date the Distributors Oklahoma Settlement becomes effective pursuant to Section II.B of the Distributors Oklahoma Settlement, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Distributors Oklahoma Settlement.
11. Nothing herein is intended to modify in any way the terms of the Distributors Oklahoma Settlement, to which the Governmental Entity hereby agrees. To the extent this Participation Form is worded differently from Exhibit G to the Distributors Oklahoma

Settlement or interpreted differently from the Distributors Oklahoma Settlement in any respect, the Distributors Oklahoma Settlement controls.

I have all necessary power and authorization to execute this Participation Form on behalf of the Governmental Entity.

Signature: \_\_\_\_\_

Name: Pat Byrne \_\_\_\_\_

Title: Vice-Mayor \_\_\_\_\_

Date: \_\_\_\_\_



**City Attorney, Donald D. Maisch**

100 N. Midwest Boulevard  
Midwest City, OK 73110  
DMaisch@midwestcityok.org  
Office: 405.739.1203  
[www.midwestcityok.org](http://www.midwestcityok.org)

**MEMORANDUM**

To: Mayor and Members of the City Council

From: Donald D. Maisch, City Attorney

Date: July 26, 2022

RE: Discussion and consideration for approval, including any possible amendment of a resolution approving the proposed settlement agreement with Johnson and Johnson concerning opioid litigation. (D. Maisch – City Attorney).

---

The City of Midwest City is a party with seventy-nine (79) other Oklahoma State Litigating Subdivisions (Litigation Subdivisions) that have brought various suits against various manufacturers and distributors of opioids. One such manufacturer is Johnson and Johnson. You may recall that the Oklahoma Attorney General brought suit against Johnson and Johnson and won a major litigation victory, only to have the entire judgment overturned and thrown out by the Oklahoma Supreme Court.

The Litigating Subdivisions have continued to hold settlement negotiations with Johnson and Johnson. These negotiations have led to a proposed settlement. In the proposed settlement Johnson and Johnson agrees to pay the Litigating Subdivisions a total of fourteen million dollars (\$14,000,000.00) in exchange for releases from the litigating subdivisions. Participation from all the litigating subdivisions is needed for the settlement to be binding. This settlement will be paid in one lump sum in exchange for the releases. The settlement amount will be paid to a qualified settlement fund. From there, 90% of the funds (less applicable attorneys' fees and costs) will be distributed in accordance with the allocation matrix that we will provide you. It is our hope to have full participation and approval within 30 days although the agreement allows for 90 days to participate.

Respectfully submitted,

Donald D. Maisch  
City Attorney

**RESOLUTION NO. 2022-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDWEST CITY APPROVING PARTICIPATION IN THE JANSSEN, A/K/A JOHNSON AND JOHNSON SUBDIVISION OPIOID AGREEMENT**

**WHEREAS**, pharmaceutical opioids have harmed the City of Midwest City, Oklahoma and its citizens; and

**WHEREAS**, this harm was created and exacerbated by the misconduct and illegal activities of opioid manufacturers and distributors, including Janssen (a/k/a Johnson and Johnson).; and

**WHEREAS**, the City of Midwest City, Oklahoma, with other litigating governments in the State of Oklahoma, filed suit to address and seek recovery for the harms cause to it and its citizens; and

**WHEREAS**, the Janssen has agreed to settle the claims of the Oklahoma Subdivisions in the Janssen Oklahoma Subdivision Opioid Settlement Agreement; and

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE MIDWEST CITY COUNCIL, AS FOLLOWS:**

**THAT** that the City of Midwest City, Oklahoma hereby elects to, and approves its participation in, the Janssen Oklahoma Subdivision Opioid Settlement Agreement, authorizes its Mayor, or Vice Mayor, to execute the Settlement Agreement.

PASSED AND APPROVED by the Acting Mayor and Members of the Midwest City Council this 26<sup>th</sup> day of July, 2022.

CITY OF MIDWEST CITY

\_\_\_\_\_  
Pat Byrne,  
Vice Mayor

ATTEST:

\_\_\_\_\_  
Sara Hancock, City Secretary

APPROVED as to form and legality this \_\_\_\_\_ day of July, 2022.

\_\_\_\_\_  
Donald D. Maisch, City Attorney

## JANSSEN OKLAHOMA SUBDIVISION OPIOID SETTLEMENT AGREEMENT

### I. Overview

In accordance with the agreement in principle reached between and among Janssen and the Participating Subdivisions on April 24, 2022, this settlement agreement dated as of [X] (the “*Agreement*”) sets forth the principal terms and conditions of a settlement agreement between and among the Participating Subdivisions and Janssen (as those terms are defined below). Janssen has agreed to the below terms for the sole purpose of settlement, and nothing herein may be taken as or construed to be an admission or concession of any violation of law, rule, or regulation, or of any other matter of fact or law, or of any liability or wrongdoing, all of which Janssen expressly denies. No part of this Agreement, including its statements and commitments, shall constitute evidence of any liability, fault, or wrongdoing by Janssen. Unless the contrary is expressly stated, this Agreement is not intended for use by any third party for any purpose, including submission to any court for any purpose.

### II. Definitions

Unless otherwise specified, the following definitions apply:

1. “*Agreement*” means this agreement as set forth above, inclusive of all exhibits.
2. “*Attorney*” means any of the following retained through a legal contract: a solo practitioner, multi-attorney law firm, or other legal representative of a Participating Subdivision.
3. “*Claim*” means any past, present or future cause of action, claim for relief, cross-claim or counterclaim, theory of liability, demand, derivative claim, request, assessment, charge, covenant, damage, debt, lien, loss, penalty, judgment, right, obligation, dispute, suit, contract, controversy, agreement, promise, performance, warranty, omission, or grievance of any nature whatsoever, whether legal, equitable, statutory, regulatory or administrative, whether arising under federal, state or local common law, statute, regulation, guidance, ordinance or principles of equity, whether filed or unfiled, whether asserted or unasserted, whether known or unknown, whether accrued or unaccrued, whether foreseen, unforeseen or unforeseeable, whether discovered or undiscovered, whether suspected or unsuspected, whether fixed or contingent, and whether existing or hereafter arising, in all such cases, including but not limited to any request for declaratory, injunctive, or equitable relief, compensatory, punitive, or statutory damages, absolute liability, strict liability, restitution, subrogation, contribution, indemnity, apportionment, disgorgement, reimbursement, attorney fees, expert fees, consultant fees, fines, penalties, expenses, costs or any other legal, equitable, civil, administrative, or regulatory remedy whatsoever.
4. “*Covered Conduct*” means any actual or alleged act, failure to act, negligence, statement, error, omission, breach of any duty, conduct, event, transaction, agreement, misstatement, misleading statement or other activity of any kind whatsoever from the beginning of time through the Effective Date (and any past,

present, or future consequence of any such act, failure to act, negligence, statement, error, omission, breach of duty, conduct, event, transaction, agreement, misstatement, misleading statement or other activity) relating in any way to (a) the discovery, development, manufacture, packaging, repackaging, marketing, promotion, advertising, labeling, recall, withdrawal, distribution, delivery, monitoring, reporting, supply, sale, prescribing, dispensing, physical security, warehousing, use or abuse of, or operating procedures relating to any Product, or any system, plan, policy, or advocacy relating to any Product or class of Products, including but not limited to any unbranded promotion, marketing, programs, or campaigns relating to any Product or class of Products; (b) the characteristics, properties, risks, or benefits of any Product; (c) the reporting, disclosure, non-reporting or non-disclosure to federal, state or other regulators of orders for any Product placed with any Released Entity; (d) the selective breeding, harvesting, extracting, purifying, exporting, importing, applying for quota for, procuring quota for, handling, promoting, manufacturing, processing, packaging, supplying, distributing, converting, or selling of, or otherwise engaging in any activity relating to, precursor or component Products, including but not limited to natural, synthetic, semi-synthetic or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, or any related intermediate Products; or (e) diversion control programs or suspicious order monitoring related to any Product.

5. “*Effective Date*” means the execution date of this Agreement.
6. “*Janssen*” means Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc.
7. “*Janssen Global Settlement*” means the Janssen Settlement Agreement pertaining to opioid litigations, as revised March, 2022, resolving the litigation and claims brought or threatened to be brought by participating states and subdivisions against Janssen. A copy of the Janssen Settlement Agreement is available at <https://nationalopioidsettlement.com/wp-content/uploads/2022/04/Janssen-agreement-03302022-FINAL2.pdf>.
8. “*Participation Date*” means the date ninety (90) days after the Effective Date, unless it is extended by written agreement of the Parties.
9. “*Participating Subdivision*” means a Subdivision (or Subdivision official asserting the right of or for the Subdivision to recover for alleged harms to the Subdivision and/or the people thereof) that brought any Released Claim against any Released Entity on or before the Effective Date that was not separately resolved prior to that date and that executes a Settlement Participation Form by the Participation Date. A list of Participating Subdivisions will be agreed to by the Parties and included as Exhibit A.
10. “*Parties*” means Janssen and each Participating Subdivision (each, a “*Party*”).
11. “*Product*” means any chemical substance, whether used for medicinal or non-



medicinal purposes, and whether natural, synthetic, or semi-synthetic, or any finished pharmaceutical product made from or with such substance, that is an opioid or opiate, as well as any product containing any such substance. It also includes: 1) the following when used in combination with opioids or opiates: benzodiazepine, carisoprodol, zolpidem, or gabapentin; and 2) a combination or “cocktail” of any stimulant or other chemical substance prescribed, sold, bought, or dispensed to be used together that includes opioids or opiates. For the avoidance of doubt, “Product” does not include benzodiazepine, carisoprodol, zolpidem, or gabapentin when not used in combination with opioids or opiates. “Product” includes but is not limited to any substance consisting of or containing buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, naloxone, naltrexone, oxycodone, oxymorphone, tapentadol, tramadol, opium, heroin, carfentanil, any variant of these substances, or any similar substance. “Product” also includes any natural, synthetic, semi-synthetic or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, and any related intermediate products used or created in the manufacturing process for any of the substances described in the preceding sentence.

12. “*Qualified Settlement Fund*” means the fund established by this Agreement into which all payments by Janssen are made, unless otherwise expressly provided in this Agreement.
13. “*Qualified Settlement Fund Administrator*” means the entity that administers the Qualified Settlement Fund. Prior to the Participation Date, the Parties shall agree to selection and removal processes for and a detailed description of the Qualified Settlement Fund Administrator’s duties, all of which shall be appended to the Agreement as Exhibit F.
14. “*Released Claims*” means any and all Claims that directly or indirectly are based on, arise out of, or in any way relate to or concern the Covered Conduct occurring prior to the Effective Date. Without limiting the foregoing, “Released Claims” include any Claims that have been asserted against the Released Entities by the Participating Subdivisions in any federal, state or local action or proceeding (whether judicial, arbitral, or administrative) based on, arising out of or relating to, in whole or in part, the Covered Conduct, or any such Claims that could be or could have been asserted now or in the future in those actions or in any comparable action or proceeding. Released Claims also include all Claims asserted in any proceeding to be dismissed pursuant to the Agreement, whether or not such claims relate to Covered Conduct. The Parties intend that “Released Claims” be interpreted broadly. This Agreement does not release Claims by the State of Oklahoma or any private individuals.
15. “*Released Entities*” means Janssen and (1) all of Janssen’s past and present direct or indirect parents, subsidiaries, divisions, predecessors, successors, assigns, including Noramco, Inc. and Tasmanian Alkaloids PTY. LTD.; (2) the past and present direct or indirect subsidiaries, divisions, and joint ventures, of any of the foregoing; (3) all of Janssen’s insurers (solely in their role as insurers with respect to the Released Claims); (4) all of Janssen’s, or of any entity described in subsection (1), past and

present joint ventures; and (5) the respective past and present officers, directors, members, shareholders (solely in their capacity as shareholders of the foregoing entities), partners, trustees, agents, and employees of any of the foregoing (for actions that occurred during and related to their work for, or employment with, Janssen). Any person or entity described in subsections (3)-(5) shall be a Released Entity solely in the capacity described in such clause and shall not be a Released Entity with respect to its conduct in any other capacity. For the avoidance of doubt, the entities listed in Exhibit G are not Released Entities; and provided further that any joint venture partner of Janssen or Janssen's subsidiary is not a Released Entity unless it falls within subsections (1)-(5) above. A list of Janssen's present subsidiaries and affiliates can be found at <https://johansonandjohnson.gcs-web.com/static-files/f61ae5f3-ff03-46c1-bfc9-174947884db2>. Janssen's predecessor entities include but are not limited to those entities listed on Exhibit E. For the avoidance of doubt, any entity acquired, or joint venture entered into, by Janssen after the Effective Date is not a Released Entity.

16. "*Releasers*" means each Participating Subdivision and without limitation and to the maximum extent of the power of the Participating Subdivision to release Claims, the Participating Subdivision's departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys. In addition to being a Releaser as provided herein, a Participating Subdivision shall also provide the Settlement Participation Form attached as Exhibit C providing for a release to the fullest extent of the Participating Subdivision's authority.
17. "*Special District*" means a formal and legally recognized sub-entity of the State that is authorized by State law to provide one or a limited number of designated functions, including but not limited to school districts, fire districts, healthcare & hospital districts, and emergency services districts. Special Districts do not include sub-entities of the State that provide general governance for a defined area that would qualify as a Subdivision.
18. "*State*" means the State of Oklahoma.
19. "*Subdivision*" means a formal and legally recognized sub-entity of the State that provides general governance for a defined area, including a county, parish, city, town, village, or similar entity. Unless otherwise specified, "Subdivision" includes all functional counties and parishes and other functional levels of sub-entities of the State that provide general governance for a defined area. Historic, non-functioning sub-entities of the State are not Subdivisions, unless the entity has filed a lawsuit that includes a Released Claim against a Released Entity in a direct or any other capacity. For purposes of this Agreement, the term Subdivision does not include Special Districts.
20. "*Settlement Participation Form*" means the form attached as Exhibit C that Participating Subdivisions must execute and return to Janssen and the Qualified Settlement Fund Administrator, and which shall (1) make such Participating Subdivisions signatories to this Agreement, (2) include a full and complete release of

any and of such Participating Subdivision's claims, and (3) require the prompt dismissal with prejudice of any Released Claims that have been filed by any such Participating Subdivision.

### III. Release

A. *Scope.* As of the date that the settlement payment defined in Section IV.B is made to the Qualified Settlement Fund, the Released Entities will be released and forever discharged from all of the Releasors' Released Claims. Each Participating Subdivision (for itself and its Releasors) will, on or before the Participation Date, absolutely, unconditionally, and irrevocably covenant not to bring, file, or claim, or to cause, assist in bringing, or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Agreement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released claims and extend to the full extent of the power of the Participating Subdivisions to release claims. The Release shall be a complete bar to any Released Claim.

B. *General Release.* In connection with the releases provided for in the Agreement, each Participating Subdivision (for itself and its Releasors) will expressly waive, release, and forever discharge any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

**General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may thereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Participating Subdivision (for itself and its Releasors) will expressly waive and fully, finally, and forever settle, release and discharge, upon the date that the Settlement Payment is received, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Participating Subdivisions' decision to participate in the Agreement.

C. *Res Judicata.* Nothing in the Agreement shall be deemed to reduce the scope of the res judicata or claim preclusive effect that the settlement memorialized in the Agreement, and/or any judgment entered on the Agreement, gives rise to under applicable law.

D. *Representation and Warranty.* Counsel executing this Agreement on behalf of the Participating Subdivisions expressly represent and warrant that they are counsel of record for the Participating Subdivision, will recommend this Agreement to the Participating

Subdivisions and will use their best efforts to have the Participating Subdivisions approve this Agreement by their respective government authority on or before the Participation Date of this Agreement. A Participating Subdivision shall not be bound by this Agreement until the Agreement is approved by the respective Participating Subdivision's government authority. Approval by a Participating Subdivision shall include a representation and warranty that the Participating Subdivision will obtain on or before the Participation Date (or has obtained) the authority to settle and release, to the maximum extent of the Participating Subdivision's power, all Released Claims.

- E. *Effectiveness.* The releases set forth in the Agreement shall not be impacted in any way by any dispute that exists, has existed, or may later exist between or among the Releasers. Nor shall such releases be impacted in any way by any current or future law, regulation, ordinance, or court or agency order limiting, seizing, or controlling the distribution or use of the Qualified Settlement Fund or any portion thereof, or by the enactment of future laws, or by any seizure of the Qualified Settlement Fund or any portion thereof.
- F. *Cooperation.* Releasers (i) will not encourage any person or entity to bring or maintain any Released Claim against any Released Entity and (ii) will reasonably cooperate with and not oppose any effort by a Released Entity to secure the prompt dismissal of any and all Released Claims.
- G. *Non-Released Claims.* Notwithstanding the foregoing or anything in the definition of Released Claims, the Agreement does not waive, release or limit any criminal liability, Claims for any outstanding liability under any tax or securities law, Claims against parties who are not Released Entities, Claims brought by the State of Oklahoma, Claims by private individuals and any claims arising under the Agreement for enforcement of the Agreement. A non-exclusive list of non-Released Entities is attached as Exhibit D.

#### **IV. Monetary Relief and Payments**

- A. *Participation.* As consideration for the payments under subsection IV.B below, all Participating Subdivisions must obtain and deliver (or cause to be obtained and delivered) to Janssen executed Settlement Participation Forms by the Participation Date.
- B. *Payments.* Within thirty (30) days after the Participation Date, Janssen shall pay into the Qualified Settlement Fund the sum of \$14,020,446.75 (the "Settlement Payment"). Janssen will not hold back any of the Settlement Payment for the payment of any fee or assessment, including any common benefit assessment. The parties understand and intend that that payments under this Agreement will not be subject to a separate common benefit assessment entitling Janssen to claim an offset from its payments to the common benefit fund established under the Janssen Global Settlement; provided, however, that if a common benefit assessment is nevertheless made against the Settlement Payment, Janssen will claim an offset under Janssen Settlement Agreement Exhibit R Section II.C.6.b.ii.2 and pay the

amount of the offset into the Qualified Settlement Fund to satisfy any common benefit assessment on the Settlement Payment.

- C. *Qualified Settlement Fund Administrator Costs.* Any costs and fees associated with or arising out of the duties of the Qualified Settlement Fund Administrator as described in Exhibit B with regard to Janssen's payments to the Qualified Settlement Fund shall be paid out of interest accrued on the Qualified Settlement Fund and from the Qualified Settlement Fund should such interest prove insufficient.

**V. Allocation of Settlement Funds**

Janssen's payments shall be allocated as set forth on Exhibit B attached hereto.

**VI. Attorneys' Fee and Cost Payments**

- A. Janssen shall not be responsible for making payments for attorneys' fees and costs beyond amounts paid to the Qualified Settlement Fund under Section IV.
- B. An Attorney may not receive any payment for attorney fees unless the Attorney represents that s/he has no present intent to represent or participate in the representation of any Subdivision or Special District or any Releasor that brings Released Claims against Released Entities after the Effective Date.
- C. Participating Subdivisions shall use best efforts to provide Janssen with the information necessary for Janssen to secure a reduction of its payment obligation of the Janssen Global Settlement Contingency Fee Fund by the amount that would have been owed to counsel for Participating Subdivisions had Oklahoma been a Settling State under the Global Settlement, as provided in Section II of Exhibit R of the Janssen Settlement Agreement.

**VII. Enforcement and Dispute Resolution**

- A. Janssen consents to the exclusive jurisdiction of the District Court for Pottawatomie County, State of Oklahoma. ~~court(s) in which the dismissals are filed, limited to resolution of disputes identified in subsection VII.C for resolution in the court(s) in which the dismissals are filed.~~
- B. The parties to a dispute shall promptly meet and confer in good faith to resolve any dispute. If the parties cannot resolve the dispute informally, and unless otherwise agreed in writing, they shall follow the remaining provisions of this section to resolve the dispute.
- C. Disputes not resolved informally shall be exclusively resolved in District Court for Pottawatomie County, State of Oklahoma. ~~the court that entered the relevant Participating Subdivision's dismissal.~~

**VIII. Miscellaneous**

- A. *No Admission.* Janssen does not admit liability or wrongdoing. This Agreement shall not be considered, construed, or represented to be (1) an admission, concession, or evidence of

liability or wrongdoing or (2) a waiver or any limitation of any defense otherwise available to Janssen.

B. *Statement on Restitution and Cooperation.*

1. The Parties agree that the purpose of the Qualified Settlement Fund, other than the amounts directed to payment of attorney fees and litigation costs, will be to receive from Janssen and pay over to the Participating Subdivisions monies to remediate the harms allegedly caused by Janssen's conduct or to provide restitution for such alleged harms that were previously incurred. The payments received by the Qualified Settlement Fund, other than the amounts directed to attorney fees and costs, shall be disbursed to the Participating Subdivisions, which were allegedly harmed by Janssen in a manner consistent with their above-stated remedial and/or restitutive purpose. No amount paid to the Qualified Settlement Fund or paid over to any requesting entity constitutes a fine or penalty.
2. Each Participating Subdivision shall, prior to receipt of any direct payments from the Qualified Settlement Fund, provide the Qualified Settlement Fund Administrator with a written statement certifying that: (1) the entity suffered harm allegedly caused by Janssen; (2) the payments to be received by the entity from Janssen represent an amount that is less than or equal to the actual monetary damage allegedly caused by Janssen; and (3) the entity shall use such payments for the sole purpose of remediating the harm allegedly caused by Janssen or to provide restitution for such alleged harms that were previously incurred.
3. The Qualified Settlement Fund Administrator shall complete and file Form 1098-F with the Internal Revenue Service on or before February 28 (March 31 if filed electronically) of the year following the calendar year that the Qualified Settlement Fund receives the Settlement Payment. On the Form 1098-F, the Qualified Settlement Fund Administrator or requesting entity, as applicable, shall identify such payments from Janssen as remediation/restitution amounts. The Qualified Settlement Fund Administrator shall also, on or before January 31 of the year following the calendar year in which the dismissals become binding, furnish Copy B of such Form 1098-F (or an acceptable substitute statement) to Janssen.

C. *No Third-Party Beneficiaries.* Except as expressly provided in this Agreement, no portion of this Agreement shall provide any rights to, or be enforceable by, any person or entity that is not the Participating Subdivisions or Released Entities. The Participating Subdivisions may not assign or otherwise convey any right to enforce any provision of this Agreement.

D. *Calculation.* Any figure or percentage referred to in this Agreement shall be carried to seven decimal places.

E. *Construction.* None of the Parties shall be considered to be the drafter of this Agreement or of any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement. The headings of the provisions of this Agreement are not binding and are



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for reference only and do not limit, expand, or otherwise affect the contents or meaning of this Agreement.

- F. *Cooperation.* Each Party agrees to use its best efforts and to cooperate with the other Parties to cause this Agreement to become effective, to obtain all necessary approvals, consents and authorizations, if any, and to execute all documents and to take such other action as may be appropriate in connection herewith. Consistent with the foregoing, each Party agrees that it will not directly or indirectly assist or encourage any challenge to this Agreement by any other person, and will support the integrity and enforcement of the terms of this Agreement.
- G. *Entire Agreement.* This Agreement, its exhibits and any other attachments embodies the entire agreement and understanding between and among the Parties relating to the subject matter hereof and supersedes (1) all prior agreements and understandings relating to such subject matter, whether written or oral and (2) all purportedly contemporaneous oral agreements and understandings relating to such subject matter.
- H. *Execution.* This Agreement may be executed in counterparts and by different signatories on separate counterparts, each of which shall be deemed an original, but all of which shall together be one and the same Agreement. One or more counterparts of this Agreement may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart hereof. One or more counterparts of this Agreement may be signed by electronic signature.
- I. *Good Faith and Voluntary Entry.* Each Party warrants and represents that it negotiated the terms of this Agreement in good faith. Each of the Parties and signatories to this Agreement warrants and represents that it freely and voluntarily entered into this Agreement without any degree of duress or compulsion. The Parties state that no promise of any kind or nature whatsoever (other than the written terms of this Agreement) was made to them to induce them to enter into this Agreement.
- J. *No Prevailing Party.* The Parties each agree that they are not the prevailing party in this action, for purposes of any claim for fees, costs, or expenses as prevailing parties arising under common law or under the terms of any statute, because the Parties have reached a good faith settlement. The Parties each further waive any right to challenge or contest the validity of this Agreement on any ground, including, without limitation, that any term is unconstitutional or is preempted by, or in conflict with, any current or future law.
- K. *Non-Admissibility.* The settlement negotiations resulting in this Agreement have been undertaken by the Parties in good faith and for settlement purposes only, and no evidence of negotiations or discussions underlying this Agreement shall be offered or received in evidence in any action or proceeding for any purpose. This Agreement shall not be offered or received in evidence in any action or proceeding for any purpose other than in an action or proceeding arising under or relating to this Agreement.
- L. *Notices.* All notices or other communications under this Agreement shall be in writing (including but not limited to electronic communications) and shall be given to the recipients indicated below:

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Defendant:

Copy to Janssen's attorneys at:

Charles C. Lifland  
Daniel R. Suvor  
400 South Hope Street, 18th Floor Los Angeles, CA 90071  
Phone: (213) 430-6000  
[clifland@omm.com](mailto:clifland@omm.com)  
[dsuvor@omm.com](mailto:dsuvor@omm.com)

For the Participating Subdivisions:

Copy to Participating Subdivisions' counsel at:

Todd Court  
McAfee & Taft  
211 N. Robison, Two Leadership Square, Floor 8  
Oklahoma City, Oklahoma 73102  
Phone: (405) 235-9621  
[Todd.court@mcafeetaft.com](mailto:Todd.court@mcafeetaft.com)

Matt Sill  
FULMER SILL LAW GROUP  
1101 N. Broadway Ave., Suite 102  
Oklahoma City, OK 73103  
Phone/Fax: 405-510-0077  
[msill@fulmersill.com](mailto:msill@fulmersill.com)  
*Attorneys for Plaintiff*

Bradford D. Barron  
The Barron Law Firm, PLLC  
P.O. Box 369  
Claremore, OK 74018  
(918)341-8402 Phone  
(918)515-4691 Fax  
[bbarron@barronlawfirmok.com](mailto:bbarron@barronlawfirmok.com)

George Gibbs, OBA #11843  
GIBBS ARMSTRONG BOROCHOFF  
601 S. Boulder, Suite 500  
Tulsa, OK 74119  
(918) 587-3939 phone  
(918) 5 82-5 504 fax  
[ggibbs@gablawyers.com](mailto:ggibbs@gablawyers.com)

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Any Party may change or add the contact information of the persons designated to receive notice on its behalf by notice given (effective upon the giving of such notice) as provided in this subsection.

- M. *No Waiver.* The waiver of any rights conferred hereunder shall be effective only if made by written instrument executed by the waiving Party or Parties. The waiver by any Party of any breach of this Agreement shall not be deemed to be or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, nor shall such waiver be deemed to be or construed as a waiver by any other Party.
- N. *Preservation of Privilege.* Nothing contained in this Agreement, and no act required to be performed pursuant to this Agreement, is intended to constitute, cause, or effect any waiver (in whole or in part) of any attorney-client privilege, work product protection, or common interest/joint defense privilege, and each Party agrees that it shall not make or cause to be made in any forum any assertion to the contrary.
- O. *Successors.* This Agreement shall be binding upon, and inure to the benefit of, Janssen and its respective successors and assigns. Janssen shall not sell the majority of its voting stock or substantially all its assets without obtaining the acquiror's agreement that it will constitute a successor with respect to Janssen's obligations under this Agreement.
- P. *Modification, Amendment, Alteration.* This Agreement may be modified, amended, or altered by a written agreement of the Parties. For purposes of modifying this Agreement, Janssen may contact counsel for the Participating Subdivisions.
- Q. *Governing Law.* Except as otherwise provided in the Agreement, this Agreement shall be governed by and interpreted in accordance with the laws of Oklahoma, without regard to the conflict of law rules of Oklahoma.

**Approved:**

Dated: \_\_\_\_\_

JOHNSON & JOHNSON, JANSSEN  
PHARMACEUTICALS, INC., ORTHO-MCNEIL-  
JANSSEN PHARMACEUTICALS, INC. N/K/A  
JANSSEN PHARMACEUTICALS, INC., AND  
JANSSEN PHARMACEUTICA INC. N/K/A  
JANSSEN PHARMACEUTICALS, INC.

By: \_\_\_\_\_  
Marc Larkins  
Assistant Corporate Secretary  
Johnson & Johnson

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ON BEHALF OF COUNSEL FOR THE LITIGATING POLITICAL SUBDIVISIONS:

[A separate signature page will be executed by each counsel for Litigating Political Subdivisions]

**EXHIBIT A**

**Participating Subdivision List**

1. Ada (OK), City of, Oklahoma
2. Altus (OK), City of, Oklahoma
3. Anadarko (OK), City of, Oklahoma
4. Atoka (OK), County of, Oklahoma
5. Beckham (OK), County of, Oklahoma
6. Bethany (OK), City of, Oklahoma
7. Broken Arrow (OK), City of, Oklahoma
8. Caddo (OK), County of, Oklahoma
9. Choctaw (OK), County of, Oklahoma
10. Cimarron (OK), County of, Oklahoma
11. Cleveland (OK), County of, Oklahoma
12. Coal (OK), County of, Oklahoma
13. Collinsville (OK), City of, Oklahoma
14. Comanche (OK), County of, Oklahoma
15. Craig (OK), County of, Oklahoma
16. Creek (OK), County of, Oklahoma
17. Custer (OK), County of, Oklahoma
18. Delaware (OK), County of, Oklahoma
19. Dewey (OK), County of, Oklahoma
20. Edmond (OK), City of, Oklahoma
21. El Reno (OK), City of, Oklahoma
22. Elk City (OK), City of, Oklahoma
23. Enid (OK), City of, Oklahoma
24. Garvin (OK), County of, Oklahoma
25. Grady (OK), County of, Oklahoma
26. Greer (OK), County of, Oklahoma
27. Guthrie (OK), City of, Oklahoma
28. Harmon (OK), County of, Oklahoma
29. Harper (OK), County of, Oklahoma
30. Haskell (OK), County of, Oklahoma
31. Hughes (OK), County of, Oklahoma
32. Jackson (OK), County of, Oklahoma
33. Jefferson (OK), County of, Oklahoma
34. Jenks (OK), City of, Oklahoma
35. Johnston (OK), County of, Oklahoma
36. Kay (OK), County of, Oklahoma
37. Kiowa (OK), County of, Oklahoma
38. Latimer (OK), County of, Oklahoma
39. Lawton (OK), City of, Oklahoma
40. Le Flore (OK), County of, Oklahoma
41. Lincoln (OK), County of, Oklahoma
42. Logan (OK), County of, Oklahoma
43. Love (OK), County of, Oklahoma
44. Major (OK), County of, Oklahoma
45. Mayes (OK), County of, Oklahoma
46. McClain (OK), County of, Oklahoma
47. McCurtain (OK), County of, Oklahoma

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48. Midwest City (OK), City of, Oklahoma
49. Muskogee (OK), City of, Oklahoma
50. Muskogee (OK), County of, Oklahoma
51. Mustang (OK), City of, Oklahoma
52. Noble (OK), County of, Oklahoma
53. Nowata (OK), County of, Oklahoma
54. Okfuskee (OK), County of, Oklahoma
55. Oklahoma (OK), County of, Oklahoma
56. Oklahoma City (OK), City of, Oklahoma
57. Okmulgee (OK), County of, Oklahoma
58. Osage (OK), County of, Oklahoma
59. Ottawa (OK), County of, Oklahoma
60. Owasso (OK), City of, Oklahoma
61. Pawnee (OK), County of, Oklahoma
62. Payne (OK), County of, Oklahoma
63. Pittsburg (OK), County of, Oklahoma
64. Ponca City (OK), City of, Oklahoma
65. Pottawatomie (OK), County of, Oklahoma
66. Roger Mills (OK), County of, Oklahoma
67. Rogers (OK), County of, Oklahoma
68. Seminole (OK), City of, Oklahoma
69. Seminole (OK), County of, Oklahoma
70. Shawnee (OK), City of, Oklahoma
71. Stephens (OK), County of, Oklahoma
72. Stillwater (OK), City of, Oklahoma
73. Texas (OK), County of, Oklahoma
74. Tillman (OK), County of, Oklahoma
75. Tulsa (OK), City of, Oklahoma
76. Tulsa (OK), County of, Oklahoma
77. Washington (OK), County of, Oklahoma
78. Woods (OK), County of, Oklahoma
79. Woodward (OK), County of, Oklahoma
80. Yukon (OK), City of, Oklahoma



**EXHIBIT B**

**EXHIBIT C**  
**Settlement Participation Form**

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“Governmental Entity”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated [X] (“Janssen Settlement”), and acting through the undersigned authorized official, hereby elects to participate in the Janssen Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Janssen Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Janssen Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall, within 14 days of the Participation Date, dismiss with prejudice any Released Claims that it has filed.
3. The Governmental Entity agrees to the terms of the Janssen Settlement pertaining to Participating Subdivisions as defined therein.
4. By agreeing to the terms of the Janssen Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Participation Date.
5. The Governmental Entity agrees to use any monies it receives through the Janssen Settlement solely for the purposes provided therein.
6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity’s state where the dismissal is filed for purposes limited to that court’s role as provided in, and for resolving disputes to the extent provided in, the Janssen Settlement.
7. The Governmental Entity has the right to enforce the Janssen Settlement as provided therein.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Janssen Settlement, including but not limited to all provisions of Section III (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity

claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Janssen Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Janssen Settlement shall be a complete bar to any Released Claim. The Janssen Settlement does not release or effect in any way the claims asserted by the State of Oklahoma against a Released Entity.

9. In connection with the releases provided for in the Janssen Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

**General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the date that the settlement payment defined in Section IV.B of the Janssen Settlement is made to the Qualified Settlement Fund, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Janssen Settlement.

10. Nothing herein is intended to modify in any way the terms of the Janssen Settlement, to which Governmental Entity hereby agrees. To the extent this Election and Release is interpreted differently from the Janssen Settlement in any respect, the Janssen Settlement controls.

DRAFT / CONFIDENTIAL SETTLEMENT COMMUNICATION

I have all necessary power and authorization to execute this Election and Release on behalf of the Governmental Entity.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT D**

**Non-Released Entities**

The following includes a non-exclusive list of non-Released Entities:

1. Actavis LLC
2. Actavis Pharma, Inc.
3. Actavis PLC
4. Allergan Finance, LLC
5. Allergan PLC
6. AmerisourceBergen Corporation
7. AmerisourceBergen Drug Corporation
8. Amneal Pharmaceuticals, Inc.
9. Anda Pharmaceuticals, Inc.
10. Anda, Inc.
11. Cardinal Health, Inc.
12. Cephalon, Inc.
13. Collegium Pharmaceuticals
14. CVS Health Corp.
15. CVS Health Corporation
16. CVS Pharmacy, Inc.
17. Endo Health Solutions Inc.
18. Endo Pharmaceuticals Inc.
19. GCP Pharma, LLC
20. H.D. Smith, LLC
21. Hikma Pharmaceuticals PLC
22. Indivior Inc.
23. Keysource Medical, Inc.
24. L. & R. Distributors, Inc., d/b/a SAJ Distributors
25. Mallinckrodt LLC
26. McKesson Corp.
27. McKesson Corporation
28. McKinsey & Company Inc.
29. Morris & Dickson Co, LLC
30. Mylan Pharmaceuticals, Inc.
31. Oklahoma CVS Pharmacy, LLC
32. Par Pharmaceutical Companies, Inc.
33. Par Pharmaceutical, Inc.
34. PD-RX Pharmaceuticals, Inc.
35. Physicians Total Care, Inc.
36. Purdue Pharma Inc.
37. Purdue Pharma L.P.
38. Quest Pharmaceuticals, Inc.
39. Saj Distributors
40. Sandoz Inc.

DRAFT / CONFIDENTIAL SETTLEMENT COMMUNICATION

41. SpecGx LLC
42. Teva Pharmaceutical Industries, Ltd.
43. Teva Pharmaceuticals USA, Inc.
44. The Harvard Drug Group, LLC
45. The Purdue Frederick Company
46. Walgreen Co.
47. Walgreens Boots Alliance Inc. a/k/a Walgreen Co.
48. Walgreens Boots Alliance, Inc.
49. Walmart Inc.
50. Watson Laboratories, Inc.
51. Watson Pharma, Inc.
52. Watson Pharmaceuticals, Inc.
53. West-Ward Pharmaceuticals Corp. d/b/a Hikma



**EXHIBIT E**

**Janssen Predecessors and Former Affiliates**

The following includes a non-exclusive list of Janssen's predecessors and former affiliates:

54. Janssen Pharmaceutica, Inc.
55. Janssen Pharmaceutica N.V.
56. Janssen-Cilag Manufacturing, LLC
57. Janssen Global Services, LLC
58. Janssen Ortho LLC
59. Janssen Products, LP
60. Janssen Research & Development, LLC
61. Janssen Supply Group, LLC
62. Janssen Scientific Affairs, LLC
63. JOM Pharmaceutical Services, Inc.
64. OMJ Pharmaceuticals, Inc.
65. Ortho-McNeil Finance Co.
66. Ortho-McNeil Pharmaceutical
67. Ortho-McNeil-Janssen Pharmaceuticals
68. Ortho-McNeil Pharmaceutical Services Division
69. Ortho-McNeil Neurologic
70. Patriot Pharmaceuticals, LLC
71. Pricara, Ortho-McNeil-Janssen Pharmaceuticals
72. Alza Corp.
73. Alza Development Corp.
74. Janssen Supply Chain, Alza Corp.
75. Noramco, Inc.
76. Tasmanian Alkaloids PTY LTD.



**City Attorney, Donald D. Maisch**

100 N. Midwest Boulevard  
Midwest City, OK 73110  
DMaisch@midwestcityok.org  
Office: 405.739.1203  
[www.midwestcityok.org](http://www.midwestcityok.org)

**MEMORANDUM**

To: Mayor and Members of the City Council

From: Donald D. Maisch, City Attorney

Date: July 26, 2022

RE: Discussion and consideration for approval, a resolution approving the proposed sharing agreement with Mallinckrodt concerning opioid litigation. (D. Maisch – City Attorney).

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The City of Midwest City is a party with seventy-nine (79) other Oklahoma State Litigating Subdivisions (Litigation Subdivisions) that have brought various suits against various manufacturers and distributors of opioids. One such manufacturer is Mallinckrodt. Mallinckrodt is currently in bankruptcy and any settlement will be worked through the bankruptcy proceeding.

The Litigating Subdivisions are negotiating with the State of Oklahoma on a sharing agreement for the distribution of funds that may come from any settlement. The gross amount that Oklahoma will receive is unknown at this time. We are hopeful that we will have a sharing agreement entered into in short order. It will involve the litigating subdivisions receiving a certain percentage, probably 25% of the gross settlement for Oklahoma as with the Distributor Settlement. The allocation matrix will be the same as is the J&J and Distributor Settlements.

Respectfully submitted,

Donald D. Maisch  
City Attorney

**RESOLUTION NO. 2022-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDWEST CITY APPROVING PARTICIPATION IN THE MALLINCKRODT PLC STATEWIDE SHARING AGREEMENT**

**WHEREAS**, pharmaceutical opioids have harmed the City of Midwest City, Oklahoma and its citizens; and

**WHEREAS**, this harm was created and exacerbated by the misconduct and illegal activities of opioid manufacturers and distributors, including Mallinckrodt, PLC; and

**WHEREAS**, the City of Midwest City, Oklahoma, with other litigating governments in the State of Oklahoma, filed suit to address and seek recovery for the harms cause to it and its citizens; and

**WHEREAS**, Mallinckrodt, PLC and the Oklahoma Attorney General have agreed to enter into settlement negotiations of the claims of the State of Oklahoma, including the Litigating Subdivisions; and

**WHEREAS**, the agreement between Mallinckrodt, PLC and the Oklahoma Attorney General is reflecting in a Statewide Sharing Agreement; and

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE MIDWEST CITY COUNCIL, AS FOLLOWS:**

**THAT** that the City of Midwest City, Oklahoma hereby elects to, and approves its participation in, the Mallinckrodt, PLC Statewide Sharing Agreement, authorizes its Mayor, or Vice Mayor, to execute the Sharing Agreement.

PASSED AND APPROVED by the Acting Mayor and Members of the Midwest City Council this 26<sup>th</sup> day of July, 2022.

CITY OF MIDWEST CITY

\_\_\_\_\_  
Pat Byrne, Vice Mayor

ATTEST:

\_\_\_\_\_  
Sara Hancock, City Secretary

APPROVED as to form and legality this \_\_\_\_\_ day of July, 2022.

\_\_\_\_\_  
Donald D. Maisch, City Attorney

## MALLINCKRODT PLC STATEWIDE SHARING AGREEMENT

This Mallinckrodt plc Statewide Sharing Agreement is made and entered into on this \_\_\_\_ day of July 2022, by and between the State of Oklahoma through its Attorney General, John O'Connor, and counsel for certain Oklahoma Litigating Political Subdivisions (this "Agreement"), with respect to the following circumstances:

WHEREAS, the State of Oklahoma, through its Attorney General, and certain Oklahoma Litigating Political Subdivisions, through its counsel, share a common desire to abate and alleviate the impacts of the opioid epidemic by the misfeasance, nonfeasance, and malfeasance committed by certain entities within the Pharmaceutical Supply Chain;

WHEREAS, certain Oklahoma Local Governments filed lawsuits against Mallinckrodt plc and its affiliates (collectively, "Mallinckrodt") seeking damages caused by the opioid epidemic and funds to abate the opioid epidemic (the "Litigating Political Subdivisions"). A list of the Litigating Political Subdivisions is attached as Exhibit A.

WHEREAS, Mallinckrodt filed bankruptcy in the United States Bankruptcy Court for the District of Delaware, Case No. 20-12522-JTD. A bankruptcy plan has been established in the case (the "Mallinckrodt Bankruptcy Plan"), *Fourth Amended Joint Plan of Reorganization (with Technical Modifications) of Mallinckrodt plc and its Debtor Affiliates Under Chapter 11 of the Bankruptcy Code*;

WHEREAS, the State of Oklahoma and certain Oklahoma Litigating Political Subdivisions enter into this Agreement in relation to the allocation of funds distributed to the State of Oklahoma and the Oklahoma Litigating Political Subdivisions from the Mallinckrodt Bankruptcy Plan;

WHEREAS, this Agreement is intended to be a Statewide Sharing Agreement under the Mallinckrodt Bankruptcy Plan.

NOW THEREFORE, in consideration of these premises and the mutual covenants hereinafter set forth, the parties agree as follows:

1. All distributions received by the State of Oklahoma and the Litigating Political Subdivisions under the Mallinckrodt Bankruptcy Plan shall be divided with 50% going to the State and 50% going to the Litigating Political Subdivisions. All distributions shall be utilized in a manner consistent with Approved Purposes under the Mallinckrodt Bankruptcy Plan.
2. The Litigating Political Subdivisions shall receive direct distributions from the Mallinckrodt Bankruptcy Plan which shall be allocated between the Litigating Political Subdivisions in accordance with Exhibit B.
3. Attorney Fees and Expenses: The State shall collect its attorneys' fees and costs from any funds established for outside state counsel for the State by the Mallinckrodt Bankruptcy Plan and/or from the State's 50% share of Mallinckrodt distributions. Counsel for the Litigating Political Subdivisions shall collect their attorneys' fees and costs for Litigating Political Subdivisions' 50% share of the Mallinckrodt distributions

from any fee fund established by the Mallinckrodt Bankruptcy Plan for counsel for political subdivisions or local governments, and/or the Mallinckrodt LPS Backstop Fund established by paragraph 5 of this Agreement.

4. To the extent counsel for the Litigating Political Subdivisions can apply to and receive payment of fees and expenses from the Mallinckrodt Opioid Attorneys' Fee Fund established by the Mallinckrodt Bankruptcy Plan, counsel for the Litigating Political Subdivisions agree to apply to receive such funds for payment of attorneys' fees and costs.
5. With regard to the 50% share of the Oklahoma Litigating Political Subdivisions from the Mallinckrodt distributions, 25% shall be reserved in an interest-bearing account (the "Mallinckrodt LPS Backstop Fund") for the payment of attorneys' fees and expenses of counsel for Litigating Political Subdivisions. To the extent counsel for the Litigating Political Subdivisions cannot collect their complete expenses and fees owed under the representation agreements from the Mallinckrodt Fee and Expense Fund, the Mallinckrodt LPS Backstop Fund shall be used to pay counsel for the Litigating Political Subdivisions attorneys' fees and expenses in accordance with their representation agreements. Any money left in the Mallinckrodt LPS Backstop Fund after paying fees and expense to counsel for Litigating Political Subdivisions to satisfy the obligations of the Litigating Political Subdivisions under their respective representation agreements, shall be distributed in accordance with Exhibit B attached hereto.
6. After payment of attorneys' fees and costs to outside counsel for the State, the remaining portion of the State's 50% share shall be directed to the Opioid Abatement Revolving Fund and distributed pursuant to the Political Subdivisions Opioid Abatement Grants Act.
7. This Sharing Agreement, together with any exhibits or other addenda, constitutes the entire agreement between the parties hereto with respect to distributions received from the Mallinckrodt Bankruptcy Plan. This Sharing Agreement may only be amended by the mutual written consent of the parties hereto.
8. To the extent any provision of this Sharing Agreement is deemed unenforceable, the remaining terms of this Sharing Agreement shall remain valid and enforceable.

STATE OF OKLAHOMA

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By: Attorney General O'Connor

ON BEHALF OF THE OKLAHOMA LITIGATING POLITICAL SUBDIVISIONS

[a separate signature page shall be attached for counsel for the Litigating Political Subdivisions]





NEW BUSINESS/  
PUBLIC DISCUSSION





FURTHER INFORMATION





**Engineering and  
Construction Services**  
100 N Midwest Boulevard  
Midwest City, OK 73110  
Office 405.739.1220

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TO : Honorable Mayor and Council

FROM : Brandon Bundy, P.E., Director

DATE : July 26, 2022

SUBJECT : Monthly Residential and Commercial Building report for June 2022

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Brandon Bundy, P.E.,  
Director of Engineering and Construction Services



# The City of Midwest City Community Development Department

100 N Midwest Boulevard - Midwest City, OK 73110

## Building Permits Summary - Issued 6/1/2022 to 6/30/2022

### **Building - Commercial & Industrial**

<u>Count</u>	<u>Permit Type</u>	<u>Value</u>
1	Com Addition Bldg Permit	\$90,000.00
1	Com Fence Permit	\$0.00
10	Com General Electrical Permit	
3	Com General Mechanical Permit	
8	Com General Plumbing Permit	
2	Com New Const Bldg Permit	\$2,500,000.00
2	Com New Const Electrical Permit	
1	Com New Const Mechanical Permit	
3	Com New Const Plumbing Permit	
11	Com Remodel Bldg Permit	\$2,784,000.00
1	Com Sign Permit	\$0.00
<b>Total Value of Building - Commercial &amp; Industrial:</b>		<b>5,374,000.00</b>

### **Building - Public & Semi-Public**

<u>Count</u>	<u>Permit Type</u>	<u>Value</u>
1	Hospital Remodel Bldg Permit	\$341,000.00
<b>Total Value of Building - Public &amp; Semi-Public:</b>		<b>341,000.00</b>

### **Building - Residential**

<u>Count</u>	<u>Permit Type</u>	<u>Value</u>
5	Res Accessory Bldg Permit	\$130,000.00
1	Res Carport Permit	\$0.00
2	Res Demolition Permit	\$9,800.00
17	Res Driveway Permit	
2	Res Fence Permit	\$3,500.00
34	Res General Electrical Permit	
25	Res General Mechanical Permit	
50	Res General Plumbing Permit	
25	Res New Const Electrical Permit	
17	Res New Const Mechanical Permit	
36	Res New Const Plumbing Permit	
1	Res Patio Cover Permit	\$8,000.00
14	Res Roofing Permit	
2	Res Single-Fam Addition Bldg Permit	\$182,000.00
20	Res Single-Fam New Const Bldg Permit	\$4,497,992.00
5	Res Single-Fam Remodel Building Permit	\$249,000.00
5	Res Storm Shelter Permit	\$12,835.00
3	Res Swimming Pool / Hot Tub Permit	\$89,547.00
<b>Total Value of Building - Residential:</b>		<b>5,182,674.00</b>

**Grand Total:** \$10,897,674.00



# The City of Midwest City Community Development Department

100 N Midwest Boulevard - Midwest City, OK 73110

## Building Permits by Type - Issued 6/1/2022 to 6/30/2022

### Building - Commercial & Industrial

#### Com Addition Bldg Permit

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
6/9/22	7311 SE 29TH ST, MWC, OK, 73110	Greg Coker- Progressive Constructors, Inc.	B-21-2456	\$90,000.00
				<b>\$90,000.00</b>

#### Com Fence Permit

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
6/30/22	219 GRANDVIEW RD, MWC, OK, 73130	Justin	B-22-1397	\$0.00
				<b>\$0.00</b>

#### Com New Const Bldg Permit

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
6/2/22	5906 SE 15TH ST, MIDWEST CITY, OK, 0	Carlos Castillo	B-21-1942	\$200,000.00
6/20/22	5920 SE 15TH ST, 73110	Matt Kalbus	B-22-0192	\$2,300,000.00
				<b>\$2,500,000.00</b>

#### Com Remodel Bldg Permit

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
6/1/22	9001 SE 29TH ST, MWC, OK, 73130	Kevin Schulze	B-21-2551	\$825,000.00
6/2/22	1620 S AIR DEPOT BLVD, OK, 73110	Robbie Hudson	B-22-1124	\$150,000.00
6/3/22	7179 SE 29TH ST, B MWC, OK, 73110	Jack Moore - CMxM LLC	B-22-0947	\$110,000.00
6/6/22	1424 N MIDWEST BLVD, F, 73110	Teri Cook	B-22-1003	\$6,000.00
6/6/22	5815 SE 15TH ST, 73110	Jordyn Previn	B-21-2149	\$400,000.00
6/17/22	2825 PARKLAWN DR, MWC, OK, 73110	John Hill	B-22-0952	\$1,200,000.00
6/17/22	5606 SE 15TH ST, 73110	DAVIS, BRANDON	B-21-1231	\$8,000.00
6/20/22	1851 S DOUGLAS BLVD, 73130	Chris Cochran	B-22-0797	\$25,000.00
6/24/22	8129 E RENO AVE, OK, 73110	AT&T	B-22-0759	\$15,000.00
6/27/22	9205 NE 23RD ST, 3-4, 73141	bryan vandever	B-22-1311	\$30,000.00
6/28/22	212 S DOUGLAS BLVD, 73130	Jay Baker	B-22-1215	\$15,000.00
				<b>\$2,784,000.00</b>

#### Com Sign Permit

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
6/16/22	1700 WARREN DR, MWC, OK, 73110	Candi Franks	B-22-1220	\$0.00
				<b>\$0.00</b>

### Building - Public & Semi-Public

#### Hospital Remodel Bldg Permit

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
6/17/22	2825 PARKLAWN DR, MWC, OK, 73110	John Hill	B-22-0520	\$341,000.00

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\$341,000.00

**Building - Residential**

**Res Accessory Bldg Permit**

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
6/9/22	11204 THAYER ST, MWC, OK, 73130	Kenny Looney	B-22-0606	\$53,000.00
6/10/22	2300 MAPLE DR, MIDWEST CITY, OK, 0	Bobby Harris	B-22-1057	\$0.00
6/10/22	10340 SE 19TH ST, MIDWEST CITY, OK, 0	Swm & Sons	B-22-0935	\$55,000.00
6/17/22	10910 LAURA KATE CT, MWC, OK, 73130	LINDA ADAMS	B-22-1361	\$4,000.00
6/24/22	1104 HAZELWOOD DR, 73110	Willard Sneed Jr	B-22-1334	\$18,000.00

**\$130,000.00**

**Res Carport Permit**

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
6/22/22	4028 DOGWOOD DR, MIDWEST CITY, OK, 0	Helen Brown	B-22-1071	\$0.00

**\$0.00**

**Res Demolition Permit**

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
6/2/22	1905 N DOUGLAS BLVD, 73141	MIDWEST WRECKING	B-22-0772	\$9,800.00
6/21/22	2000 SHIRLEY DR, 73020	FLOYD, MATT	B-22-1379	

**\$9,800.00**

**Res Driveway Permit**

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
6/1/22	9112 OAKWOOD DR, 73130	BILLS CUSTOM CONCRETE	B-22-1374	
6/9/22	8774 PATRIOT DR, 73110	LOS PINOS CONSTRUCTION LLC	B-22-1437	
6/9/22	8772 PATRIOT DR, 73110	LOS PINOS CONSTRUCTION LLC	B-22-1438	
6/9/22	8766 PATRIOT DR, 73110	LOS PINOS CONSTRUCTION LLC	B-22-1439	
6/9/22	8768 PATRIOT DR, 73110	LOS PINOS CONSTRUCTION LLC	B-22-1440	
6/9/22	8784 PATRIOT DR, 73110	LOS PINOS CONSTRUCTION LLC	B-22-1441	
6/9/22	8786 PATRIOT DR, 73110	LOS PINOS CONSTRUCTION LLC	B-22-1427	
6/20/22	2402 CATTAIL CIR, 73130	CB CONSTRUCTION LLC	B-22-1514	
6/20/22	10452 CATTAIL TER, 73130	CB CONSTRUCTION LLC	B-22-1515	
6/20/22	10512 CATTAIL TER, 73130	CB CONSTRUCTION LLC	B-22-1516	
6/20/22	10508 CATTAIL TER, 73130	CB CONSTRUCTION LLC	B-22-1517	
6/20/22	10113 ST PATRICK DR	J BARRON CONTRUCTION, LLC	B-22-1523	
6/21/22	1004 W HAVENWOOD DR, 73110	Dee Burton Concrete	B-22-1529	
6/22/22	2406 CATTAIL CIR, 73130	CB CONSTRUCTION LLC	B-22-1550	
6/24/22	2407 CATTAIL CIR, 73130	CB CONSTRUCTION LLC	B-22-1590	
6/24/22	2520 S MIDWEST BLVD, 73110	OCHOA CONCRETE	B-22-1589	
6/28/22	801 ASKEW DR, 73110	LIMITLESS CONSTRUCTION SOLUTIONS	B-22-1609	

**Res Fence Permit**

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
6/6/22	5913 SE 11TH ST, MWC, OK, 73110	Scott Wiegner	B-22-1355	\$1,500.00



6/27/22	711 N PINE ST, MWC, OK, 73130	Kristi Mayes	B-22-1457	\$2,000.00
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**\$3,500.00**

#### Res Patio Cover Permit

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
6/3/22	2043 CAMELOT DR, 73130	JAMES PATTERSON	B-22-0226	\$8,000.00

**\$8,000.00**

#### Res Roofing Permit

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
6/2/22	401 E ROBIN RD, 73130	PARKER BROTHERS ROOFING	B-22-1384	
6/3/22	9300 NE 12TH ST, 73130	GARAY, ARTURO	B-22-1398	
6/6/22	3612 MT PLEASANT DR, 73110	J & M ROOFING & SUPPLY CO	B-22-1407	
6/9/22	3421 PLEASANT DR, 73110	TRIPLE DIAMOND CONSTR	B-22-1421	
6/9/22	132 W SILVER MEADOW DR, 73110	PARKER BROTHERS ROOFING	B-22-1425	
6/15/22	1716 WALTZ WAY, 73130	HARDWORKING ROOFING & CONSTR	B-22-1485	
6/17/22	333 E STEED DR, 73110	DOMINGO VARGAS ROOFING	B-22-1503	
6/22/22	3633 ROLLING LANE CIR, 73110	TRIPLE DIAMOND CONSTR	B-22-1551	
6/22/22	5724 SE 5TH ST, 73110	PARKER BROTHERS ROOFING	B-22-1559	
6/23/22	1800 RULANE DR, 73110	PARKER BROTHERS ROOFING	B-22-1583	
6/23/22	3013 N GLENOAKS DR, 73110	MAUPIN ROOFING & CONSTRUCTION	B-22-1572	
6/27/22	109 MEADOW LN, 73110	MHM CONSTRUCTION	B-22-1601	
6/30/22	9414 PEACHTREE LN	ROOF TECH OF OKLAHOMA	B-22-1642	
6/30/22	10613 WILLOW RIDGE DR, 73130	PARKER BROTHERS ROOFING	B-22-1633	

#### Res Single-Fam Addition Bldg Permit

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
6/14/22	11274 ROEFAN RD, MWC, OK, 73130	Monte Davenport	B-22-0647	\$125,000.00
6/16/22	3108 MOCKINGBIRD LN, 73110	BORUM, TONY	B-21-0940	\$57,000.00

**\$182,000.00**

#### Res Single-Fam New Const Bldg Permit

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
6/2/22	2417 CATTAIL CT, 73130	Home Creations, Inc.	B-21-2224	\$178,000.00
6/2/22	930 CEDAR HILL PL, MWC, OK, 73110	JUAN Suarez	B-22-0231	\$85,000.00
6/9/22	10452 CATTAIL TER, 73130	Home Creations, Inc.	B-21-2329	\$177,500.00
6/13/22	1019 RYAN RIDGE CT, 73130	Monarch Homes, LLC	B-21-2711	\$257,000.00
6/14/22	409 N WESTMINSTER RD, MIDWEST CITY, OK, 0	Jordan Pickard	B-21-0555	\$500,000.00
6/15/22	1018 RYAN RIDGE CT, 73130	Monarch Homes, LLC	B-21-2710	\$253,000.00
6/17/22	1005 RYAN RIDGE CT, 01, OK, 73130	Monarch Homes LLC	B-22-1280	\$295,000.00
6/20/22	10508 TURTLE BACK DR, 73130	Home Creations, Inc.	B-21-0688	\$157,000.00
6/22/22	2403 CATTAIL CIR, 73130	Home Creations, Inc.	B-21-0495	\$142,992.00
6/22/22	10472 TURTLE BACK DR, 73130	Home Creations, Inc.	B-22-1066	\$175,000.00
6/22/22	10468 TURTLE BACK DR, 73130	Home Creations, Inc.	B-22-1063	\$182,000.00
6/23/22	2405 FOREST GLEN DR, 73020	Swm & Sons	B-21-2902	\$285,000.00
6/27/22	1013 RYAN RIDGE CT, OK, 73130	Monarch Homes LLC	B-22-1284	\$297,000.00
6/27/22	10450 NE 7TH ST, 73130	Highland Building Company	B-21-2968	\$375,000.00
6/28/22	10480 TURTLE BACK DR, 73130	Home Creations, Inc.	B-22-0814	\$176,000.00
6/28/22	10484 TURTLE BACK DR, 73130	Home Creations, Inc.	B-22-0672	\$167,500.00
6/28/22	1009 RYAN RIDGE CT, 01, OK, 73130	Monarch Homes LLC	B-22-1282	\$295,000.00
6/29/22	10512 CATTAIL TER, 73130	Home Creations	B-21-0991	\$156,500.00





# **The City of Midwest City**

## **Community Development Department**

100 N Midwest Boulevard - Midwest City, OK 73110

### **Inspections Summary - Inspected 6/1/2022 to 6/30/2022**

<u>Inspection Description</u>	<u>Count</u>
Accessory Bldg Inspection	2
Buildings - CO Inspection & Sign Off	5
Com Building Final Inspection	3
Com Duct Smoke Detector Retest/Reinspection	3
Com Duct Smoke Detector Test/Inspection	3
Com Electrical Ceiling Inspection	3
Com Electrical Ceiling Reinspection	3
Com Electrical Final Inspection	3
Com Electrical Final Reinspection	2
Com Electrical Ground Inspection	2
Com Electrical Ground Reinspection	2
Com Electrical Service Inspection	2
Com Electrical Service Reinspection	7
Com Electrical Wall Inspection	1
Com Fire Alarm Final Inspection	1
Com Fire Alarm Rough Reinspection	1
Com Fire Sprinkler Final Inspection	3
Com Fire Sprinkler Final Reinspection	1
Com Footing & Building Setback Inspection	3
Com Footing & Building Setback Reinspection	2
Com Framing Inspection	3
Com Framing Reinspection	3
Com Gas Meter Inspection	2
Com Gas Piping Inspection	4
Com Grease Trap Final Inspection	1
Com Grease Trap Rough Inspection	1
Com Hood Suppression Inspection	1
Com Mechanical Final Inspection	1
Com Plumbing Final Inspection	2
Com Plumbing Ground Reinspection	1
Com Plumbing Rough-in Inspection	3
Com Plumbing Rough-in Reinspection	2
Com Vent Hood Final Inspection	1
Commercial Meter Tap Inspection	1
County Health - CO Inspection & Sign Off	1
Electrical Generator Inspection	3
Fire - CO Inspection & Sign Off	5
Fire - CO Reinspection & Sign Off	1
General Inspection	6
Hot Water Tank Inspection	12
Hot Water Tank Reinspection	2
Irrigation System Inspection	1
Mechanical Change Out Inspection	15
Mechanical Change Out Reinspection	2
OMMA CC Inspection - Buildings	3
OMMA CC Inspection - Fire	3

Planning - CO Inspection & Sign Off	2
Pre-Con Site Inspection/Meeting	8
Res Building Final Inspection	4
Res Building Final Reinspection	1
Res Carport Inspection	2
Res Drainage1 Inspection	5
Res Drainage1 Reinspection	1
Res Drainage2 Inspection	4
Res Drainage3 Inspection	1
Res Drainage4 Inspection	1
Res Drainage5 Inspection	2
Res Driveway Inspection	14
Res Electrical Final Inspection	6
Res Electrical Final Reinspection	5
Res Electrical Rough-in Inspection	22
Res Electrical Rough-in Reinspection	5
Res Electrical Service Inspection	37
Res Electrical Service Reinspection	8
Res Fence Inspection	3
Res Footing & Building Setback Inspection	10
Res Footing & Building Setback Reinspection	5
Res Framing Inspection	25
Res Framing Reinspection	6
Res Gas Meter Inspection	2
Res Gas Meter Reinspection	1
Res Gas Piping Inspection	18
Res Gas Piping Reinspection	1
Res Insulation Inspection	9
Res Insulation Reinspection	1
Res Mechanical Final Inspection	5
Res Mechanical Final Reinspection	2
Res Mechanical Rough-in Inspection	15
Res Mechanical Rough-in Reinspection	5
Res Miscellaneous Electrical Inspection	1
Res Patio Cover Inspection	1
Res Plumbing Final Inspection	14
Res Plumbing Final Reinspection	6
Res Plumbing Ground Inspection	9
Res Plumbing Ground Reinspection	4
Res Plumbing Rough-in Inspection	33
Res Plumbing Rough-in Reinspection	1
Res Retaining Wall Inspection	1
Res Roofing Inspection	4
Res Sewer Service Inspection	7
Res Sewer Service Reinspection	2
Res Storm Shelter Inspection	7
Res Temporary Electrical Pole Inspection	2
Res Temporary Electrical Pole Reinspection	1
Res Termite Inspection	1
Res Water Service Line Inspection	4
Res Water Service Line Reinspection	2
Residential Meter Tap Inspection	27
Sewer Cap Inspection	1
Sign Inspection	4
Swimming Pool/Hot Tub Inspection	2
Utilities - CO Inspection & Sign Off	1

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Total Number of Inspections:

503



## MUNICIPAL AUTHORITY AGENDA

City Hall - Midwest City Municipal Court, 100 N. Midwest Boulevard

July 26, 2022 – 6:01 PM

Presiding members: Chairman Matthew Dukes

Trustee Susan Eads

Trustee Pat Byrne

Trustee Megan Bain

Trustee Sean Reed

Trustee Sara Bana

Trustee Rick Favors

City Staff:

City Manager Tim Lyon

City Clerk Sara Hancock

City Attorney Don Maisch

A. CALL TO ORDER.

B. CONSENT AGENDA. These items are placed on the Consent Agenda so the Trustees, by unanimous consent, can approve routine agenda items by one motion. If any Trustee requests to discuss an item(s) or if unanimous consent is not received, then the item or items will be removed and heard in regular order.

1. Discussion and consideration for adoption, including any possible amendments, of the June 28, 2022 meeting. (Secretary - S. Hancock)
2. Discussion and consideration for adoption, including any possible amendment of supplemental budget adjustments to the following funds for FY 2022-2023, increase: Capital Water Improvement Fund, expenditures/Capital Water Improvement (49) \$4,144. (Finance - T. Cromar)
3. Discussion and consideration of passing and approving, including any possible amendment of a resolution for the Midwest City Municipal Authority, a public trust, to release unappropriated fund balances at the close of day June 30, 2022 to be made available for fiscal year 2022-2023; and amending the budget for fiscal year 2022-2023 to include the released appropriations from the fiscal year 2021-2022 budgets as supplemental appropriations; and, effective July 1, 2022, renewing encumbrance commitments canceled at the close of day June 30, 2022. (Finance - T. Cromar)
4. Discussion and consideration, including any possible amendment, of awarding the bid and entering into a Property Lease Agreement for Turn-key Concession Operations at Joe B. Barnes Regional Park with Tasty Snow in the amount of \$1,000.00 per month from March to October. (City Manager - V. Sullivan)
5. Discussion and consideration, including any possible amendment, of accepting the report on the current financial condition of the Sheraton Midwest City Hotel at the Reed Center for the period ending June 30, 2022. (City Manager – R. Rushing)
6. Discussion and consideration, including any amendment, of approving the Sheraton New Build License Agreement amending the Marriott Franchise Agreement. (City Manager - R. Rushing)

- C. NEW BUSINESS/PUBLIC DISCUSSION. In accordance with State Statute Title 25 Section 311. Public bodies - Notice. A-9, the purpose of the "New Business" section is for action to be taken at any Council/Authority/Commission meeting for any matter not known about or which could not have been reasonably foreseen 24 hours prior to the public meeting. The purpose of the "Public Discussion" section of the Agenda is for members of the public to speak to the Authority on any Subject not scheduled on the Regular Agenda. The Authority shall make no decision or take any action, except to direct the City Manager to take action, or to schedule the matter for discussion at a later date. Pursuant to the Oklahoma Open Meeting Act, the Authority will not engage in any discussion on the matter until that matter has been placed on an agenda for discussion. **THOSE ADDRESSING THE AUTHORITY ARE REQUESTED TO STATE THEIR NAME AND ADDRESS PRIOR TO SPEAKING TO THE AUTHORITY.**
- D. ADJOURNMENT.





CONSENT AGENDA



DiNotice for the Midwest City Municipal Authority meetings was filed for the calendar year with the City Clerk of Midwest City. Public notice of this agenda was accessible at least 24 hours before this meeting at City Hall and on the Midwest City website (www.midwestcityokorg).

## Midwest City Municipal Authority Minutes

June 28, 2022

This meeting was held in the Midwest City Chambers at City Hall, 100 N Midwest Blvd, Midwest City, County of Oklahoma, State of Oklahoma.

Mayor Matt Dukes called the meeting to order at 8:31 PM with following members present:

Trustee Susan Eads	Trustee Sean Reed	City Manager Tim Lyon
Trustee Pat Byrne	Trustee Sara Bana	City Clerk Sara Hancock
Trustee Megan Bain	Trustee Rick Favors	City Attorney Don Maisch

CONSENT AGENDA. Bana made a motion to approve the consent agenda, seconded by Favors. Voting Aye: Eads, Byrne, Bain, Reed, Bana, Favors and Dukes. Nay: none. Motion Carried.

1. Discussion and consideration for adoption, including any possible amendments, of the June 14, 2022 meeting minutes.
2. Discussion and consideration for adoption, including any possible amendment of supplemental budget adjustments to the following funds for FY 2021-2022, increase: Capital Imp Rev Bond Fund, revenue/Transfers In (00) \$1,291,483; expenditures/Transfers Out (00) \$1,291,483. Capital Imp Rev Bond Fund, revenue/Transfers In (00) \$664,332. MWC Water Department Fund, expenditures/Transfers Out (42) \$25,000. Capital Drainage Imp Fund, expenditures/Drainage Improvements (72) \$171,000. Cap. Water Imp-Walker Fund, expenditures/Capital Water Imp (49) \$1,500. John Conrad Regional Golf Fund, expenditures/John Conrad (47) \$60,916; expenditures/Hidden Creek (48) \$11,690.
3. Discussion and consideration, including any possible amendment, of accepting the report on the current financial condition of the Sheraton Midwest City Hotel at the Reed Center for the period ending May 31, 2022.
4. Discussion and consideration for adoption, including any possible amendment of renewing the contract for FY 22-23 with Dukes' Root Control, Inc. for chemical root control.
5. Discussion and consideration for adoption, including any possible amendment of, (1) amending the contracts with modification for FY 22-23: with Brenntag Southwest, Inc. for liquid chlorine; with Cabot Norit Americas, Inc. for granular activated carbon; (2) renewing the contracts with modifications for FY 22-23 with Republic Services Inc. for Commercial Sanitation Service of Roll Offs and Compactor; and Waste Management of Oklahoma, Inc. for landfill charges.
6. Discussion and consideration, including any possible amendment, of awarding the bid to and entering into a contract with Mid America Hydro Tech, to purchase Water Treatment Coagulation Polymer at a minimum of 30,360 pounds at \$0.636 per pound or less than and 15,180 pounds at \$0.636 per pound.

DISCUSSION ITEM.

- 1. Discussion and consideration of entering into an agreement, including any possible amendment, with DePalma Hotels and Resorts, to provide qualified management services at the Sheraton Midwest City Hotel and Reed Conference Center.** Reed made a motion to approve the agreement, seconded by Byrne. Voting Aye: Eads, Byrne, Bain, Reed, Bana, Favors and Dukes. Nay: none. Motion Carried.

NEW BUSINESS/PUBLIC DISCUSSION. There was no new business or public discussion.

ADJOURNMENT. There being no further business, Chairman Dukes adjourned the meeting at 8:33 PM.

ATTEST:

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MATTHEW D DUKES II, Chairman

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SARA HANCOCK, Secretary



**Finance Department**

100 N. Midwest Boulevard  
Midwest City, OK 73110  
tcromar@midwestcity.org  
Office: 405-739-1245  
www.midwestcityok.org

TO: Honorable Chairman and Trustees  
Midwest City Municipal Authority

FROM: Tiatia Cromar, Finance Director

DATE: July 26, 2022

SUBJECT: Discussion and consideration for adoption, including any possible amendment of supplemental budget adjustments to the following funds for FY 2022-2023, increase: Capital Water Improvement Fund, expenditures/Capital Water Improvement (49) \$4,144.

The supplement is needed to increase the budget for North Meadow Water Line Repair Project.

*Tiatia Cromar*

Tiatia Cromar  
Finance Director

**SUPPLEMENTS**

**July 26, 2022**

Fund CAPITAL WATER IMPROVEMENT (172)		BUDGET AMENDMENT FORM Fiscal Year 2022-2023			
<u>Dept Number</u>	<u>Department Name</u>	<u>Estimated Revenue</u>		<u>Budget Appropriations</u>	
		<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
49	Capital Water Improvement			4,144	
		<u>0</u>	<u>0</u>	<u>4,144</u>	<u>0</u>

**Explanation:**  
To increase budget for N Meadow Water Repair Project. Funding to come from fund balance.



**Finance Department**

100 N. Midwest Boulevard  
Midwest City, OK 73110  
tcromar@midwestcity.org  
Office: 405-739-1245  
www.midwestcityok.org

TO: Honorable Chairman and Trustees  
Midwest City Municipal Authority

FROM: Tiatia Cromar, Finance Director

DATE: July 26, 2022

SUBJECT: Discussion and consideration of passing and approving, including any possible amendment of a resolution for the Midwest City Municipal Authority, a public trust, to release unappropriated fund balances at the close of day June 30, 2022 to be made available for fiscal year 2022-2023; and amending the budget for fiscal year 2022-2023 to include the released appropriations from the fiscal year 2021-2022 budgets as supplemental appropriations; and, effective July 1, 2022, renewing encumbrance commitments canceled at the close of day June 30, 2022.

Staff recommends that the resolution be adopted with the amounts provided.

*Tiatia Cromar*

Tiatia Cromar  
Finance Director

Attachment: Proposed Resolution



**RESOLUTION NO. MA2022-\_\_\_\_\_**

**A RESOLUTION APPROVING FOR THE MIDWEST CITY MUNICIPAL AUTHORITY, A PUBLIC TRUST, TO RELEASE UNAPPROPRIATED FUND BALANCES AT THE CLOSE OF DAY JUNE 30, 2022 TO BE MADE AVAILABLE FOR FISCAL YEAR 2022-2023; AND AMENDING THE BUDGETS FOR FISCAL YEAR 2022-2023 TO INCLUDE THE RELEASED APPROPRIATIONS FROM THE FISCAL YEAR 2021-2022 BUDGETS AS SUPPLEMENTAL APPROPRIATIONS; AND, EFFECTIVE JULY 1, 2022, RENEWING ALL ENCUMBRANCE COMMITMENTS CANCELLED AT THE CLOSE OF DAY JUNE 30, 2022.**

**WHEREAS**, it is the Municipal Authority’s intent to effectively cancel all remaining encumbrance commitments outstanding at June 30, 2022 as chargeable to the FY 2021-2022 budget, renew those same commitments effective July 1, 2022, and provide budget amounts necessary for those renewed commitments to be charged against the FY 2022-2023 fiscal year budget; and

**WHEREAS**, the trustees of the Midwest City Municipal Authority have determined it in the best interest of the Municipal Authority to expedite the availability of the remaining fund balance at the close of day June 30, 2022, for these amounts to be available for budgeting as an available resource into the subsequent fiscal year;

**NOW, THEREFORE, BE IT RESOLVED BY THE TRUSTEES OF THE MIDWEST CITY MUNICIPAL AUTHORITY:**

**SECTION 1.** All remaining encumbrance commitments outstanding at the close of day June 30, 2022, formerly charged against and payable from FY 2021-2022 budgets, are hereby cancelled and renewed effective July 1, 2022, to be charged against and payable from additional FY 2022-2023 fiscal year budget amounts to be provided through budget amendments effective July 1, 2022.

**SECTION 2.** Any remaining unexpended fund balance within the funds at the close of day June 30, 2022, are considered no longer a credit for that fiscal year, and are released. These released fund balance amounts from FY 2021-2022 shall be and are hereby deemed available for use as a resource in funding original or amended budget amounts for the 2022-2023 fiscal year effective July 1, 2022. The FY 2022-2023 budgets are hereby amended to add the following budgeted amounts for encumbrance commitments renewed effective July 1, 2022 and chargeable to and payable from FY 2022-2023 budgets.

Sanitation (190-4110)	\$ 1,709,785
Utilities – Water (191-4210/30)	\$ 390,171
Utilities – Wastewater (192-4310/30)	\$ 324,878
FF&E Reserve (196-4010)	\$ 842,282
Golf (197-4710)	\$ 3,433
Golf (197-4810)	\$ 1,076
Capital Drainage (060-7210)	\$ 81,338
Storm Water Quality (061-6110)	\$ 50,478
Capital Water Improvements (172-4910)	\$ 129,727
Construction Loan Payment (178-4200)	\$ 16,764
Utility Services (187-5011)	\$ 1,262
Capital Sewer Improvements (188-4410)	\$ 79,078
Sales Tax Capital Improvement (340-0000)	\$ 175

PASSED AND APPROVED by the chairman and trustees of the Midwest City Municipal Authority this 26th day of July, 2022.

MIDWEST CITY MUNICIPAL AUTHORITY,  
a public trust

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MATT DUKES, Chairman

ATTEST:

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SARA HANCOCK, Secretary

APPROVED as to form and legality this 26th day of July, 2022.

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DONALD MAISCH, City Attorney



City Manager's Office  
Vaughn K. Sullivan,  
Assistant City Manager  
[vsullivan@midwestcityok.org](mailto:vsullivan@midwestcityok.org)  
100 N. Midwest Blvd,  
Midwest City, Oklahoma 73110  
O: 405-739-1207 /Fax: 405-739-1208

MEMORANDUM

TO: Chairman and Trustees

FROM: Vaughn K. Sullivan, Assistant City Manager

DATE: July 26, 2022

SUBJECT: Discussion and consideration, including any possible amendment, of awarding the bid and entering into a Property Lease Agreement for Turn-key Concession Operations at Joe B. Barnes Regional Park with Tasty Snow in the amount of \$1,000.00 per month from March to October.

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On Tuesday, June 21, 2022, at 2:00 p.m. the City of Midwest City opened bids for Land Lease for Turn-key Concession Operations at Joe B. Barnes Regional Park. Tasty Snow submitted a bid meeting specifications for a monthly rental of \$1000.00 from March to October.

Staff recommends approval.

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Vaughn K. Sullivan  
Assistant City Manager

Enc. Bid Tabulation Sheet

**PROPERTY LEASE AGREEMENT**  
**between**  
**TASTY SNOW**  
**And**  
**THE MIDWEST CITY MUNICIPAL AUTHORITY**

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**THIS LEASE AGREEMENT** (hereinafter referred to as “**Lease**”) is entered into by and among The City of Midwest City, a municipal corporation (hereinafter referred to as “**City**”), and Tasty Snow, (hereinafter referred to as “**Lessee**”) (**City**, and **Lessee** being collectively referred to herein as the “**Parties**”) and is effective upon the date of execution by the last party hereto.

**WITNESSETH:**

**WHEREAS**, **City** owns, operates certain property within the corporate city limits for the **City**, as identified in **Attachment “A”** (hereinafter known as “**Premises**”); and

**WHEREAS**, the **Lessee** wishes to lease the property identified in **Attachment “A”** from the **City** for use as a turn-key concession operation; and

**WHEREAS**, **CITY** grants permission for use of their property which do not conflict with their primary purpose and uses; and

**WHEREAS**, the **Lessee** has contacted the **City** and requested use of the **Premises** for a use or uses that do not conflict with the **City’s** primary purposes and use; and

**NOW THEREFORE**, **CITY**, and **Lessee** agree as follows:

**1. PERMIT**

A. Subject to the conditions and limitations in this **Lease**, the **City** does hereby permit **Lessee** to enter and access the **Premises**. **Lessee** will be permitted to enter and access the **Premises** for the purpose of installing, operating and maintaining a turn-key concession operation, (herein after known as **Facilities**). The **Facilities** will include only such equipment, improvements, as specifically described on **Attachment “B” (Facility Specifications)**. Vehicle access by the **Lessee** and its contractors, agents and employees to and within the **Premises** will only be permitted on permanently created roads and paved driving surfaces. If the roads and/or paved driving surfaces becomes unavailable, the **Parties** agree to designate a mutually acceptable alternate access to the **Premises**.

B. This **Lease** is expressly limited to provide **Lessee** permission only to the extent **Lessee’s** use does not interfere with the use of the **Premises** by **City** and the **City’s** public trusts of which the **City** is a beneficiary. This **Lease** is subject and subordinate to the rights of **City** to the use of the **Premises** which will be dominant over all rights of **Lessee**.

**PROPERTY LEASE AGREEMENT**  
**between**  
**TASTY SNOW**  
**And**  
**THE MIDWEST CITY MUNICIPAL AUTHORITY**

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C. This **Lease** hereby closes and supersedes all previous agreements between the Parties as to the specific **Facilities** identified in this **Lease**.

D. The **Lessee** shall only provide those concession services as list in **Attachment “C”**, “Pricing and Size List of Items” to be sold.

**2. TERM**

Subject to the prompt and timely payment of Consideration as set forth in Paragraph 3 (B):

A. The initial term of the **Lease** is: for one year beginning on August 1, 2022 and ending at 11:59 p.m. (**City – Central Standard Time**) on June 30, 2023.

B. The **Parties** agree that at the end of the initial term, this **Lease** will be extended by five additional one year terms, unless either Party, in its sole discretion, provides written notice of its intent not to extend the **Lease** Term at least one hundred eighty (180) calendar days prior to the relevant extension date. If such notice is timely provided by either Party, the term will not be extended, the **Lease** will expire at the end of the term then in effect, and no additional extensions will be accomplished by way of this provision.

C. This **Lease** is also subject to termination for breach of this **Lease** and as set forth herein.

**3. CONSIDERATION**

A. Rent is payable monthly in the amount of \$1000.00 due to the **City** by the **Lessee** on or before the first of each month. The monthly rent will increase upon each renewal by two and one-half percent (2.5%) each year. Subsequent monthly rental payments are due on or before the first of each month.

B. Provided, however, should the **City** terminate this **Lease** for any reason other than breach by **Lessee** prior to the expiration of the initial term of this **Lease** or any renewal term for which consideration has been prepaid, the **City** will reimburse the **Lessee** for a pro rata share of the prepaid consideration for the prepaid unexpired term.

**PROPERTY LEASE AGREEMENT**  
**between**  
**TASTY SNOW**  
**And**  
**THE MIDWEST CITY MUNICIPAL AUTHORITY**

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**4. USE AND REPAIR OF ROADS AND PAVED AREAS**

**Lessee** agrees to use only the roads and paved areas as specified in **Attachment “A”**, or the mutually agreed upon alternative in the event the roads and paved areas are not available. Further **Lessee** agrees that it will immediately notify the **City** of any damage it causes to the roads or paved areas. **Lessee** shall immediately and appropriately barricade any portion of the road or paved areas damaged by **Lessee** pending repair, then **Lessee** shall promptly repair any damage to the roads and/or paved areas directed by the **City** at **Lessee's** own cost within ten (10) days of written notice from the **City**. During installation, operation, maintenance, replacement, or repair of **Facilities**, a portion of the road or paved areas must remain open to local traffic and emergency vehicles. Should the **Lessee** fail to timely repair such damage, the **City** may elect to repair the road or paved areas, and **Lessee** agrees to reimburse **City** for any cost and expense of such repairs, plus fifteen percent for administration and overhead, within sixty (60) days of written notice of said costs and expenses. Provided, the **City** is no way obligated to repair the road or paved areas. The **CITY** does not represent or warrant that the roads or paved areas are suitable for **Lessee's** use or that **City** will maintain the roads or paved areas for **Lessee's** use or any other purpose.

**5. MAINTENANCE OF FACILITIES**

**Lessee** must keep and maintain the **Facilities** located on the **Premises** in a safe condition and in good repair. In addition, **Lessee** must maintain throughout the terms of this **Lease** and must surrender upon the revocation, termination, expiration, or non-renewal of this **Lease** the **Premises** and in a clean and orderly condition. **Lessee** shall clean the **Facilities** daily using the trash receptacles provided by the **City**.

**6. REPLACEMENT OF FACILITIES/EQUIPMENT**

Subject to the provision of this paragraph and other paragraphs in the **Lease**, **Lessee** may replace initially installed **Facilities** with similar and comparable **Facilities**, provided said replacement **Facilities** do not interfere with **City's** use of the **Premises**. In the event **Lessee** deems it prudent or necessary to replace the **Facilities**, **Lessee** must notify the **City** in advance of said replacement(s), and the **City** shall determine whether such replacements constitute the need for an

**PROPERTY LEASE AGREEMENT**  
**between**  
**TASTY SNOW**  
**And**  
**THE MIDWEST CITY MUNICIPAL AUTHORITY**

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amendment to the **Lease**. If the **Facilities** replacements are permitted under the same or similar terms as this **Lease** the **City** may give written approval. Nothing in this paragraph authorizes the installation of additional **Facilities** by **Lessee**.

**7. ABANDONMENT/REMOVAL**

Upon termination, revocation, non-renewal, or expiration of this **Lease**, **Lessee** must, at its option: (1) remove the **Facilities** within ninety (90) calendar days; or (2) abandon any portion of the **Facilities** in place and secure all Utility Services. Notwithstanding any provision in this **Lease**, all **Facilities** timely installed by **Lessee** will remain the personal property of the **Lessee** during the terms of this **Lease**, regardless of whether any applicable law classifies such **Facilities** as fixtures. The **City** consents to **Lessee**'s right to remove all or any portion of the **Facilities** from time to time during the terms of this **Lease** in **Lessee**'s sole discretion and without the **City**'s consent. In the event that **Lessee** elects to remove the **Facilities** upon the expiration, non-renewal or earlier revocation or termination of this **Lease**, **Lessee** will, within ninety (90) calendar days of the date of such expiration, non-renewal, revocation or termination of this **Lease**, remove **Lessee**'s personal property without damaging the **Premises**, or any property belonging to the **City** or the existing permittees. The **City** will continue to provide **Lessee** with access to the **Premises** as set forth in this **Lease** to permit **Lessee** to remove **Lessee**'s **Facilities** within such ninety (90) day period. Any personal property of the **Lessee** not removed within ninety (90) days will become the property of **City**, without cost or charge to **City**, to dispose of in any way that meets the needs and requirements of the **City**. Should the **City** decide to dispose of such **Facilities**, **Lessee** will be liable and will reimburse the **City** for any expense or cost in removal or disposal of **Lessee**'s **Facilities** either abandoned or not removed within the aforementioned ninety (90) days.

**8. TERMINATION**

This **Lease** will terminate at such time as: (1) the **Lessee**, of its own volition, ceases activities, or abandons use of said **Facilities** for a period of one (1) year; or (2) notice of non-renewal of the **Lease** is given by **Lessee**; or (3) **Lessee** fails to timely make any annual, and **Lessee** has not cured said monetary default within thirty (30) days of receipt of written notice from the



**PROPERTY LEASE AGREEMENT**  
**between**  
**TASTY SNOW**  
**And**  
**THE MIDWEST CITY MUNICIPAL AUTHORITY**

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**City**; or (4) a breach (subject to any applicable cure period, if any) or default occurs as defined in this **Lease**; or (5) **City** determines the **Premises** is necessary for purposes of the **City**. Should the **CITY** make a determination that the **Premises** is necessary for its purposes, this **Lease** is terminable by the **City** upon one hundred eighty (180) days written notice. In the event the **CITY** terminates this **Lease** upon one hundred eighty (180) days written notice upon a determination of need for the **City's** purposes, the **CITY**, will make a reasonable effort, if possible, to make available to **Lessee** an alternative existing location, if any reasonably practicable, to accommodate **Lessee's** needs for said **Facilities**. In addition to the foregoing and notwithstanding any provision contained in this **Lease** to the contrary, **Lessee** may, in **Lessee's** sole and absolute discretion and at any time and for any or no reason, terminate this **Lease** without further liability by delivering prior written notice to **City**; provided, however, that, in such event, **Lessee** will not be entitled to any refund or rebate of annual rental prepaid and must pay to **City** lump sum termination fee equal to the then current annual rent.

**9. WATER QUALITY**

**Lessee's** activities may not impact water quality.

**10. RESTORATION**

Upon the revocation, non-renewal, expiration, or termination of this **Lease** for any reason whatsoever, **Lessee** must restore the **Premises** to a condition equivalent to its original condition, reasonable wear and tear excepted.

**11. INSURANCE**

A. **Lessee** must provide and maintain at all times throughout the term of this **Lease**, and any renewal hereof, such *commercial general insurance with a limit of \$100,000 per occurrence for bodily injury and property damage and \$500,000 general aggregate* protecting the **City** from claims for bodily injury (*including death*) and or property damage arising out of or resulting from the **Lessee's**, and its employees, use and occupancy of the premises and the activities conducted thereon. The insurance coverage required in this paragraph must include the **City** as additional insureds as their interest may appear under this **Lease** under the policy or

**PROPERTY LEASE AGREEMENT**  
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**TASTY SNOW**  
**And**  
**THE MIDWEST CITY MUNICIPAL AUTHORITY**

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policies.

B. A certificate of insurance evidencing the coverage required herein shall be provided to the **City** within five (5) days of the execution of this **Lease**.

C. Lessee shall require any contractor or subcontractor to obtain and maintain substantially the same coverage as required of Lessee including the **City** as an additional insured as their interest may appear under this **Lease**.

D. The insurance requirements set forth herein must not be deemed to limit, affect, waive, or define any obligations of **Lessee** in any other paragraph of this **Lease** or any indemnification or insurance requirement in any other paragraph of this **Lease**. This paragraph must continue in full force and affect for any act, omission, incident or occurrence occurring or commencing during the term of this **Lease**. Further, the insurance coverage required by this paragraph will survive revocation, non-renewal, termination and expiration of this **Lease** for any occurrence or event occurring, initiated, or commencing prior to such revocation, non-renewal, termination and expiration or during the period in which **Lessee** is performing restoration or remediation of the **Premise** during which **Lessee** is removing or reclaiming its **Facilities**.

E. Provided, however, should **Lessee** or its officers, invitees, representatives, contractors, employees or agents carry any additional, different or other insurance or insurance coverage of any kind or nature, the provisions of this paragraph must not in any way limit, waive or inhibit the **City** from making a claim or recovering under such insurance or insurance coverage.

F. Notwithstanding any other provision to the contrary, upon termination or lapse of insurance coverage required hereunder, this **Lease** may be terminated. Termination of this **Lease** pursuant to this paragraph must take precedence and supersede any other paragraph establishing the term of this **Lease**, establishing a procedure for revocation or termination, or requiring notice and/or providing an opportunity to cure a breach.

G. The insurance limits in this paragraph in no way act or will be deemed to define or limit the right of **City** to recover damages, expenses, losses or for personal injuries, death or property damage pursuant to applicable law or the indemnification provisions or under any other paragraph or provision in this **Lease**.

**PROPERTY LEASE AGREEMENT**  
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**And**  
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**12. INDEMNIFICATION**

**Lessee** agrees to indemnify, defend, and hold harmless the **City** from and against all liability for: (a) injuries or death to persons; (b) costs, losses, and expenses; (c) legal fees, legal expenses, and court costs; and (d) damages, loss to property, which are caused by **Lessee**, its officers, representatives, agents, contractors, and employees except to the extent such injuries, losses, damages and/or costs are caused by the negligence or willful misconduct of the indemnified party. **Lessee** must give the **City** prompt and timely notice of any claim or suit instituted which in any way, directly or indirectly, contingently or otherwise, affects or might affect the **City**, provided, however, such notice will not be a precondition to indemnification hereunder. The rights granted by this paragraph will not limit, restrict, or inhibit the rights of the **City** under any other paragraph, including but not limited to any insurance provision or requirement in this **Lease**.

**13. NOTICES**

A. Notices and other communications to the **City** pursuant to the provisions hereof will be sufficient if sent by first class mail, postage prepaid, return receipt required, or by a nationally recognized courier service, addressed to:

The City of Midwest City, City Clerk  
100 N. Midwest Boulevard  
Midwest City, OK 73110

respectively, and notices or other communications to the **Lessee** pursuant to the provisions hereof will be sufficient if by first class mail, postage prepaid, return receipt required, or by a nationally recognized courier service, addressed to:

\_\_\_\_\_  
David Massey  
\_\_\_\_\_  
Tasty Snow  
\_\_\_\_\_  
7101 E. Reno, Suite C  
\_\_\_\_\_  
Midwest City, OK 73110  
\_\_\_\_\_

B. Any party hereto may change the address or addressee for the giving of notice to it by thirty (30) days prior written notice to the other parties hereto as provided herein. Unless

**PROPERTY LEASE AGREEMENT**  
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**TASTY SNOW**  
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otherwise specified in this **Lease**, notice will be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to this paragraph.

**14. ABIDES BY LAW**

The **Lessee** must abide by the conditions of this **Lease**, the ordinances of **CITY**, and all laws and regulations of the State of Oklahoma and the United States of America (“Laws”), applicable to **Lessee**’s activities and **Lessee**’s use of the **Facilities**. **Lessee** will be responsible for securing any license, permits and/or zoning which may be required prior to commencement of installation of the **Facilities**.

**15. LIMITATION**

The **Lease** consideration and annual rental fee provided herein does not include or limit any remuneration or reimbursement for any loss, expense, or damages, if any, which may be caused by **Lessee** or incurred by the **City** hereunder or under any insurance or indemnification provision herein.

**16. ASSIGNMENT AND SUBLEASE**

**Lessee** may not assign or sublease its interest under this **Lease** without the prior written consent of the **City**. Any assignment or sublease shall become effective upon receipt of a request signed by authorized and empowered officers/agents of the **Lessee** and sublessee and provision by the sublessee of a certificate of insurance evidencing the insurance required by this **Lease** and upon approval of such sublease by **City**. The **City** may, but not required, to execute a letter approving either the assignment or sublease as provided herein on behalf of **City**. Upon approval of such assignment or sublease, **Lessee** will not be relieved of future performance, liabilities, and obligations under this **Lease**. **City** shall be provided with a copy of each written sublease agreement, and all amendments thereto, entered into by **Lessee** within forty-five (45) days after the entering into of same.

**17. COMPLETE AGREEMENT**

This is the complete agreement between the parties and no additions, amendments,

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**between**  
**TASTY SNOW**  
**And**  
**THE MIDWEST CITY MUNICIPAL AUTHORITY**

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alterations, or changes in this **Lease** shall be effective unless reduced to writing and signed by all parties hereto. Additionally, no statements, discussions, or negotiations shall be deemed or interpreted to be included in this **Lease**, unless specifically and expressly provided herein.

**18. TIME OF ESSENCE**

For the purposes of this **Lease**, time shall be deemed to be of the essence.

**19. MULTIPLE ORIGINALS**

This **Lease** shall be executed in multiple counterparts, each of which shall be deemed an original.

**20. NONINTERFERENCE**

This **Lease** authorizes **Lessee** to use and occupy a portion of the **Premises** for the location of its **Facilities** only as provided herein. **Lessee's** activities and use may not in any manner permanently or temporarily interfere with existing or future **City** uses of the **Facilities, Premises, and City** rights-of-way and public properties.

**21. PROPERTY INTERESTS**

**Lessee** acknowledges and agrees that the **Premises** are first and foremost the property of **City**, and that the **Lessee** is not granted any property interest therein or by the terms of this **Lease**.

**22. ANTI-COLLUSION**

**Lessee** agrees that it has not been and shall not be a party to any collusion with any of their officials, trustees, or employees of **City** as to the terms or conditions of this **Lease**, and has not and will not exchange, give or donate money or other things of value for special consideration to any officials, trustees, or employees of the **City**, either directly or indirectly, in procuring and execution of this **Lease**.

**23. WARRANTY**

Issuance of this **Lease** does not constitute or contain any express or implied warranties of title, interest, or right to possession of the **Premises** nor the physical condition of any property

**PROPERTY LEASE AGREEMENT**  
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**TASTY SNOW**  
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subject to this **Lease**. **Lessee** shall be responsible for identifying other property interests, permits, users, and licenses, if any, and arranging whatever additional permissions as may be required. The **Lessee** accepts the **Premises** “as is”.

**24. BREACH AND DEFAULT**

A. A breach of any provision of this **Lease** shall act as a breach of the entire **Lease** unless said breach is expressly waived in writing by all other parties hereto. Failure to enforce or timely pursue any breach shall not be deemed a waiver of that breach or any subsequent breach. No waiver of any breach by any party hereto of any terms, covenants, or conditions herein contained shall be deemed a waiver of any subsequent breach of the same, similar, or different nature.

B. Further, except as otherwise specifically and expressly provided and any other paragraph hereto, should any party hereto fail to perform, keep or observe any of the terms, covenants, or conditions herein contained, this **Lease** may be terminated by any party not in default thirty (30) days after receipt of written notice and opportunity to cure, less and except as such lesser time is provided in this **Lease**.

C. Should the **City** breach this **Lease**, **Lessee** may only recover that proportion of the prepaid annual rental for the unexpired term. **Lessee** may not collect or recover any other or additional damages, losses, or expenses.

**25. ENVIRONMENTAL**

A. **Lessee** shall not permit any chemical substance or hazardous material to be brought upon, kept, or used in or about the **Premises** by **Lessee**, its officers, representatives, agents, employees, contractors, or invitees to escape the **Premises**. **Lessee** shall notify the **City** of the presence, even if temporary, of any chemical substance or hazardous material brought onto the **Premises** by **Lessee**, its officers, representatives, agents, employees, contractors, or invitees, except for storage, handling and use of reasonable quantities and types of such materials or substances used by **Lessee** in the ordinary course and the prudent conduct of **Lessee**'s business, provided **Lessee** obtains the prior written approval of the **City** and provided that: (i) the storage,

**PROPERTY LEASE AGREEMENT**  
**between**  
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handling and use of such permitted hazardous substances must at all times conform to all governmental requirements and to applicable fire, safety and insurance requirements; (ii) the types and quantities of permitted hazardous substances must be reasonable and appropriate to the nature and size of **Lessee's** operations; (iii) no hazardous substance shall be spilled or disposed of on, in, under or around the **Premises** or otherwise discharged by **Lessee**. Provided, however, any such approval by the **City** will not waive, negate, diminish, or limit the responsibility of the **Lessee** for any contamination or to indemnify the **City**.

B. If **Lessee** breaches the obligations stated in the preceding paragraph, or if the presence of the chemical substance or hazardous material on the **Premises** brought onto such **Premises** by **Lessee** or its contractors, employees or agents results in contamination of the **Premise** or contamination of the water supply of **City**, or if contamination of the **Premises** or by the chemical substance or hazardous material otherwise occurs for which **Lessee** is legally liable, **Lessee** shall indemnify, defend and hold the **City** and their officers, trustees, representatives, contractors, agents and employees harmless from any and all injuries, deaths, property damage, claims, judgments, damages, penalties, fines, costs, liabilities, losses, diminution in value, damages for the loss or restriction on use, sums paid in settlement of claims, and attorneys', consultants' and expert fees (collectively, "Environmental Claims") which arise during or after any term of this **Lease** hereof as a result of such contamination.

C. This indemnification of the **City** by **Lessee** also includes, without limitation, costs and expenses incurred in connection with any investigation of site conditions or any clean-up, remedial, removal or restoration work required by the **City** or any federal, state or local government agency or political subdivision because of any chemical substance or hazardous material present in the soil or ground water on or under the **Premises** caused by **Lessee**.

D. Without limiting the foregoing, if the presence of any chemical substance or hazardous material brought onto the **Premises** by **Lessee**, its employees, agents or contractors results in any contamination of the **Premises**, or the water supply of the **City**, **Lessee** shall promptly take all actions at its sole expense as are necessary to return the **Premises** and the water supply of the **City** to the condition existing prior to the introduction of any such chemical substance or hazardous material. The foregoing indemnity shall survive the expiration or earlier termination



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**between**  
**TASTY SNOW**  
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of this **Lease**.

E. As used herein, the term “chemical substance” shall mean a substance obtained by a chemical process or used for producing a chemical effect, including but not limited to pesticides, herbicides and fertilizers, and the term “hazardous material” means any hazardous or toxic substance, material or waste, including but not limited to those substances, materials and wastes listed by the Environmental Protection Agency as hazardous substances, or such substances, materials and wastes that are or become regulated under any applicable local, state or federal law.

## **26. INSPECTION**

**City** and its employees and agents shall have the right, but not the duty, to inspect **Lessee’s Facilities** and the **Premises** to determine whether **Lessee** is complying with the terms of this **Lease**.

## **27. THIRD PARTY BENEFICIARIES**

All parties expressly agree that no third-party beneficiaries, expressly or implicitly, are intended to be or shall be created or acknowledged by this **Lease**. This **Lease** is solely for the benefit of the **Lessee** and **City**, and none of the provisions hereof are intended to benefit any third parties.

## **28. VENUE AND CHOICE OF LAW**

All parties hereto expressly agree that the venue of any litigation relating to or involving this **Lease** and/or the rights, obligations, duties and covenants therein shall be in the appropriate court (state or federal) located in Oklahoma County, Oklahoma. All parties agree that this **Lease** shall be interpreted and enforced in accordance with Oklahoma law and all rights of the parties shall be determined in accordance with Oklahoma law.

## **29. CASUALTY**

If any part of the **Premises** is damaged by casualty or Act of God, as to render the **Premises** unsuitable, in **Lessee’s** sole determination, then **Lessee** may terminate this **Lease** by providing

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written notice to the **City**, as **Lessee's** only recourse as to the **City**, which termination will be effective as of the date of such casualty or other harm.

**30. EFFECTIVE DATE**

The Effective Date of this **Lease** is the date approved by the **City** as the last party hereto.

*[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BANK]*

**PROPERTY LEASE AGREEMENT**  
**between**  
**TASTY SNOW**  
**And**  
**THE MIDWEST CITY MUNICIPAL AUTHORITY**

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IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute and seal this **Lease** on the dates set forth below.

LESSEE: \_\_\_\_\_ Tasty Snow \_\_\_\_\_

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

Name: \_\_\_\_\_ David Massey \_\_\_\_\_

Title: \_\_\_\_\_ Owner \_\_\_\_\_

*[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BANK]*

**PROPERTY LEASE AGREEMENT**  
**between**  
**TASTY SNOW**  
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**APPROVED** by the Council and **SIGNED** by the Mayor of The City of Midwest City this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**THE CITY OF MIDWEST CITY**

\_\_\_\_\_  
MATTHEW D. DUKES, II, MAYOR

\_\_\_\_\_  
SARA HANCOCK, CITY CLERK

**REVIEWED** for form and legality.

\_\_\_\_\_  
DONALD D. MAISCH, CITY ATTORNEY

REGIONAL PARK CONCESSION  
BID TAB

<u>VENDOR</u>	<u>BID AMOUNT</u>
Holly Owens	<u>No Bid</u>
Mike Queri	<u>No Bid</u>
Patrick Steelman	<u>No Bid</u>
Bob Bean	<u>No Bid</u>
Bronco's Tacos	<u>No Bid</u>
Caddy Snacks LLC	<u>No Bid</u>
Blake Pettis	<u>No Bid</u>
Ron Kolander	<u>No Bid</u>
Tasty Snow	<u>\$1,000.00 monthly payment*</u> * See Concession proposal for itemized cost list*

Your community is familiar with our business, products, and services. We are a shaved ice creation stand that has been a staple of the community in both parks (Kiwanis and Regional) for over 20 years. We have done numerous community events and sponsored numerous schools and activities throughout our time here in Midwest City. We are looking forward to continuing in a way that will benefit both parties and the community.

### **Proposal for Regional Park**

We would like to propose a monthly rent of \$1000 for this upcoming year for the months of March -October. Our hours of operation will be from 12:00 pm- 9:00 pm. Below is a list of menu items and prices that we will serve to attending guests of the park.

**Snow cones-** we have over 200 flavors to offer customers in various sizes ranging from \$3-\$7.

**Drinks-** we offer a variety of non-alcoholic drinks( water, sodas, Gatorade, energy drinks) \$1-\$5

**Candy-** we offer a variety of packaged candy (Snickers, Skittles, cotton candy, etc) \$3

**We do not offer cooked or heated food items nor do we offer any alcoholic beverages.**

We employ numerous high school and college kids from our community every year. We make sure our staff shows respect for the park and their community by cleaning up every night and taking ownership of the property. We supply them with all the necessary equipment to make sure this happens.

We have all the other necessary utilities not provided by Midwest City in place needed to run the daily operations. We have had the same utility accounts for over 20 years.

Tasty Snow is a proud staple in this community and we are looking forward to continuing our great relationship. I have attached our current insurance and health licenses.



**City Manager's Office**  
100 N. Midwest Boulevard  
Midwest City, OK 73110  
Office 405.739.1205

## MEMORANDUM

**TO:** Honorable Chairman and Trustees  
Midwest City Municipal Authority

**FROM:** Ryan Rushing, Director of Operations

**DATE:** July 26, 2022

**SUBJECT:** Discussion and consideration, including any possible amendment, of accepting the report on the current financial condition of the Sheraton Midwest City Hotel at the Reed Center for the period ending June 30, 2022.

This item is on the agenda at the request of the Authority. Attached to this memorandum is information concerning the status of the Sheraton Midwest City Hotel at the Reed Center.

Any time you have a question concerning the conference center and hotel, please feel free to contact me at 739-1205.



<b>Fiscal Year 2021-2022</b>	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21	Dec-21	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22
<b>Revenue</b>												
Budgeted (MTD)	218,175	269,249	277,204	320,392	287,445	230,076	224,889	303,825	417,312	286,185	422,104	<b>275,068</b>
Actual (MTD)	165,309	267,937	203,272	242,338	106,151	94,137	33,427	22,326	115,512	191,509	188,113	<b>337,364</b>
Budgeted (YTD)	218,175	487,424	764,628	1,085,020	1,372,465	1,602,541	1,827,430	2,131,255	2,548,567	2,834,752	3,256,856	<b>3,531,924</b>
Actual (YTD)	165,309	433,247	636,518	878,856	985,007	1,079,144	1,112,571	1,134,897	1,250,409	1,441,918	1,630,032	<b>1,967,395</b>
<b>Expenses</b>												
Budgeted (MTD)	276,863	304,951	298,180	318,622	307,935	281,813	261,066	303,985	403,234	297,791	342,543	<b>293,360</b>
Actual (MTD)	217,027	271,844	249,791	246,471	124,488	164,155	101,046	105,993	139,185	197,810	221,278	<b>271,866</b>
Budgeted (YTD)	276,863	581,814	879,994	1,198,616	1,506,551	1,788,364	2,049,430	2,353,415	2,756,649	3,054,440	3,396,983	<b>3,690,343</b>
Actual (YTD)	217,027	488,872	738,663	985,134	1,109,622	1,273,777	1,374,823	1,480,816	1,620,001	1,817,810	2,039,089	<b>2,310,954</b>
<b>Revenue vs. Expenses</b>												
Budgeted (MTD)	(56,688)	(35,702)	(20,976)	1,770	(20,490)	(51,737)	(36,177)	(160)	14,078	(11,606)	79,561	<b>(18,292)</b>
Actual (MTD)	(51,718)	(3,907)	(46,520)	(4,133)	(18,337)	(70,017)	(67,619)	(83,667)	(23,673)	(6,301)	(33,165)	<b>65,498</b>
Budgeted (YTD)	(56,688)	(94,390)	(115,366)	(113,596)	(134,086)	(185,823)	(222,000)	(222,160)	(208,082)	(219,688)	(140,127)	<b>(158,419)</b>
Actual (YTD)	(51,718)	(55,625)	(102,145)	(106,278)	(124,615)	(194,633)	(262,251)	(345,919)	(369,592)	(375,892)	(409,057)	<b>(343,559)</b>
<b>Key Indicators</b>												
Hotel Room Revenue	140,152	138,336	115,422	135,084	1,266	2,150	1,452	-	24,220	102,796	124,026	<b>203,942</b>
Food and Banquet Revenue	21,229	120,339	76,791	97,591	91,680	91,702	28,934	20,929	81,770	72,826	51,355	<b>117,938</b>

<b>Fiscal Year 2020-2021</b>	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21
<b>Revenue</b>												
Budgeted (MTD)	343,261	453,583	525,877	507,546	455,087	297,747	227,478	357,427	514,440	483,447	447,593	415,608
Actual (MTD)	209,220	96,171	166,050	141,030	196,284	98,762	110,610	119,566	178,607	183,566	128,960	228,854
Budgeted (YTD)	343,261	796,844	1,322,721	1,830,267	2,285,354	2,583,101	2,810,579	3,168,006	3,682,446	4,165,893	4,613,486	5,029,094
Actual (YTD)	209,220	305,391	471,441	612,471	808,756	907,517	1,018,127	1,137,693	1,316,301	1,499,867	1,628,827	1,857,681
<b>Expenses</b>												
Budgeted (MTD)	402,630	455,299	469,746	481,160	435,035	370,311	312,141	359,557	443,494	451,607	419,406	410,317
Actual (MTD)	206,494	166,450	189,154	173,890	187,703	140,339	168,038	152,009	184,421	208,906	174,967	241,097
Budgeted (YTD)	402,630	857,929	1,327,675	1,808,835	2,243,910	2,614,221	2,926,362	3,285,919	3,729,413	4,181,020	4,600,426	5,010,743
Actual (YTD)	206,494	372,944	562,098	735,987	923,690	1,064,029	1,232,066	1,384,076	1,568,497	1,777,403	1,952,369	2,193,466
<b>Revenue vs. Expenses</b>												
Budgeted (MTD)	(59,369)	(1,716)	56,131	26,386	20,912	(72,564)	(84,663)	(2,130)	70,946	31,840	28,187	5,291
Actual (MTD)	2,726	(68,563)	(23,104)	(32,859)	8,582	(41,577)	(57,428)	(32,443)	(5,814)	(25,340)	(46,006)	(12,242)
Budgeted (YTD)	(59,369)	(61,085)	(4,954)	21,432	41,444	(31,120)	(115,783)	(117,913)	(46,967)	(15,127)	13,060	18,351
Actual (YTD)	2,726	(67,553)	(90,657)	(123,516)	(114,935)	(156,511)	(213,939)	(246,383)	(252,196)	(277,536)	(323,543)	(335,785)



**Director of Operations**  
100 N. Midwest Boulevard  
Midwest City, OK 73110  
[rrushing@midwestcityok.org](mailto:rrushing@midwestcityok.org)  
Office: 405.739.1205  
[www.midwestcityok.org](http://www.midwestcityok.org)

MEMORANDUM

TO: Honorable Chairman and Trustees

FROM: Ryan Rushing, Director of Operations

DATE: July 26, 2022

SUBJECT: Discussion and consideration, including any amendment, of approving the Sheraton New Build License Agreement amending the Marriott Franchise Agreement.

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Due to remodel at the Sheraton/ Delta hotel two rooms were combined with existing rooms to create suites. This change has caused our room count to go from 152 to 149. Per our franchise agreement with Marriott we need to approve the attached amendment.

Ryan Rushing  
Director of Operations

**AMENDMENT TO SHERATON NEW BUILD LICENSE AGREEMENT**

This Amendment to SHERATON NEW BUILD LICENSE AGREEMENT (this “Amendment”) is executed on \_\_\_\_\_ (the “Amendment Date”) by and between The Sheraton LLC (formerly The Sheraton Corporation), a Delaware limited liability company (“Franchisor”) and Midwest City Municipal Authority, an Oklahoma public trust formed under 60 Okla. Stat. 176 et seq. (“Franchisee”).

WHEREAS, Franchisor and Franchisee are parties to a Sheraton New Build License Agreement dated December 30, 2003 (as amended, the “Franchise Agreement”), relating to the Sheraton hotel located at 5750 Will Rogers Road, Midwest City, OK 73110 (the “Hotel”); and

WHEREAS, the Franchise Agreement states the total number of Guest Rooms at the Hotel as 152; and

WHEREAS, Franchisee has informed Franchisor that the correct total number of Guest Rooms at the Hotel is 149; and

Franchisor and Franchisee desire to amend the Franchise Agreement upon the terms and conditions stated herein.

NOW, THEREFORE, in consideration of promises in this Amendment and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. Amendment to Franchise Agreement.

A. The Franchise Agreement is hereby amended by deleting Item B.(4) of Exhibit 3 to the Franchise Agreement and replacing it in its entirety with the following:

“(4) The proposed or existing Hotel to which this Agreement relates consists of:

TOTAL GUEST ROOMS: 149

Year Built: 2005      Floors: 5”

2. FRANCHISEE ACKNOWLEDGMENTS. FRANCHISEE HEREBY REPRESENTS AND WARRANTS THAT (A) ALL OF THE ACKNOWLEDGMENTS SET FORTH IN THE FRANCHISE AGREEMENT WERE TRUE AND CORRECT AS OF THE TIME MADE AND ARE TRUE AS OF THE AMENDMENT DATE AND (B) THE OWNERSHIP INTERESTS IN FRANCHISEE ARE COMPLETELY AND ACCURATELY LISTED IN SECTION II TO EXHIBIT A OF THE FRANCHISE AGREEMENT AS MAY BE AMENDED BY THIS AMENDMENT. FRANCHISEE FURTHER REPRESENTS AND WARRANTS THAT IT DID NOT RELY ON, AND NEITHER FRANCHISOR NOR ANY OF ITS AFFILIATES HAS MADE, ANY PROMISES, REPRESENTATIONS, WARRANTIES OR AGREEMENTS RELATING TO THE FRANCHISE, THE HOTEL, OR THE PREMISES OR THE SYSTEM, UNLESS CONTAINED IN THE FRANCHISE AGREEMENT OR THIS AMENDMENT.

3. Miscellaneous. This Amendment (a) contains the entire agreement between the parties as it relates to the subject matter hereof and supersedes and extinguishes all prior agreements and understandings (whether written or oral) between the parties and pertaining to the subject matter hereof, (b) will be construed under and governed by Maryland law, which law will prevail if there is any conflict of law, (c) is not assignable, in whole or in part, by Franchisee to any other person or entity without the consent of Franchisor, (d) will be binding upon and will inure to the benefit of the parties and their permitted successors and assigns, and (e) may be executed in counterparts, all of which taken together will constitute the same instrument. Delivery of an executed signature page by electronic transmission is as effective as delivery of an original signed counterpart to this Amendment.

4. Effect on Franchise Agreement. On and after the Amendment Date, each reference in the Franchise Agreement to “this Agreement,” “hereunder,” “hereof” or similar words referring to the Franchise Agreement, and each reference in any documents relating to the Franchise Agreement to “the Agreement,” “thereunder,” “thereof” or similar words referring to the Franchise Agreement, will mean and be a reference to the Franchise Agreement as amended by this Amendment. The Franchise Agreement and any documents relating to the Franchise Agreement, as specifically amended by this Amendment, are and will continue to be in full force and effect and are in all respects ratified and confirmed. Capitalized terms not defined in this Amendment will have the same meanings given in the Franchise Agreement.

*[Signatures Appear on the Following Page]*

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed, under seal, as of the Amendment Date.

FRANCHISOR:

**THE SHERATON LLC**

By: \_\_\_\_\_(SEAL)  
Name: Kip W. Vreeland  
Title: Senior Vice President, Full-Service Franchising

FRANCHISEE:

**MIDWEST CITY MUNICIPAL AUTHORITY**

By: \_\_\_\_\_(SEAL)  
Name: Matthew D. Dukes II  
Title: Chairman



NEW BUSINESS/  
PUBLIC DISCUSSION





**MEMORIAL HOSPITAL AUTHORITY AGENDA**

City Hall - Midwest City Municipal Court, 100 N. Midwest Boulevard

July 26, 2022 – 6:02 PM

Presiding members: Chairman Matthew Dukes

Trustee Susan Eads

Trustee Pat Byrne

Trustee Megan Bain

Trustee Sean Reed

Trustee Sara Bana

Trustee Rick Favors

City Staff:

City Manager Tim Lyon

City Clerk Sara Hancock

City Attorney Don Maisch

A. CALL TO ORDER.

B. CONSENT AGENDA. These items are placed on the Consent Agenda so the Trustees, by unanimous consent, can approve routine agenda items by one motion. If any Trustee requests to discuss an item(s) or if unanimous consent is not received, then the item or items will be removed and heard in regular order.

1. Discussion and consideration for adoption, including any possible amendments, of the June 28, 2022 meeting minutes. (Secretary - S. Hancock)

2. Discussion and consideration for adoption, including any possible amendment of supplemental budget adjustments to the following fund for FY 2021-2022, increase: MWC Hospital Authority Fund, revenues/Transfers In (90) \$3,065. (Finance - T. Cromar)

3. Discussion and consideration for adoption, including any possible amendment of a resolution for the Midwest City Memorial Hospital Authority, a public trust, to release unappropriated fund balance at the close of day June 30, 2022 to be made available for fiscal year 2022-2023; and amending the budget for fiscal year 2022-2023 to include the released appropriations from the fiscal year 2021-2022 budget as supplemental appropriations; and, effective July 1, 2022, renewing encumbrance commitments canceled at the close of day June 30, 2022. (Finance - T. Cromar)

4. Discussion and consideration, including any possible amendments, of reviewing and accepting 1) the FY 2021-22 Year-End Report of the Trust Board of Grantors; and 2) the FY 2022-23 Community Improvement Grant Program documents and schedule. (City Manager - T. Lyon)

C. DISCUSSION ITEM.

1. Discussion and consideration of adoption, including any possible amendment, of action to reallocate assets, change fund managers or make changes in the Statement of Investment Policy, Guidelines and Objectives. (Finance - T. Cromar)



- D. NEW BUSINESS/PUBLIC DISCUSSION. In accordance with State Statute Title 25 Section 311. Public bodies - Notice. A-9, the purpose of the "New Business" section is for action to be taken at any Council/Authority/Commission meeting for any matter not known about or which could not have been reasonably foreseen 24 hours prior to the public meeting. The purpose of the "Public Discussion" section of the Agenda is for members of the public to speak to the Authority on any Subject not scheduled on the Regular Agenda. The Authority shall make no decision or take any action, except to direct the City Manager to take action, or to schedule the matter for discussion at a later date. Pursuant to the Oklahoma Open Meeting Act, the Authority will not engage in any discussion on the matter until that matter has been placed on an agenda for discussion. **THOSE ADDRESSING THE AUTHORITY ARE REQUESTED TO STATE THEIR NAME AND ADDRESS PRIOR TO SPEAKING TO THE AUTHORITY.**
- E. ADJOURNMENT.



CONSENT AGENDA



Notice for the Midwest City Memorial Hospital Authority meetings was filed for the calendar year with the City Clerk of Midwest City. Public notice of this agenda was accessible at least 24 hours before this meeting at City Hall and on the Midwest City website (www.midwestcityokorg).

## Midwest City Memorial Hospital Authority Minutes

June 28, 2022

This meeting was held in Midwest City Council Chambers at City Hall, 100 N. Midwest Boulevard, Midwest City, County of Oklahoma, State of Oklahoma.

Chairman Matt Dukes called the meeting to order at 8:33 PM with the following members present:

Trustee Susan Eads	Trustee Sean Reed	City Manager Tim Lyon
Trustee Pat Byrne	Trustee Sara Bana	City Clerk Sara Hancock
Trustee Megan Bain	Trustee Rick Favors	City Attorney Don Maisch

CONSENT AGENDA. Eads made a motion to approve the consent agenda, seconded by Byrne. Voting Aye: Eads, Byrne, Bain, Reed, Bana, Favors and Dukes. Nay: none. Motion Carried.

1. Discussion and consideration for adoption, including any possible amendments, of the June 14, 2022 meeting minutes.
2. Discussion and consideration for adoption, including any possible amendment of supplemental budget adjustments to the following fund for FY 2021-2022, increase: Sooner Rose TIF Fund, expenditures/Hospital Authority (90) \$12,824.

### DISCUSSION ITEM.

1. **Discussion and consideration of adoption, including any possible amendment of, the consultant agreement with Capitol Decisions, Inc. in the total amount of \$90,000 to continue to provide consultant services regarding economic, community development and redevelopment interests in Midwest City for the period from July 1, 2022 through June 30, 2023.** Eads made a motion to approve the agreement, seconded by Byrne. Voting Aye: Eads, Byrne, Bain, Reed, Bana, Favors and Dukes. Nay: none. Motion Carried.

NEW BUSINESS/PUBLIC DISCUSSION. There was no new business or public discussion.

ADJOURNMENT. There being no further business, Chairman Dukes adjourned the meeting at 8:35 PM.

AATTEST:

\_\_\_\_\_  
MATTHEW D. DUKES II, Chairman

\_\_\_\_\_  
SARA HANCOCK, Secretary



**Finance**  
100 N. Midwest Boulevard  
Midwest City, OK 73110  
Office: (405) 739-1245  
[tcromar@MidwestCityOK.org](mailto:tcromar@MidwestCityOK.org)  
[www.midwestcityok.org](http://www.midwestcityok.org)

MEMORANDUM

TO: Honorable Chairman and Trustees of the  
Memorial Hospital Authority

FROM: Tiatia Cromar, Finance Director

DATE: July 26, 2022

SUBJECT: Discussion and consideration for adoption, including any possible amendment of  
supplemental budget adjustments to the following fund for FY 2021-2022,  
increase: MWC Hospital Authority Fund, revenues/Transfers In (90) \$3,065.

---

This supplement is needed to budget the transfer in of cash balance of Fund 017 in order to close  
out Fund 017 for FY 21-22.

*Tiatia Cromar*  
Finance Director

# SUPPLEMENTS

**July 26, 2022**

Fund MWC HOSPITAL AUTHORITY (425)		BUDGET AMENDMENT FORM Fiscal Year 2021-2022			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
90	Transfer In	3,065			
		<u>3,065</u>	<u>0</u>	<u>0</u>	<u>0</u>

**Explanation:**  
 This supplement is to budget the transfer in of cash balance of Fund 017 to Fund 425 in order to close out Fund 017 for FY 21-22.



**Finance**  
100 N. Midwest Boulevard  
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[www.midwestcityok.org](http://www.midwestcityok.org)

MEMORANDUM

TO: Honorable Chairman and Trustees of the  
Memorial Hospital Authority

FROM: Tiatia Cromar, Finance Director

DATE: July 26, 2022

SUBJECT: Discussion and consideration for adoption, including any possible amendment of a resolution for the Midwest City Memorial Hospital Authority, a public trust, to release unappropriated fund balance at the close of day June 30, 2022 to be made available for fiscal year 2022-2023; and amending the budget for fiscal year 2022-2023 to include the released appropriations from the fiscal year 2021-2022 budget as supplemental appropriations; and, effective July 1, 2022, renewing encumbrance commitments canceled at the close of day June 30, 2022.

---

Staff recommends that the resolution be adopted with the amount provided.

*Tiatia Cromar*

Tiatia Cromar  
Finance Director

Attachment: Proposed Resolution

**RESOLUTION NO. HA 2022-\_\_\_\_\_**

**A RESOLUTION APPROVING FOR THE MIDWEST CITY MEMORIAL HOSPITAL AUTHORITY, A PUBLIC TRUST, TO RELEASE UNAPPROPRIATED FUND BALANCE AT THE CLOSE OF DAY JUNE 30, 2022 TO BE MADE AVAILABLE FOR FISCAL YEAR 2022-2023; AND AMENDING THE BUDGET FOR FISCAL YEAR 2022-2023 TO INCLUDE THE RELEASED APPROPRIATIONS FROM THE FISCAL YEAR 2021-2022 BUDGET AS SUPPLEMENTAL APPROPRIATIONS; AND, EFFECTIVE JULY 1, 2022, RENEWING ALL ENCUMBRANCE COMMITMENTS CANCELLED AT THE CLOSE OF DAY JUNE 30, 2022.**

**WHEREAS**, it is the Hospital Authority’s intent to effectively cancel all remaining encumbrance commitments outstanding at June 30, 2022 as chargeable to the FY 2021-2022 budget, renew those same commitments effective July 1, 2022, and provide budget amounts necessary for those renewed commitments to be charged against the FY 2022-2023 fiscal year budget; and

**WHEREAS**, the trustees of the Midwest City Memorial Hospital Authority have determined it is in the best interest of the Hospital Authority to expedite the availability of the remaining fund balance at the close of day June 30, 2022, for these amounts to be available for budgeting as an available resource into the subsequent fiscal year;

**NOW, THEREFORE, BE IT RESOLVED BY THE TRUSTEES OF THE MIDWEST CITY MEMORIAL HOSPITAL AUTHORITY:**

**SECTION 1.** All remaining encumbrance commitments outstanding at the close of day June 30, 2022, formerly charged against and payable from FY 2021-2022 budget, are hereby cancelled and renewed effective July 1, 2022, to be charged against and payable from additional FY 2022-2023 fiscal year budget amounts to be provided through budget amendments effective July 1, 2022.

**SECTION 2.** Any remaining unexpended fund balance within the fund at the close of day June 30, 2022, is considered no longer a credit for that fiscal year, and is released. This released fund balance amount from FY 2021-2022 shall be and is hereby deemed available for use as a resource in funding original or amended budget amounts for the 2022-2023 fiscal year effective July 1, 2022. The FY 2022-2023 budget is hereby amended to add the following budgeted amounts for encumbrance commitments renewed effective July 1, 2022 and chargeable to and payable from FY 2022-2023 budget.

Discretionary/Misc (425-9050)	\$ 8,181
In Lieu of Taxes/ROR/Misc (425-9060)	\$ 131,177

PASSED AND APPROVED by the trustees of the Midwest City Memorial Hospital Authority this 26th day of July, 2022.

MIDWEST CITY MEMORIAL HOSPITAL  
AUTHORITY, a public trust

\_\_\_\_\_  
MATT DUKES, Chairman

ATTEST:

\_\_\_\_\_  
SARA HANCOCK, Secretary

APPROVED as to form and legality this 26th day of July, 2022.

\_\_\_\_\_  
DONALD MAISCH, City Attorney





**City Manager**  
100 North Midwest Boulevard,  
Midwest City, Oklahoma 73110  
(405) 739-1201  
tlyon@midwestcityok.org

MEMORANDUM

TO: Chairman and Trustees

FROM: Tim Lyon, General Manager/Administrator

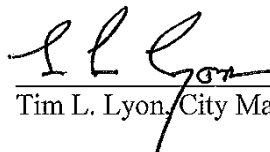
DATE: July 26, 2022

SUBJECT: Discussion and consideration, including any possible amendments, of reviewing and accepting 1) the FY 2021-22 Year-End Report of the Trust Board of Grantors; and 2) the FY 2022-23 Community Improvement Grant Program documents and schedule.

---

On Thursday, June 16, 2022, the Trust Board of Grantors (BOG) met to finalize their Fiscal Year (FY) 2021-22 Year-End Report. Per the Operating Contract (attached) of the BOG section IV (4.1), we are to submit a year-end report to the Authority no later than June 30 of each year. We apologize for the delay in getting that report to the Authority. Attached you will find the BOG's FY 2021-22 year-end report.

The BOG also reviewed and updated their FY 2022-23 grant documents and finalized their schedule, all of which are also attached along with the current grant balance sheet. Our budget for FY 2022-23 grant funds is \$557,333.

  
Tim L. Lyon, City Manager



Midwest City Memorial Hospital Authority  
100 North Midwest Boulevard,  
Midwest City, Oklahoma 73110  
(405) 739-1201  
[tlyon@midwestcityok.org](mailto:tlyon@midwestcityok.org)  
[www.midwestcityok.org](http://www.midwestcityok.org)

## Community Improvement Grant Program Year-End Report for Fiscal Year 2021-22

### Timeline of events for Fiscal Year (FY) 2021-22:

June 17, 2021	The BOG met to elect officers, approve the annual report, grant forms, and determine the grant schedule for the FY 2021-22.
July 27, 2021	The Memorial Hospital Authority Trustees (Trustees) accepted the BOG Year-End Report for FY 2020-21 and reviewed the FY 2021-22 grant documents and schedule.
September 1, 2021	The FY 2021-22 grant applications were made available to the public via the City's website, new flash, press release, and more.
September 28, 2021	The Trustees approved six-month extensions for the FY 2019-20 Air Depot Corridor Improvement Plan; the FY 2018-19 Middle Income Housing Rehab Loan Program, the Original Mile Homebuyer Assistance Program; and the FY 2019-20 Municipal Complex Sidewalks.
October 29, 2021	A news flash went out to remind people that it was the final week to submit applications.
November 8, 2021	The grant application submissions closed and work began on follow ups and the legal opinion.
December 7, 2021	Grant packets along with the legal opinion were distributed via Dropbox and hard copies.
January 11, 2021	Initial grant application evaluations were returned to the General Manager's Office and work began on consolidation and meeting prep.
January 18, 2021	Meeting planned, but had to be canceled due to COVID illnesses.
February 10, 2022	The BOG met to make final FY 2021-22 grant award recommendations for the Trustees.
February 22, 2022	The Trustees approved the FY 2021-22 grant award recommendations from the BOG.
March 22, 2022	The Trustees reappointed Zac Watts (W2), Wade Moore (W6), and Stacy Willard (C) and appointed Kelly Albright for Ward 4. All with terms ending on April 28, 2026.


March 29, 2022      All grant applicants were notified regarding the status of their application requests. Work began on gathering W-9s, setting up vendors, documenting awarded grants, and getting checks issued.

In fiscal year 2020-21, we received twenty-four grant applications requesting \$1,171,686.66 with nineteen awarded at the budgeted amount of \$590,258.

As you may know, the grant program began in fiscal year 1998-99. To date, we have awarded \$9,369,462.17 in community improvement and economic relief grant funds to 435 recipients through the Midwest City Memorial Hospital Authority Community Improvement Grant Program.

We are looking forward to the FY 2022-23 Community Improvement Grant Program season. Per the guidelines set forth in the Trust Indenture Article VI Section (1)(a), the amount of grant funds available for FY 2022-23 will be \$557,333, if approved by the Trustees. Please let me know if you have any questions or concerns.

Respectfully,



\_\_\_\_\_

Tim L. Lyon, City Manager



Midwest City Memorial Hospital Authority  
100 North Midwest Boulevard,  
Midwest City, Oklahoma 73110  
(405) 739-1201  
[tlyon@midwestcityok.org](mailto:tlyon@midwestcityok.org)

## Midwest City Community Improvement Grant Program

**Introduction** (Keep this page for your reference; please do not return this page with the application.)

The purpose of the Midwest City Memorial Hospital Authority (MCMHA) grant program is to improve the quality of life by funding effective projects that address the diverse issues and opportunities facing the Midwest City community.

Applicants are encouraged to demonstrate that they have identified an existing or potential need within the community, and have developed a reasonable and cost efficient method for addressing that need.

Per the Trust Indenture, grant funds are limited to non-reoccurring expenses. Funds may be used for such things as "...improvement to or enhancement of property [with] expected useful life of greater than twenty (20) years; [an] ...initial or single occurrence expenses or projects." However, may not be "...used for or to replace or supplant any existing recurring operating expenses or personal property needs of the Beneficiary...such as maintenance...supplies, salaries...[or] general operating costs."

The Board of Grantors (BOG) will only be accepting applications with one project defined. Under this project you may request multiple of the same item such as 20 radios; however, a request for multiple different items or events will not be considered. Applicants are welcome to complete more than one application, as always.

The BOG will score applications based primarily on the answers provided in "Part III: Project Overview" of the application (page 5) with the most consideration given for the overall benefit and impact to the Midwest City community.

The BOG funding recommendations will be made to the MCMHA at the February 22, 2022 meeting. Following the final determinations, all applicants will be notified of the determinations, and then grant funds will be issued.

All applicants awarded grants must complete a Grant Recipient Agreement (Agreement). This Agreement shall be between the grant recipient and MCMHA for the disbursement, utilization and accountability of any MCMHA funding awarded. The Grant Recipient must agree to use the awarded funds only for the specific purpose(s) and time period(s) stated in the grant application and Agreement.

All grant funds must be used within one year of the date that funds are dispersed. However, upon the written request of a grant recipient, the MCMHA may grant one or more six-month extensions of time within which to spend the grant funds, if proved necessary. If grant funds are not spent in the manner described in the grant recipient's application and/or within the time specified, the grant funds must be repaid to the MCMHA.

As a public trust, MCMHA is subject to the Oklahoma Open Records Act. Thus, all grant documents including the applications and their supporting documentation are public records. Finally, the MCMHA is required by the Internal Revenue Service to issue 1099 forms to all grant recipients; thus, grant funds received by an applicant may be taxable under the IRS Code.

**Guidelines for Midwest City Community Improvement Grant Program**  
(Keep this page for your reference; please do not return this page with the application.)

- Email will be the main form of communication, so please...please print in clear block letters or type out your email. Failure to do this may result in lost communication and neither the City Staff nor the Board of Grantors will be held responsible.
- Applications must be postmarked or hand delivered by 5:00 p.m. on Tuesday, November 1, 2022 to:  
Tim Lyon - (405) 739-1201  
General Manager/Administrator,  
Midwest City Memorial Hospital Authority  
100 North Midwest Blvd.  
Midwest City, Oklahoma 73110

This deadline is not flexible. Applications received after this deadline will not be considered for funding. Incomplete applications will not be considered for funding.

- This application is requesting only one project or event. Applications must be double-spaced, typed or clearly printed in block letters in ink. Neither City Staff nor the BOG will not be held responsible for misunderstanding or lost communication on handwritten applications that are not clearly written in block letters. All sections of the application must be completed. (Use “NA” for unrelated sections.) A secondary contact other than the primary contact must be listed. Do not alter the application language.
- At the time of submission, the application packet must include one (1) original signed and notarized application with ten (10) clear copies of the signed and notarized original. (Do not include the “Instruction Sheets” in the application packet submitted.) A complete packet will have eleven exactly the same applications with one of those being the original.
- Application packets should be stapled or clipped only. Do not bind the packets. Faxed/emailed applications will not be accepted due to printing costs.
- Non-profit applicants must attach a copy of their IRS Letter of Determination.
- Attached pages and/or letters of support from other organizations or individuals in excess of 25 pages are discouraged, unless specifically requested.
- For the sake of equal opportunity, neither City employees nor the Hospital Authority Trustees can comment on the appropriateness of applications or proposed projects or how they will rate with the Board of Grantors. Applicants are not to contact members of the Board of Grantors outside the confines of a scheduled presentation or meeting involving all Grantors.
- Deviations from these Application Guidelines must be addressed with the General Manager and then provided in writing to the Board of Grantors. **Again, all applications must be submitted/delivered by November 1, 2022 by 5:00 PM.**

**If you have any questions or concerns, please contact Tim Lyon’s office at 405-739-1204 or [jdonaldson@midwestcityok.org](mailto:jdonaldson@midwestcityok.org) or [tlyon@midwestcityok.org](mailto:tlyon@midwestcityok.org).**



**Fiscal Year 2022-23 Grant Application**  
**for the Midwest City Community Improvement Grant Program**

**PART I: Applicant Information (print in clear block letters or type):**

Applicant Legal Name of Organization: (Should be the same as your IRS determination letter and as supplied on IRS form 990)

1. Contact Person and Title: \_\_\_\_\_

Street Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Mailing Address (if different): \_\_\_\_\_

Telephone: \_\_\_\_\_

E-mail (print in clear block letters or type): \_\_\_\_\_

Website: \_\_\_\_\_ Other: \_\_\_\_\_

2. Secondary Contact Person and Title: \_\_\_\_\_

Telephone: \_\_\_\_\_ E-mail: \_\_\_\_\_

**Title of your proposed grant project:** \_\_\_\_\_

**Amount you are requesting:** \_\_\_\_\_

Mission statement and/or purpose of applicant organization (Attach the names and contact information of the members of the applicant's current governing body, if the applicant has such a body.):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Applicant Status:** Check all that apply (entities must have satisfied all legal requirements for status prior to submission of this application):

Corporation    Proprietorship    Partnership    Non-Profit

Individual    Government    Limited Liability Co.    Government/City Department

**Application Category** (Choose only one area that your project might affect the most):

Economic Development    Education    Community    Housing    Safety    Health

Youth and Family    Midwest City Revitalization    Transportation    Other \_\_\_\_\_

**PART II: Application Certification**

**By signing this application, I certify, that:**

- All provided information is true and correct to the best of my knowledge.
- I am duly authorized to submit this grant application on behalf of the above named applicant.
- I understand and agree that I must provide documentation (acceptable to the MCMHA trustees) within 30 days of expenditures proving that funds received were used for the project/activities identified in this application.
- I acknowledge that any grant funds awarded must be used within the one-year time frame set forth in the Agreement. I further understand that at the end of one year any money not accounted for will be cause to pay back those awarded funds to the MCMHA.
- I understand and agree that providing false information or failure to provide such documentation as stated above will disqualify the applicant and/or the contact person and any organization represented by them from receipt of any further funds from the MCMHA. I further understand such failure may cause funds previously received to be repaid.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Printed/Typed Applicant Name

\_\_\_\_\_  
Applicant Signature

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Notary Public signature

Commission Number: \_\_\_\_\_

Expiration date: \_\_\_\_\_

Notary seal:



**PART III: Project Overview**

Please provide a thorough answer printed in clear block letters or typed to each of the following questions. If necessary, complete narrative on a blank paper repeating the section (i.e. Part III. A. 1.) and attach it to the application.

**A. Description of the proposed grant project (Attach any support documentation).**

1. Details of project: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Achievable Goals and realistic Timeline: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Objectives: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Does your project include the acquisition of property or the improvement to or enhancement of property? \_\_\_\_\_ Yes or \_\_\_\_\_ No

If yes, does the acquisition, improvement or enhancement have an expected useful life of greater than 20 years? \_\_\_\_\_ Yes or \_\_\_\_\_ No

5. Does your request include software or technology dependent property items? \_\_\_\_ Yes or \_\_\_\_ No

**B. Need for this project.**

1. Clearly identify the target beneficiaries and share why the Midwest City community needs the proposed project, explaining the evidence to this need: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**C. Proposed project budget:**

1. List in detail what will be purchased with grant funds for this project.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Share any other funding resources for this project (e.g. donations, matching). \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. State any future sustainability resources that may be needed for this project. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. List documentation you expect to submit for expenditure accountability (e.g. cancelled checks, invoices, bids, receipts etc.) \_\_\_\_\_  
\_\_\_\_\_
5. Are you willing to accept less than the requested amount? If “No,” please explain. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**D. Management capacity of your organization.**

1. Describe relative experience your organization has in managing and implementing this type of project. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. Give details regarding your management plan for this project, including financial management. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. Are you partnering with other organization(s) in implementing this project, if yes, please describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**E. Explain the evaluation method that will be used to measure the outcome and success of the project (e.g. records, surveys, interviews, pre- and post-tests, community feedback, etc.).**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**F. Describe the overall benefit and impact of your project to the Midwest City community.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Thank you for your time and effort in applying for a Midwest City Community Improvement Grant!



Midwest City Memorial Hospital Authority  
 100 North Midwest Boulevard,  
 Midwest City, Oklahoma 73110  
 (405) 739-1201  
[tlyon@midwestcityok.org](mailto:tlyon@midwestcityok.org)  
[www.midwestcityok.org](http://www.midwestcityok.org)

## Community Improvement Grant Program - EVALUATION FORM

**Evaluation Procedure:** Please review the grant submission for each of the application criteria listed below and calculate a numeric rating. Maximum rating points are indicated for each criterion. A total of 100 being the best score possible for awarding grant funds.

**Grant Information:**

	Points Assigned
<p><b>A. Quality of the Proposed Project (Max 10 Points)</b>            Is the description of the grant proposal and timeline reasonable, realistic and achievable?</p>	A:
<p><b>B. Demonstrated Need for Proposed Project (Max 10 Points)</b>            Has the statement of need been clearly stated with evidence to back it up, such as statistics, support letters or surveys?</p>	B:
<p><b>C. Appropriateness of Budget (Max 15 Points)</b>            Is there adequate budget to support the activity/project design? Is it cost effective? Are there other funding sources? Is there a detailed list of proposed expenditures?</p>	C:
<p><b>D. Management Capacity (Max 15 Points)</b>            Has the applicant demonstrated its ability to accomplish the proposed request? Does the applicant have the experience/partnerships to manage the grant funds and project properly? Is it clear who will be responsible for the oversight and financial management of the grant?</p>	D:
<p><b>E. Program Evaluation (Max 10 Points)</b>            Is the desired outcome clearly stated with methodology to measure success of the project?</p>	E:
<p><b>F. Overall Impact of the Midwest City Community (Max 40 Points)</b>            Does the project have an overall benefit and lasting impact on the Midwest City community?</p>	F:
<b>TOTAL POINTS ACCUMULATED</b>	

**Notes:** \_\_\_\_\_  
 \_\_\_\_\_



## Fiscal Year 2022-23 GRANT RECIPIENT AGREEMENT

This Agreement is made and entered into by and between the Midwest City Memorial Hospital Authority, a public trust (the "Authority"), and \_\_\_\_\_ ("Grant Recipient").

The purpose of this Agreement is for the parties to establish the terms and conditions under which the Authority makes a grant of funds to the Grant Recipient and the Grant Recipient performs the public function project in the manner described in the application that the Grant Recipient filed with the Authority, a copy of which is attached to and incorporated by reference in this Agreement, further, subject to conditions that may be imposed by the Authority (collectively, the "Grant Requirements").

In consideration of the Authority's payment of grant funds to the Grant Recipient in the amount of \$\_\_\_\_\_ for \_\_\_\_\_ (Name of Grant) the public function project described by the Grant Requirements, the Grant Recipient agrees to the following terms and conditions:

1. The term of this Agreement shall be for a period of one (1) year, except with respect to Grant Property as provided for by section 5 below. Grant Recipient must spend the grant funds for the public function project described in the Grant Requirements, which must be used in the manner described in the grant application during the one-year term of this Agreement. Receipts and/or other acceptable proof evidencing the expenditure of the grant funds must be submitted to the General Manager within thirty (30) days of each expenditure.
2. If the Grant Recipient is unable to spend the grant funds for the public function project in the described manner within the one-year period, the remaining balance of the grant funds must be returned to the Authority or a six month extension must be requested from the General Manager/Administrator of the Authority in writing to [tlyon@midwestcityok.org](mailto:tlyon@midwestcityok.org) or by mail to Tim Lyon, General Manager/Administrator at 100 N. Midwest Boulevard, Midwest City, OK 73110.
3. Grant Recipient is encouraged, but not required, to spend grant funds in Midwest City. The Grant Recipient is urged to purchase commodities needed for its public function project from a Midwest City vendor if possible and practicable.
4. At the conclusion of the project, the Grant Recipient agrees to complete the Grant Outcome Report detailing the process and outcome of the grant-funded project and submit appropriate photographs, newspaper clippings, etc.
5. If grant funds are used to purchase furnishings, equipment or other property ("Grant Property"), such must have a useful life of 20-years and must be used by the Grant Recipient in accordance with the Grant Requirements throughout the 20-year life of the Grant Property. If the Grant Property ceases to be used in accordance with the Grant Requirements during such 20-year period, the Grant Recipient shall within 30 calendar days provide written notice to the General Manager/Administrator, in which case the Authority may, at its election, take possession of the Grant Property, and in such case, the ownership of the Property shall be transferred to the Authority, with the Grant Recipient providing such bills of sale and other evidence of transfer of ownership as requested by Authority. The term of this Agreement shall be 20-years with respect to Grant Property. The provisions of this Section 5 shall have a term of 20-years.

FY 2022-23 Grant Recipient Agreement

6. It is understood and agreed that this grant is made and shall be administered and carried out in accordance with the provisions and requirements of the Trust Indenture of the Authority, the Operating Contract between the Trust Board of Grantors and the Authority, the Bylaws of the Trust Board of Grantors and the Policies and Procedures of the Authority and the Trust Board of Grantors, each as may be amended from time to time.

This Agreement is approved and executed by the Authority on the \_\_\_\_\_ day of \_\_\_\_\_, 2023, and by the Grant Recipient on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Signature of Grant Recipient

\_\_\_\_\_  
Grant Recipient Name

\_\_\_\_\_  
Grant Recipient Address

Tax ID No. \_\_\_\_\_

ATTEST:

Midwest City Memorial Hospital Authority

\_\_\_\_\_  
Sara Hancock, Secretary

\_\_\_\_\_  
Matthew D. Dukes, II, Chairman



Midwest City Memorial Hospital Authority  
100 North Midwest Boulevard,  
Midwest City, Oklahoma 73110  
(405) 739-1201  
[tlyon@midwestcityok.org](mailto:tlyon@midwestcityok.org)  
[www.midwestcityok.org](http://www.midwestcityok.org)

## Community Improvement Grant Program

### FISCAL YEAR 2022-23 GRANT OUTCOME REPORT

Date: \_\_\_\_\_

Applicant Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Grant Project Title: \_\_\_\_\_

Grant Money Awarded: \$ \_\_\_\_\_ Date of any extensions: \_\_\_\_\_

Please respond **reflectively** to the following questions related to your grant project:

- Has the project objectives as described in your application been achieved (If no, please explain)? Yes No

\_\_\_\_\_

- Briefly describe the outcomes/accomplishments of this grant project. \_\_\_\_\_

\_\_\_\_\_

- Please report any observations, unexpected outcomes or anecdotal information that resulted from the grant project (e.g. news coverage, community event, photos, etc.). \_\_\_\_\_

\_\_\_\_\_

- Please provide feedback regarding your overall grant process experience (e.g. working with Hospital Authority staff/application submission process, etc.) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Grant Recipient Signature

\_\_\_\_\_  
Grant Recipient Name (Printed/Typed)

<b>Grant History (End-of-Year Report Info.)</b>		
<b>Fiscal Year</b>	<b># of Apps Awarded</b>	<b>Total Amount Awarded</b>
FY 21-22	19	\$590,258.00
FY 20-21	53	\$437,090.00
FY 19-20	18	\$458,497.00
FY 18-19	19	\$500,000.00
FY 17-18	18	\$450,000.00
FY 16-17	13	\$450,000.00
FY 15-16	11	\$425,000.00
FY 14-15	10	\$400,000.00
FY 13-14	7	\$350,000.00
FY 12-13	9	\$300,000.00
FY 11-12	11	\$380,344.00
FY 10-11	8	\$169,657.00
FY 09-10	10	\$415,326.00
FY 08-09	12	\$409,738.43
FY 07-08	0	\$0.00
FY 06-07	10	\$500,000.00
FY 05-06	26	\$449,544.74
FY 04-05	28	\$500,000.00
FY 03-04	21	\$250,000.00
FY 02-03	25	\$500,000.00
FY 01-02	30	\$500,000.00
FY 00-01	33	\$500,000.00
FY 99-11	20	\$500,000.00
FY 98-99	24	\$392,504.00
<b>Total to Date</b>	<b>435</b>	<b>\$9,369,462.17</b>



MWC Hospital Authority GRANT RECIPIENTS 2021-22

GRANT RECIPIENT	PURCHASE ITEM	AWARD AMOUNT	EXPENDITURES	MONEY RETURNED	BALANCE	REMARKS
Autumn House	Update/Replace Elevator	\$125,000.00			\$125,000.00	
Leah's Hope, Inc.	Strengthening Identity	\$3,500.00			\$3,500.00	
MCHS Band Boosters	Bomber Band Equipment Van	\$25,000.00			\$25,000.00	
Mid-Del P. S. Found.	Calming Corners	\$25,581.32			\$25,581.32	
Mid-Del Tech. Center	2022 MDTC Leadership Institute	\$12,000.00			\$12,000.00	
Mid-Del Youth and Family Center	Circle to Safety Project	\$9,864.00	\$9,864.00		\$0.00	
MWC Animal Welfare	Dog Runs at the new Animal Shelter	\$18,674.00			\$18,674.00	
MWC Econ. Development	EDA 2022 Business Assistance Program	\$100,000.00			\$100,000.00	
MWC Fire Dept.	Health and Fitness	\$11,694.00			\$11,694.00	
MWC Grants Mana. Dept.	Middle Income Homebuyer Assistance	\$50,000.00			\$50,000.00	
MWC Grants Management	NIA Center Digital Signage Project	\$41,500.00			\$41,500.00	
MWC Neigh. Services	Neighbors Helping Neighbors	\$6,000.00	\$5,841.90		\$158.10	
MWC Public Works	Tree Replen./ J.B. Park Improvements	\$61,089.49			\$61,089.49	
MWC Public Works	Christmas Displays for Holiday Lights	\$57,415.44			\$57,415.44	
MWCHS Homerun Club	MCHS Ballpark Improvements	\$25,778.75			\$25,778.75	
Rose State Found., Inc.	Young Storm Raiders! Camp	\$2,317.00			\$2,317.00	
Rose State Found., Inc.	STEM 3D Printing	\$3,424.00			\$3,424.00	
Rose State Found., Inc.	Drone Deploy Project	\$6,420.00			\$6,420.00	
V.F.W. Post 7192	Renovation of Banquet Area	\$5,000.00			\$5,000.00	
	Total of recommended grants awarded	\$590,258.00				
					\$0.00	
	Total funds awarded	\$590,258.00	\$15,705.90	\$0.00	\$574,552.10	
	Current year funding approved by Council					
	Total FY 19-20 Grant Expenditures				-15,705.90	
	Monies Returned to Hospital Authority Account				0.00	
Updated 02/23/22 JD	<b>Total FY 19-20 Grant Monies Remaining</b>				<b>574,552.10</b>	

MWC HOSPITAL AUTHORITY GRANT RECIPIENTS FY 2020-21 SECOND ROUND

GRANT RECIPIENT	PURCHASE ITEM	AWARD AMOUNT	EXPENDITURES	MONEY RETURNED	BALANCE	REMARKS
Altitude 1291, LLC	Economic Relief	\$21,924.00	\$21,924.00		\$0.00	Emailed on 12-29
C'est Si Bon, Inc	Economic Relief	\$20,000.00	\$20,000.00		\$0.00	
Star Skate	Reimbursement for floor	\$50,000.00	-\$50,000.00		\$0.00	
La Greek Restaurant	Economic Relief	\$18,000.00	\$18,000.00		\$0.00	Emailed on 12-29
Spencer's Smokehouse BBQ	Economic Relief	\$43,319.37	-\$43,319.37		\$0.00	
Chequers	Economic Relief	\$28,000.00	\$28,000.00		\$0.00	Sent email on 9-7-21 and 11-16-21 and 12-29
Super Subs	Economic Relief	\$4,000.00	-\$2,031.90	1968.1	\$0.00	
Brielle's Bistro	Economic Relief	\$4,000.00	-\$4,000.00		\$0.00	
Seasoned Café	Economic Relief	\$20,000.00	\$20,000.00		\$0.00	Emailed on 12-29
Fuzzy's MWC	Economic Relief	\$9,500.00	-\$9,500.00		\$0.00	
BTB MWC Ops LLC	Economic Relief	\$15,000.00	\$15,000.00		\$0.00	Emailed 12-23
S&B MWC Ops LLC	Economic Relief	\$15,000.00	-\$15,000.00		\$0.00	Emailed 12-23
Hawthorn Suites	Economic Relief	\$10,000.00	\$10,000.00		\$0.00	Sent email on 11-16-21 and 12-23
HH2 to HH3 Ops LLC	Economic Relief	\$5,000.00	-\$5,000.00		\$0.00	Emailed on 12-29
The Okies Fabric Stash	Economic Relief	\$25,000.00	\$25,000.00		\$0.00	Emailed on 12-29
Pete & Bevos Restaurant Group	Economic Relief	\$2,000.00	\$2,000.00		\$0.00	Sent email on 9-7-21 and 11-16-21 and 12-29
MWC Feast	Economic Relief	\$5,000.00	-\$5,000.00		\$0.00	
Meiji MWC	Economic Relief	\$5,000.00	-\$5,000.00		\$0.00	
AAA Kopy LLC	Economic Relief	\$24,846.63	-\$24,846.63		\$0.00	
Red Rock Dentistry	Economic Relief	\$15,000.00	-\$15,000.00		\$0.00	
	Total of recommended grants	\$340,590.00				
	Total funds awarded	\$340,590.00	-\$18,773.90	\$1,968.10	\$0.00	
	Current year funding approved by Council					
	Total FY 20-21 Grant Expenditures				18,773.90	
	Monies Returned to Hospital Authority Account				1,968.10	
Updated 01/22/21 JD	<b>Total FY 20-21 Grant Monies Remaining</b>				<b>0.00</b>	

COVID-19 Small Business Relief Grant Recipients 2020-21			
GRANT RECIPIENT	AWARD AMOUNT	DATE AWARDED	Standing
Altitude 1291, LLC	\$4,000	8/18/2020	Completed
Bare Essentials	\$1,500	8/18/2020	Completed
Booger Red's	\$4,000	8/18/2020	Email sent 01-22-21 and 12-29-21
Brielle's Bistro	\$4,500	8/18/2020	Completed
Celebrity Club	\$4,000	8/18/2020	Completed
C'Est Si Bon	\$2,000	8/18/2020	Completed
Chong Wah Asian Bistro	\$4,000	8/18/2020	Completed
Computers Coffee & Chill	\$4,000	9/22/2020	Completed
Cookies By Design	\$4,000	8/18/2020	Completed
Cut Loose Hair Design	\$1,500	8/18/2020	Completed
Douglas Hair Salon	\$1,500	8/18/2020	Email sent 01-22-21 and 12-29-21
Ghost Riders Saloon	\$4,000	8/18/2020	Email sent 01-22-21 and 12-29-21
Hair by Julia	\$1,500	8/18/2020	Completed
Jazzercise	\$1,500	8/18/2020	Completed
La Greek	\$4,000	8/18/2020	Completed
Meiji MWC	\$2,000	8/18/2020	Completed
Pelican's	\$4,000	8/18/2020	Completed
Planet Bowl	\$4,000	8/18/2020	Completed
Red Rock Dentistry	\$1,500	8/18/2020	Completed
Regional Health & Wellness Center	\$1,500	8/18/2020	Completed
Ron's Hamburgers & Chili	\$2,000	8/18/2020	Completed
Seasoned Café	\$4,000	8/18/2020	Completed
Star Skate	\$4,000	8/18/2020	Completed
Super Subs	\$4,000	8/18/2020	Completed
Tana Thai	\$4,000	8/18/2020	Completed
Tequila Daisy Hair Lounge	\$1,500	8/18/2020	Completed
Tez Wingz	\$4,000	8/18/2020	Email sent 01-22-21 and 12-29-21   Completed
The Guild	\$1,500	8/18/2020	Email sent 01-22-21 and 12-29-21
The Okies Fabric Stash	\$4,000	8/18/2020	Completed
TimberView Family Dentistry	\$1,500	8/18/2020	Completed
Tumble Stars, L.L.C.	\$1,500	8/18/2020	Completed
Wert-Simpson Dental Clinic	\$1,500	8/18/2020	Completed
Wholly Guacamole	\$4,000	8/18/2020	Email sent 01-22-21 and 12-29-21
Total Awarded	<b>\$96,500</b>		
Alloted Grant Funds for FY20-21	\$433,090		
Remaining alloted grant funds for FY 20-21	<b>\$340,590</b>		

Out of Business

Total Fiscal Year \$437,090



MWC Hospital Authority GRANT RECIPIENTS 2018-19

GRANT RECIPIENT	PURCHASE ITEM	AWARD AMOUNT	EXPENDITURES	MONEY RETURNED	BALANCE	REMARKS
St. Matthew United Methodist Church, Inc.	Freezers - Mobile Meals at St. Matthew	\$20,000.00	\$19,115.90	\$884.10	\$0.00	
St. Matthew United Methodist Church, Inc.	Refrigerators - Mobile Meals at St. Matthew	\$9,100.00	\$8,720.70	\$379.30	\$0.00	
MWC Soccer Club	MWC Soccer Club Marquees	\$44,013.80	\$44,013.80		\$0.00	
MWC Fire Department	Rescue Boat	\$3,449.00	\$3,449.00		\$0.00	
Leah's Hope, Inc.	Leah's Hope Transitional Housing Program	\$37,960.00	\$37,960.00		\$0.00	
Mid-Del School Foundation	Refill Mid-Del!	\$36,395.20	\$36,395.20		\$0.00	
MWC High School Band	Band Instruments	\$23,400.00	\$19,144.00	\$4,256.00	\$0.00	
Willow Brook Elementary	Marquee	\$25,000.00	\$25,000.00		\$0.00	
Kiwanis Club of MWC	Park a Lot	\$25,000.00	\$25,000.00		\$0.00	
Mid-Del Youth and Family Center, Inc.	Septic System	\$10,000.00	\$10,000.00		\$0.00	
MWC Economic Development	Business Compliance Grant Program	\$50,000.00	\$45,788.50	\$4,211.50	\$0.00	
MWC Grant Mgmt.	Original Mile Homebuyer Assistance Program	\$50,000.00	\$45,000.00		\$5,000.00	Six month extension granted in Jan. 2020. Sent email on 01-27-21 for new ext. request.   ext. granted 9-28-21
MWC Grant Mgmt.	Middle Income Housing Rehab Loan Program	\$50,000.00	\$38,862.00		\$11,138.00	Six month extension granted in Jan. 2020. Sent email on 01-27-21 for new ext. request.   ext. granted 9-28-21
MWC Communications	Community Improvement Grant Branding	\$3,500.00	\$3,500.00		\$0.00	
MWC Parks & Rec.	Lions Park Electronic Message Board Relocation	\$40,000.00	\$40,000.00		\$0.00	
MWC PWA	Trailer Mounted Impact Attenuator	\$19,182.00	\$18,675.00	\$507.00	\$0.00	
MWC PWA	Electronic Marquee for Public Works	\$38,000.00	\$38,000.00		\$0.00	
MWC Parks & Rec.	Blue Light Phones for Rail with Trail	\$15,000.00	\$15,000.00		\$0.00	
	Total of recommended grants awarded	\$500,000.00				
					\$0.00	
	Total funds awarded	\$500,000.00	\$473,624.10	\$10,237.90	\$16,138.00	
	Current year funding approved by Council				\$540,000.00	
	Total FY 18-19 Grant Expenditures				473,624.10	
	Monies Returned to Hospital Authority Account				10,237.90	
Updated 05/06/20 JD	<b>Total FY 18-18 Grant Monies Remaining</b>				<b>16,138.00</b>	

**MWC Hospital Authority GRANT RECIPIENTS 2017-18**

<b>GRANT RECIPIENT</b>	<b>PURCHASE ITEM</b>	<b>AWARD AMOUNT</b>	<b>EXPENDITURES</b>	<b>MONEY RETURNED</b>	<b>BALANCE</b>	<b>REMARKS</b>
MWC Police	FARO Technologies Hardware & Software	\$78,811.00	\$78,810.74	0.26	\$0.00	
The Eden Clinic, Inc.	Increased Medical Services	\$30,000.00	\$30,000.00		\$0.00	
MWC Fire	Gas ID Analyzer	\$61,000.00	\$61,000.00		\$0.00	
MWC Fire	Gas Monitors	\$14,400.00	\$14,400.00		\$0.00	
MWC Fire	Child Passenger Safety Restraints	\$2,030.25	\$2,030.25		\$0.00	
MWC Fire	Triage Kits	\$12,808.44	\$12,808.44		\$0.00	
Carl Albert High School	Water Bottle Filling Stations	\$1,040.21	\$1,040.21		\$0.00	
Autumn House, Inc.	Installation of Wireless System	\$26,645.50	\$26,645.50		\$0.00	
MWC Public Works	Excavation Safety Response Unit	\$67,000.00	\$67,000.00		\$0.00	
Carl Albert Band Booster	Band Trailer	\$22,500.00	\$22,500.00		\$0.00	
Oklahoma Earthbike Fellowship	SCIP Maintenance	\$4,500.00	\$4,500.00		\$0.00	
MWC Senior Center	Senior Center Aquarium Project	\$2,520.00	\$2,519.99	0.01	\$0.00	
Friends of the OK History Center, Inc.	Restore & Interpret Historic C-47	\$10,000.00	\$10,000.00		\$0.00	
MWC Com. Dev.	Drone	\$5,000.00	\$5,000.00		\$0.00	
MWC Com. Dev.	Ridgecrest Neighborhood Entrance Sign	\$2,200.00	\$2,200.00		\$0.00	
MWC Grant Dept.	Dana Brown Cooper Head Start - Facility Improvements	\$4,100.00	\$4,100.00		\$0.00	
MWC Public Works	Regional Trail Exercise Stations	\$15,000.00	\$15,000.00		\$0.00	
MWC High School	Keeping Bombers Brilliant with B-1 Technology	\$90,444.60	\$90,444.60		\$0.00	
	Total of recommended grants awarded	\$450,000.00				
MWC HS Museum, Inc. - Vietnam Memorial Project	Additional Matching Funds Awarded by the Hospital Authority Trustees	\$90,000.00	\$90,000.00		\$0.00	
	Total funds awarded	\$540,000.00	\$449,999.73	\$0.27	\$0.00	
	Current year funding approved by Council				\$540,000.00	
	Total Grant Expenditures				-449,999.73	
	Monies Returned to Hospital Authority Account				0.27	
	<b>Total Grant Monies Remaining</b>				<b>0.00</b>	

**MWC Hospital Authority GRANT RECIPIENTS 2016-17**

<b>GRANT RECIPIENT</b>	<b>PURCHASE ITEM</b>	<b>AWARD AMOUNT</b>	<b>EXPENDITURES</b>	<b>MONEY RETURNED</b>	<b>BALANCE</b>
MWC Chamber	MWC/Tinker 75th Anniversaries	\$209,956.00	\$209,956.00		\$0.00
Friends of the OK History Center	MWC Historic C-47 Exhibit	\$75,000.00	\$75,000.00		\$0.00
Divine Wisdom Worship Center	Van	\$25,000.00	\$25,000.00		\$0.00
Mid-Del Public Schools	John Deer Gator	\$21,304.00	\$21,304.00		\$0.00
MWC Parks & Rec.	Shuttle golf cars	\$20,000.00	\$17,918.86	\$2,081.14	\$0.00
MWC Com. Dev.	Changeable Message Sign	\$18,500.00	\$15,336.40	\$3,163.60	\$0.00
MWC Parks & Rec.	Mid-America Park Master Plan Proposal	\$16,000.00	\$15,550.00	\$450.00	\$0.00
Rose State College Foundation	MWC Heritage Day	\$15,000.00	\$12,411.02	\$2,588.98	\$0.00
Kiwanis Club	Blue Lights at Kiwanis' Park	\$10,000.00	\$7,338.00	\$2,662.00	\$0.00
MWC Parks & Rec.	Blue Lights at Lions Park	\$10,000.00	\$7,338.00	\$2,662.00	\$0.00
Eden Clinic	Pregnancy and Wellness	\$10,000.00	\$10,000.00		\$0.00
Rose State College	OK Business Conference	\$9,450.00	\$8,758.00	\$692.00	\$0.00
MWC Fire	Equipment upgrades	\$9,790.00	\$9,790.00		\$0.00
					\$0.00
	Total Award Amount	\$450,000.00			
	Sub-Totals		\$435,700.28	\$14,299.72	0.00
	Current year funding approved by Council				\$450,000.00
	Total Grant Expenditures				-435,700.28
	<b>Monies Returned to Hospital Authority Account</b>				<b>\$14,299.72</b>
	Grant Monies Remaining				0.00



**MWC Hospital Authority GRANT RECIPIENTS 2015-16**

<b>GRANT RECIPIENT</b>	<b>PURCHASE ITEM</b>	<b>AWARD AMOUNT</b>	<b>EXPENDITURES</b>	<b>MONEY RETURNED</b>	<b>BALANCE</b>
MWC Police	Protective Cooling Vests for 2 K-9s	\$1,175.94	\$1,175.94		\$0.00
MWC Police	Training Simulator	\$146,101.90	\$146,102.00		\$0.00
MWC Economic Development	Heritage Park Mall Redev. Feasibility Study	\$27,500.00	\$27,500.00		\$0.00
Mid-Del Schools Foundation, Inc.	Subscribe to Ready to Learn/First Book	\$7,000.00	\$7,000.00		\$0.00
MWC Community Development	Innovation District Plan	\$62,500.00	\$62,500.00		\$0.00
MWC Tree Board	2015 Parklawn Beautification Project	\$38,000.00	\$28,000.00	\$10,000.00	\$0.00
MWC Tree Board	2015 Hudiburg Dr. Island Irrigation Project	\$28,300.00	\$28,166.77	133.23	\$0.00
MWC Fire	Fire wish list for equipment	\$100,000.00	\$100,000.00		\$0.00
Rose State College	Amphitheater Modernization	\$8,495.00	\$8,494.84	\$0.16	\$0.00
Mid-Del Food Pantry, Inc.	Dry Storage Building	\$4,000.00	\$4,000.00		\$0.00
MWC Parks & Recreation	Festival Inflatables Project	\$1,927.16		\$1,927.16	\$0.00
	Total Award Amount	\$425,000.00			
	Sub-Totals		\$412,939.55	\$12,060.55	0.00
	Current year funding approved by Council				\$425,000.00
	Total Grant Expenditures				-412,939.55
	<b>Monies Returned to Hospital Authority Account</b>				<b>\$12,060.55</b>
	Total Grant Monies Remaining				0.00

**MWC Hospital Authority GRANT RECIPIENTS 2014-15**

<b>GRANT RECIPIENT</b>	<b>PURCHASE ITEM</b>	<b>AWARD AMOUNT</b>	<b>EXPENDITURES</b>	<b>MONEY RETURNED</b>	<b>BALANCE</b>
MWC Police - (Capt. Jonathon Goforth)	Wearable Video Camera System	\$61,000.00	\$60,991.39	8.61	\$0.00
Rose State College (Cindy Mikeman)	Atkinson Heritage Center Revitalization Project II	\$47,581.00	\$47,581.00	\$0.00	\$0.00
MWC Grants Management (Teri Craft)	Midwest City Boys and Girls Club Pilot Program	\$75,000.00	\$75,000.00	\$0.00	\$0.00
MWC Public Relations (Kay Hunt)	Stories of Christmas	\$91,000.00	\$91,000.00	0	\$0.00
MWC Fire (Jarett Metheny/David Richardson)	Community Risk Reduction Partnership (CRRP)	\$27,848.26	\$27,738.13	\$110.13	\$0.00
Mid-Del Public Schools (Pam Deering)	Sprigeo - A Safety Initiative	\$16,794.60	\$16,794.60	\$0.00	\$0.00
MWC Tree Board (Vaughn Sullivan)	29th & I-40 Island Beautification	\$14,800.00	\$14,963.78	-163.78	\$0.00
MWC Parks and Recreation (Vaughn Sullivan)	Emergency Blue Phone Project	\$38,776.14	\$36,638.98	\$2,137.16	\$0.00
RSVP of Central OK Inc. (Beth Patterson)	RSVP Provide-A-Ride Medical Trans.	\$1,900.00	\$1,900.00	\$0.00	\$0.00
MWC Tree Board (Vaughn Sullivan)	Midwest Blvd Street Beautification	\$25,300.00	\$24,990.58	\$309.42	\$0.00
	Total Award Amount	\$400,000.00			
	Sub-Totals		\$397,598.46	\$2,401.54	\$0.00
	Current year funding approved by Council				\$400,000.00
	Total Grant Expenditures				-\$397,598.46
	<b>Monies Returned to Hospital Authority Account</b>				<b>\$2,401.54</b>
	Total Grant Monies Remaining				\$0.00

MWC Hospital Authority GRANT RECIPIENTS 2013-14

GRANT RECIPIENT	PURCHASE ITEM	AWARD AMOUNT	EXPENDITURES	MONEY RETURNED	BALANCE
City of Midwest City/Fire Dept	Fire Command Training Center	\$32,000.00	\$32,000.00	\$0.00	\$0.00
City of Midwest City/Golf Course	First Tee National Program	\$10,000.00	\$10,000.00	\$0.00	\$0.00
City of Midwest City/311 App	City Of MWC Mobile 311 App	\$20,000.00	\$19,924.00	\$76.00	\$0.00
Midwest City Chamber of Commerce	Town Center Electronic Event Billboard	\$80,584.87	\$78,157.21	2427.66	\$0.00
MWC Parks and Rec Dept	Mobile Stage	\$155,000.00	\$155,000.00	\$0.00	\$0.00
Rose State College - Atkinson	Atkinson Heritage Center Project - landscaping	\$52,415.13	\$52,415.13	\$0.00	
	Total Award Amount	\$350,000.00			
	Sub-Totals		\$347,496.34	\$2,503.66	\$0.00
	Current year funding approved by Council				\$350,000.00
	Total FY 13-14 Grant Expenditures				-\$347,496.34
	<b>Monies Returned to Hospital Authority Account</b>				<b>\$2,503.66</b>
	Total FY 13-14 Grant Monies Remaining				\$0.00

### MWC Hospital Authority GRANT RECIPIENTS 2012-13

GRANT RECIPIENT	PURCHASE ITEM	AWARD AMOUNT	EXPENDITURES	MONEY RETURNED	BALANCE
City of Midwest City/Fire Dept	Firefighter safety & health equipment	\$18,755.00	\$18,755.00		\$0.00
City of Midwest City/Golf Course	Replace fence south side golf course	\$50,000.00	\$50,000.00		\$0.00
City of Midwest City/Grants Mgmt	Original mile median improvement project	\$50,000.00	\$50,000.00		\$0.00
City of Midwest City/Police Dept	Covered parking specialty equipment & vehicles	\$14,000.00	\$14,000.00		\$0.00
Midwest City Rotary Club	Erection of Veterans' Memorial - 2 grant year total	\$60,000.00	\$60,000.00		\$0.00
Midwest City Tree Board	SE 15th Street Beautification Project	\$35,000.00	\$32,064.20	\$2,935.80	\$0.00
Mid-Del City Public Schools Foundation	Bot Ball educational Robotics	\$25,000.00	\$22,923.38	\$2,076.62	
Regional Food Bank of OK	Expansion of MWC childhood hunger programs	\$25,000.00	\$25,000.00		\$0.00
YMCA of Greater OKC	Purchase & install addtl. playground equipment MWC	\$22,245.00	\$22,200.00	\$45.00	\$0.00
	<b>Total Award Amount</b>	<b>\$300,000.00</b>			
	<b>Sub-Totals</b>		<b>\$294,942.58</b>	<b>\$5,057.42</b>	<b>\$0.00</b>
	<b>Current year funding approved by Council</b>				<b>\$300,000.00</b>
	<b>Total FY 12-13 Grant Expenditures</b>				<b>-\$294,942.58</b>
	<b>Monies Returned to Hospital Authority Account</b>				<b>\$5,057.42</b>
	<b>Total FY 12-13 Grant Monies Remaining</b>				<b>\$0.00</b>

### MWC Hospital Authority GRANT RECIPIENTS 2011-12

GRANT RECIPIENT	PURCHASE ITEM	AWARD AMOUNT	EXPENDITURES	MONEY RETURNED	BALANCE
City of Midwest City	Green Machine	\$20,000.00	\$18,468.38	\$1,531.62	\$0.00
City of Midwest City/Golf Course	Replace fence	\$50,000.00	\$50,000.00		\$0.00
City of Midwest City/Police Dept.	Segway	\$8,025.00	\$7,533.96	\$491.04	\$0.00
City of Midwest City/Police Dept.	Off-road UTV & Trailer	\$12,300.00	\$12,299.63	\$0.37	\$0.00
Healing Hearts Health Clinic	Medical & Office Equipment	\$2,000.00	\$2,000.00		\$0.00
Kiwanis' Club of MWC	2011 Concrete Kiwanis's Park Trails	\$70,000.00	\$70,000.00		\$0.00
Literacy Link	Adult Literacy Software	\$2,941.35	\$2,899.30	\$42.05	\$0.00
Metropolitan Library System	Library Garden Restoration	\$25,000.00	\$19,970.92	\$5,029.08	\$0.00
Midwest City Rotary Club	Veteran's Memorial project	\$100,000.00	\$100,000.00		\$0.00
Rose State College	RSC Pilot Program (6-12 grades)	\$60,500.00	\$60,500.00		\$0.00
YMCA Greater OKC	MWC YMCA Community playground	\$29,577.65	\$29,577.65		\$0.00
	Total Award Amount	\$380,344.00			
	Sub-Totals		\$373,249.84	\$7,094.16	\$0.00
	Current year funding approved by Council				\$380,344.00
	Total FY 11-12 Grant Expenditures				-\$373,249.84
	<b>Monies Returned to Hospital Authority Account</b>				<b>\$7,094.16</b>
	Total FY 11-12 Grant Monies Remaining				\$0.00

### MWC Hospital Authority GRANT RECIPIENTS 2010-11

GRANT RECIPIENT	PURCHASE ITEM	AWARD AMOUNT	EXPENDITURES	MONEY RETURNED	BALANCE
City of Midwest City - Police Department	Replace Irreparable Speed Sign Trailer	\$16,800.00	\$16,800.00		\$0.00
Mid-Del Food Pantry	Freezer & Shelving Upgrade Project	\$21,700.00	\$21,700.00		\$0.00
Mid-Del Group Homes, Inc.	AED's Group Homes & Workshop	\$2,800.00	\$2,800.00		\$0.00
Mid-Del Group Homes, Inc.	Mini-bus w/wheelchair accessibility	\$40,000.00	\$40,000.00		\$0.00
Mid-Del Schools	Random Student Drug Testing (lab expenses only)	\$25,357.00	\$25,357.00		\$0.00
Mid-Del Schools - Carl Albert Middle School	Playaways encourage reading (Library equipment)	\$10,000.00	\$10,000.00		\$0.00
Midwest City Tree Board	Free container grown trees Arbor Day	\$3,000.00	\$3,000.00		\$0.00
Oklahoma Honor Flights	Fund 3 flights @ 1/3 increments (as trips occur)	\$50,000.00	\$50,000.00		\$0.00
	Total Award Amount	\$169,657.00			
	Sub-Totals		\$169,657.00	\$0.00	\$0.00
	Carryover to FY 2011-12	\$80,343			
	Current year funding approved by Council	\$250,000.00			
	Total FY 10-11 Grant Expenditures				\$169,657.00
	Monies Returned to Hospital Authority Account				\$0.00
	Total FY 10-11 Grant Monies Remaining				\$0.00

**MWC Hospital Authority GRANT RECIPIENTS 2009-10**

<b>GRANT RECIPIENT</b>	<b>PURCHASE ITEM</b>	<b>AWARD AMOUNT</b>	<b>EXPENDITURES</b>	<b>MONEY RETURNED</b>	<b>BALANCE</b>
City of Midwest City - Community Development Dept.	North Oaks Redevelopment Plan	\$160,000.00	\$160,000.00		\$0.00
City of Midwest City - Community Development Dept.	Soldier Creek Pedestrian Bridge	\$47,943.46	\$47,943.46		\$0.00
City of Midwest City - Fire Department	Low Speed Rescue/Apparatus	\$24,045.00	\$24,045.00		\$0.00
City of Midwest City - Grants Management Dept.	Original Mile Enhancement Study	\$40,000.00	\$40,000.00		\$0.00
City of Midwest City - Police Dept.	Automatic License Plate Recognition	\$20,880.00	\$20,109.00	\$771.00	\$0.00
Mid-Del Schools/Cleveland Bailey Elementary	Walking Track	\$18,105.89	\$18,105.89		\$0.00
Mid-Del Schools/Country Estates Elementary, PTA	Community Fitness Track	\$19,394.65	\$19,394.65		\$0.00
Douglas Blvd. United Methodist Church	Feed His People	\$33,800.00	\$33,800.00		\$0.00
Mid-Del Farmers' Market Association	Equipment & Promotional Materials	\$10,000.00	\$10,000.00		\$0.00
Mid-Del Youth & Family Center, Inc.	Seed \$ Charles J. Johnson Youth Dev Ctr	\$41,157.00	\$41,157.00		\$0.00
	Total Award Amount	\$415,326.00			
	Sub-Totals		\$414,555.00	\$771.00	\$0.00
	Current year funding approved by Council				\$330,000.00
	Total FY 09-10 Grant Expenditures				-\$414,555.00
	<b>Monies Returned to Hospital Authority Account</b>				<b>\$771.00</b>
	Total FY 09-10 Grant Monies Remaining				\$0.00



**MWC Hospital Authority GRANT RECIPIENTS 2008-09**

<b>GRANT RECIPIENT</b>	<b>PURCHASE ITEM</b>	<b>AWARD AMOUNT</b>	<b>EXPENDITURES</b>	<b>MONEY RETURNED</b>	<b>BALANCE</b>
Choctaw-Nicoma Park Public Schools	Drug Awareness/Drug Testing	\$25,000.00	\$25,000.00		\$0.00
City of Midwest City/Community Development Department	Public Art	\$20,000.00	\$17,374.66	\$2,625.34	\$0.00
City of Midwest City/Street Department	City Wide Reforestation	\$150,000.00	\$150,000.00		\$0.00
Defenders of Dreams	Seek professional assistance to develop Master Plan	\$10,000.00		\$10,000.00	\$0.00
Mid-Del Group Homes, Inc.	Computers	\$4,000.00	\$4,000.00		\$0.00
Mid-Del Public Schools Foundation	S.M.I.L.E.	\$35,000.00	\$35,000.00		\$0.00
Mid-Del Schools/Ridgecrest Elementary	Walking Track	\$28,196.96	\$28,196.96		\$0.00
Mid-Del Schools/Traub Elementary	Walking Track	\$16,107.47	\$16,107.47		\$0.00
Mid-Del Youth & Family Center, Inc.	Capital Building Project	\$50,000.00	\$50,000.00		\$0.00
Midwest City Chamber of Commerce	Exhibition Display & Equipment Project	\$16,869.00	\$16,869.00		\$0.00
Rose State College	Continuing Education & Community Services	\$43,565.00	\$37,135.05	\$6,429.95	\$0.00
Sustainable East Oklahoma County (OSN)	Mid-Del Farmer's Market Start-up	\$11,000.00	\$11,000.00		\$0.00
	Total Award Amount	\$409,738.43			
	Sub-Totals		\$390,683.14	\$19,055.29	\$0.00
	Current year funding approved by Council				\$500,000.00
	Total FY 08-09 Grant Expenditures				-\$390,683.14
	<b>Monies Returned to Hospital Authority Account</b>				<b>\$19,055.29</b>
	Total FY 08-09 Grant Monies Remaining				\$0.00

**THERE WERE NO GRANT MONIES AWARDED FOR THIS GRANT YEAR 2007-08**

**MWC Hospital Authority GRANT RECIPIENTS 2006-07**

<b>GRANT RECIPIENT</b>	<b>PURCHASE ITEM</b>	<b>AWARD AMOUNT</b>	<b>EXPENDITURES</b>	<b>MONEY RETURNED</b>	<b>BALANCE</b>
City of Midwest City	Nursing student housing stipend	\$36,000.00	\$26,062.78	\$9,937.22	\$0.00
City of Midwest City	Oklahoma Centennial Street Clock	\$40,000.00	\$40,000.00		\$0.00
Eastern Oklahoma County Tourism Council	Star Spangled Salute	\$85,884.26	\$85,884.26		\$0.00
Literacy Link	Health Literacy Initiative	\$1,510.00	\$1,507.02	\$2.98	\$0.00
Mid-Del Youth & Family Center, Inc.	Phase I - Emergency Children's Shelter	\$50,000.00	\$50,000.00		\$0.00
Midwest City Chamber of Commerce	2007 Youth Excel Leadership Program	\$5,000.00	\$4,422.05	\$577.95	\$0.00
Midwest City Martin Luther King Jr. Prayer Breakfast Comm, Inc.	Prayer Breakfast	\$6,000.00	6,000.00		\$0.00
Project Concern	Project Concern	\$20,605.74	\$20,605.74		\$0.00
Studio Mid-Del, Inc.	Construction to complete Community Arts Center	\$250,000.00	\$250,000.00		\$0.00
Tinker POW/MIA Committee	Construction Community POW/MIA Memorial	\$5,000.00	\$5,000.00		\$0.00
	Total Award Amount	\$500,000.00			
	Sub-Totals		\$489,481.85	\$10,518.15	\$0.00
	Grant Funds Available				\$500,000.00
	Total FY 06-07 Grant Expenditures				-\$489,481.85
	<b>Monies Returned to Hospital Authority Account</b>				<b>\$10,518.15</b>
	Total FY 06-07 Grant Monies Remaining				\$0.00

## MWC Hospital Authority GRANT RECIPIENTS 2005-06

GRANT RECIPIENT	PURCHASE ITEM	AWARD AMOUNT	EXPENDITURES	MONEY RETURNED	BALANCE
City of Midwest City/Animal Welfare	Veterinarian Assistance Program	\$12,000.00	\$11,970.00	\$30.00	\$0.00
City of Midwest City/Animal Welfare	Illuminated Signs	\$5,000.00	\$4,828.00	\$172.00	\$0.00
City of Midwest City/Animal Welfare	Roof for Facility	\$46,500.00	\$35,480.63	\$11,019.37	\$0.00
City of Midwest City/Com.Devel. Dept.	Consulting Services Development of Rail & Trail Master Plan	\$25,000.00	\$25,000.00		\$0.00
City of Midwest City/Com.Devel. Dept.	Review & Update City's Subdivision Regulations	\$15,000.00	\$15,000.00		\$0.00
City of Midwest City/Convention & Visitors Bureau	Sponsorship Assistance	\$10,000.00	\$10,000.00		\$0.00
City of Midwest City/Emergency Management	CERT Training & Response Supplies	\$5,000.00	5,000.00		\$0.00
City of Midwest City/Fire Department	Fire Hydrant Locator Reflectors	\$6,500.00	\$6,380.00	\$120.00	\$0.00
City of Midwest City/Golf (John Conrad)	Complete Concrete Curbs	\$27,500.00	\$27,500.00		\$0.00
City of Midwest City/Grants Management Dept.	MWC Juvenile Modification Camp	\$15,000.00	\$15,000.00		\$0.00
City of Midwest City/Parks & Rec Department	Electronic Message Sign - City Hall Complex	\$20,000.00	\$20,000.00		\$0.00
City of Midwest City/Police Department	Taser Conduct Energy Weapons, Simulator Suite & Taser Cartridges	\$19,095.50	\$19,084.28	\$11.22	\$0.00
City of Midwest City/Police Department	Digital Video Recorder & Cameras (Detective Division)	\$6,821.49	\$6,821.49		\$0.00
City of Midwest City/Police Department	Forensic Lab, CSI Vehicle	\$28,462.00	\$28,462.00		\$0.00
City of Midwest City/Street Department	Landscape & Irrigate Air Depot Blvd. from SE 15th to SE 29th	\$25,000.00	\$24,997.15	\$2.85	\$0.00
Eastern Oklahoma County Tourism Council	Star Spangled Salute Celebration	\$35,000.00	\$35,000.00		\$0.00
Heartline, Inc.	Central Oklahoma 2-1-1 Project Start-up Costs	\$25,000.00	\$25,000.00		\$0.00
Holiday Lights Spectacular, Inc.	Upgrade Electric Infrastructure & Refurbish Displays	\$25,000.00	\$25,000.00		\$0.00
Literacy Link	Educational Materials for Adult non-readers	\$3,000.00	\$3,000.00		\$0.00
Mid-Del Group Homes, Inc.	Delivery Truck	\$20,000.00	\$20,000.00		\$0.00
Mid-Del Public Schools Foundation	S.H.A.R.P. (Sequoyah books Help Accelerate Reading Progress)	\$1,840.00	\$1,501.68	\$338.32	\$0.00
Mid-Del Youth & Family Center, Inc.	Play Therapy Room	\$4,425.75	\$4,425.75		\$0.00
Midwest City Chamber of Commerce	Youth Excel	\$5,000.00	\$4,958.62	\$41.38	\$0.00
Midwest City MLK Jr. Prayer Breakfast Comm.	Annual Prayer Breakfast	\$6,000.00	\$6,000.00		\$0.00
Midwest City Rotary Club #5750	Rotary Pavilion (Regional Park) Water Fountain	\$11,000.00	\$10,942.71	\$57.29	\$0.00
Midwest City Tree Board	Landscape & Irrigate Phase 2 Reno Ave.	\$46,400.00	\$46,372.31	\$27.69	\$0.00
	Total Award Amount	\$449,544.74			
	Sub-Totals		\$437,724.62	\$11,820.12	\$0.00
	Grant Funds Available				\$449,544.74
	Total FY 05-06 Grant Expenditures				-\$437,724.62
	<b>Monies Returned to Hospital Authority Account</b>				<b>\$11,820.12</b>
	Total FY 05-06 Grant Monies Remaining				\$0.00

**MWC Hospital Authority GRANT RECIPIENTS 2004-05**

<b>GRANT RECIPIENT</b>	<b>PURCHASE ITEM</b>	<b>AWARD AMOUNT</b>	<b>EXPENDITURES</b>	<b>MONEY RETURNED</b>	<b>BALANCE</b>
City of Midwest City	Electronic Digital Sign	\$29,800.00	\$29,800.00		\$0.00
City of Midwest City/Convention & Visitors Bureau	Tourism Sponsorship Assistance	\$10,000.00	\$7,640.87	\$2,359.13	\$0.00
City of Midwest City/Devel. Services Dept.	Architectural & Engineering Services/Phase I MWC Community Outreach Center	\$40,000.00	\$40,000.00		\$0.00
City of Midwest City/Devel. Services Dept.	North Oaks Revitalization Plan	\$20,000.00	\$20,000.00		\$0.00
City of Midwest City/Devel. Services Dept.	Consulting Services/Zoning Ordinance & Subdivision Regulation Overhaul	\$25,000.00	\$25,000.00		\$0.00
City of Midwest City/Golf Course	Completion Concrete Cart Trails	\$33,000.00	\$32,456.19	\$543.81	\$0.00
City of Midwest City/Park Department	Reno Swim & Slide Irrigation and Landscape	\$49,388.00	\$49,388.00		\$0.00
City of Midwest City/Police Department	Fitness Equipment/Police Workout Room	\$20,497.24	\$20,490.00	\$7.24	\$0.00
Eastern Oklahoma County Tourism Council	Star Spangled Salute	\$35,000.00	\$35,000.00		\$0.00
Holiday Lights Spectacular, Inc.	Additional Light Displays & Upgrade Infrastructure	\$25,000.00	\$25,000.00		\$0.00
Junior Achievement of Greater Oklahoma City, Inc.	Investing in MWC Youth/JA Program Monroney JHS	\$1,000.00	\$1,000.00		\$0.00
Literacy Link, Inc.	Networking Hardware, Educational Software/Literacy Computer Lab	\$4,900.00	\$4,900.00		\$0.00
Mid-Del Food Pantry, Inc.	New Carpeting/Mid-Del Food Pantry	\$4,855.00	\$4,855.00		\$0.00
Mid-Del Group Homes, Inc.	8-Passenger Van/Disabled Transportation	\$20,000.00	\$19,046.65	\$953.35	\$0.00
Mid-Del Group Homes, Inc.	Replace Appliances Group Home	\$4,000.00	\$3,915.34	\$84.66	\$0.00
Mid-Del Public Schools Foundation	Children Reading Across Mid-Del (CRAM)	\$3,910.00	\$3,525.64	\$384.36	\$0.00
Mid-Del Schools	Stranger Danger	\$2,500.00	\$2,500.00		\$0.00
Mid-Del Youth and Family Center, Inc.	Van Purchase	\$12,000.00	\$12,000.00		\$0.00
Midwest City Chamber of Commerce	Youth Excel	\$4,500.00	\$4,500.00		\$0.00
Midwest City Chamber of Commerce	Reduce Loan on Building	\$25,000.00	\$25,000.00		\$0.00
Midwest City Martin Luther King Jr. Prayer Breakfast Committee	Annual Prayer Breakfast	\$5,000.00	\$5,000.00		\$0.00
Midwest City Optimist Club	Continued Development/Optimist Park	\$7,500.00	\$7,500.00		\$0.00
Midwest City Rotary Club #5750	Volleyball Court/MWC Regional Park/Renovation Project	\$15,000.00	\$14,045.79	\$954.21	\$0.00
Midwest City Tree Board	Reno Avenue Irrigation and Landscape	\$46,400.00	\$46,400.00		\$0.00
Project Woman Coalition, Inc.	Operation Outreach Midwest City/Breast Screening	\$8,724.76	\$8,724.76		\$0.00
Rose State College	Math & Science Workshops K-12	\$25,125.00	\$14,326.96	\$10,798.04	\$0.00
Tinker Inter-Tribal Council	Third Annual MWC Pow Wow	\$8,750.00	\$8,750.00		\$0.00
Tinker POW/MIA Committee	Construction Community POW/MIA Memorial	\$13,150.00	\$13,146.72	3.28	\$0.00
	Total Award Amount	\$500,000.00			
	Sub-Totals		\$483,911.92	\$16,088.08	\$0.00
	Grant Funds Available				\$500,000.00
	Total FY 04-05 Grant Expenditures				-\$483,911.92
	<b>Monies Returned to Hospital Authority Account</b>				<b>\$16,088.08</b>
	Total FY 04-05 Grant Monies Remaining				\$0.00

### MWC Hospital Authority GRANT RECIPIENTS 2003-04

GRANT RECIPIENT	PURCHASE ITEM	AWARD AMOUNT	EXPENDITURES	MONEY RETURNED	BALANCE
City of Midwest City/Animal Welfare Department	Pet Adoption Trailer	\$21,455.00	\$21,455.00		\$0.00
City of Midwest City/Municipal Court	Remodel Payment Counter/Lobby Revitalization	\$12,000.00	\$12,000.00		\$0.00
City of Midwest City/Neighborhood Services	Neighborhood Gatherings & Cleanup	\$20,000.00	\$19,994.46	\$5.54	\$0.00
City of Midwest City/Neighborhood Services	Operation Paint Brush	\$10,000.00	\$9,480.34	\$519.66	\$0.00
City of Midwest City/Police Department	Digital Cameras for CAO's	\$1,197.00	\$1,196.00	\$1.00	\$0.00
City of Midwest City/Police Department	Jail Entry Equipment	\$2,400.00	\$2,288.46	\$111.54	\$0.00
Contact Crisis Helpline, Inc.	24-hour Referral Hotline & Staff Program	\$10,000.00	\$10,000.00		\$0.00
Eastern Oklahoma County Tourism Council	Star Spangled Salute	\$30,000.00	7,223.47	\$22,776.53	\$0.00
Holiday Lights Spectacular	Holiday Lights Display	\$25,000.00	\$25,000.00		\$0.00
Leukemia & Lymphoma Society	Patient Services Eastern Oklahoma County	\$5,000.00	\$5,000.00		\$0.00
Literacy Link	Educational Materials	\$2,464.00	\$2,464.00		\$0.00
Mid-Del Technology Center	Electric Vehicle Demonstration	\$854.85	\$854.85		\$0.00
Mid-Del Youth & Family Center, Inc.	Garden Shed, Mower & Equipment	\$6,200.00	\$6,200.00		\$0.00
Midwest City Chamber of Commerce	Youth Excel Leadership Program	\$4,000.00	\$4,000.00		\$0.00
Midwest City Chamber of Commerce	Complete & Construct New Facility	\$50,000.00	\$50,000.00		\$0.00
Midwest City Dr. M.L. King Jr. Prayer Breakfast Committee	Annual Prayer Breakfast	\$5,000.00	\$5,000.00		\$0.00
Midwest City Dr. M.L. King Jr. Prayer Breakfast Committee	Diversity Workshops	\$3,950.00	\$3,894.00	\$56.00	\$0.00
Midwest City High School/DECA	MWC High Flower Power Project	\$2,339.15	\$2,282.59	\$56.56	\$0.00
Midwest City Kiwanis Club	Repair & Replace Pavilion Roof	\$26,000.00	\$25,485.00	\$515.00	\$0.00
Midwest City Optimist Club	Add Development Optimist Park	\$10,000.00	\$10,000.00		\$0.00
Midwest City Public Art Board	ARTOklahoma 2004	\$2,140.00	\$1,687.35	\$452.65	\$0.00
	Total Award Amount	\$250,000.00			
	Sub-Totals		\$225,505.52	\$24,494.48	\$0.00
	Grant Funds Available				\$250,000.00
	Total FY 03-04 Grant Expenditures				-\$225,505.52
	<b>Monies Returned to Hospital Authority Account</b>				<b>\$24,494.48</b>
	Total FY 03-04 Grant Monies Remaining				\$0.00

**MWC Hospital Authority GRANT RECIPIENTS 2002-03**

<b>GRANT RECIPIENT</b>	<b>PURCHASE ITEM</b>	<b>AWARD AMOUNT</b>	<b>EXPENDITURES</b>	<b>MONEY RETURNED</b>	<b>BALANCE</b>
Choctaw Park Foundation	Veterans Memorial @ Choctaw	\$5,000.00	\$5,000.00		\$0.00
City of Midwest City/Development Services Dept.	Comprehensive Plan	\$50,000.00	\$50,000.00		\$0.00
City of Midwest City/Fire Department	Risk Watch Program	\$10,860.39	\$10,860.39		\$0.00
City of Midwest City/Fire Department	Thermal Imaging Camera	\$25,800.00	\$25,800.00		\$0.00
City of Midwest City/Fire Department	Rapid Intervention System	\$4,500.00	\$4,500.00		\$0.00
City of Midwest City/Grants Management Division	Weed & Seed Program	\$25,000.00	\$25,000.00		\$0.00
City of Midwest City/Grants Management Division	Business Incentive Program	\$107,328.76	107,328.76		\$0.00
City of Midwest City/Neighborhood Services Dept.	Operation Paintbrush	\$10,000.00	\$10,000.00		\$0.00
City of Midwest City/Neighborhood Services Dept.	Neighborhood Gatherings & Cleanups	\$20,000.00	\$20,000.00		\$0.00
City of Midwest City/Street Department	Crutch Creek Nature Trail Bridge	\$25,000.00	\$17,177.77	\$7,822.23	\$0.00
Crutch Public Schools	MWC Waterline Project	\$20,460.85	\$20,460.85		\$0.00
Del City Chamber of Commerce	Del Quest Program	\$3,400.00	\$3,400.00		\$0.00
Holiday Lights Spectacular, Inc.	Displays, Tree Wraps, etc.	\$25,000.00	\$25,000.00		\$0.00
Literacy Link	Books, Office Equipment	\$3,040.00	\$3,040.00		\$0.00
Mid-Del Schools	Great Expectations Program	\$25,000.00	\$24,424.47	\$575.53	\$0.00
Mid-Del Schools	Stranger Danger Program	\$5,310.00	\$5,310.00		\$0.00
Mid-Del Youth & Family Center, Inc.	Four (4) Computers	\$2,800.00	\$2,790.40	\$9.60	\$0.00
Midwest City Chamber of Commerce	Youth Excel Program	\$2,000.00	\$2,000.00		\$0.00
Midwest City Community Playground Project	Replace Aging Playground Equipment/Regional Park	\$75,000.00	\$75,000.00		\$0.00
Midwest City Martin Luther King Jr. Prayer Breakfast Committee	Prayer Breakfast	\$5,000.00	\$5,000.00		\$0.00
Midwest City Martin Luther King Jr. Prayer Breakfast Committee	Workshops	\$3,500.00	\$951.90	\$2,548.10	\$0.00
Midwest City Public Art Board	ART Oklahoma 2003	\$3,000.00	\$2,940.22	\$59.78	\$0.00
Midwest City Public Library	Large Print Materials & Shelving	\$3,000.00	\$3,000.00		\$0.00
Midwest City Rotary Club	Renovate Rotary Pavilion/Regional Park	\$35,000.00	\$30,211.42	\$4,788.58	\$0.00
Tinker Inter-Tribal Council	Establish Annual MWC Pow Wow	\$5,000.00	\$5,000.00		\$0.00
	Total Award Amount	\$500,000.00			
	Sub-Totals		\$484,196.18	\$15,803.82	\$0.00
					\$500,000.00
	Total FY 02-03 Grant Expenditures				-\$484,196.18
	<b>Monies Returned to Hospital Authority Account</b>				<b>\$15,803.82</b>
	Total FY 02-03 Grant Monies Remaining				\$0.00



### MWC Hospital Authority GRANT RECIPIENTS 2001-02

GRANT RECIPIENT	PURCHASE ITEM	AWARD AMOUNT	EXPENDITURES	MONEY RETURNED	BALANCE
City of Midwest City/EOC	Lightning Protection for 8 Sirens	\$11,385.00	\$9,604.00	\$1,781.00	\$0.00
City of Midwest City/Fire Department	Hazardous Material Training	\$32,191.03	\$32,191.03		\$0.00
City of Midwest City/John Conrad Golf Course	Modernization of Golf Course	\$10,000.00	\$7,877.13	\$2,122.87	\$0.00
City of Midwest City/MIS	Network/Overhead Projector	\$17,400.00	\$17,400.00		\$0.00
City of Midwest City/Neighborhood Services Dept.	Operation Paintbrush	\$7,500.00	\$7,326.74	\$173.26	\$0.00
City of Midwest City/Neighborhood Services Dept.	Neighborhood Gatherings & Cleanups	\$20,000.00	\$19,917.72	\$82.28	\$0.00
City of Midwest City/PWA	Fitness Program	\$21,000.00	\$18,361.27	\$2,638.73	\$0.00
Crutcho Public Schools	MWC Water Line Installation	\$12,119.15	\$12,119.15		\$0.00
Holiday Lights Spectacular, Inc.	Upgrade Electrical System	\$40,000.00	\$40,000.00		\$0.00
Holy Family Name/Catholic Charities	Stove Hood & Fence	\$13,527.00	\$13,527.00		\$0.00
Literacy Link	Books, Office Equipment	\$2,303.80	\$2,303.80		\$0.00
Martin Luther King Jr. Prayer Breakfast Committee	Prayer Breakfast	\$5,000.00	\$5,000.00		\$0.00
Mid-Del Group Homes, Inc.	Pallet Jacket	\$500.00	\$381.63	\$118.37	\$0.00
Mid-Del Group Homes, Inc.	Building Addition	\$50,000.00	\$50,000.00		\$0.00
Mid-Del Schools	Senior Link Program	\$9,877.00	\$9,224.18	\$652.82	\$0.00
Mid-Del Schools	Great Expectations Program	\$25,000.00	\$24,944.10	\$55.90	\$0.00
Mid-Del Youth & Family Center, Inc.	Nit Medical Supplies	\$405.00	\$405.00		\$0.00
Mid-Del Youth & Family Center, Inc.	Loss Prevention WIA Youth Dev. Program	\$737.00	\$737.00		\$0.00
Mid-Del Youth & Family Center, Inc.	Replace Roof Children's Shelter	\$9,306.46	\$9,306.46		\$0.00
Midwest Choral Society, Inc.	2002 Concert Performances	\$1,000.00	\$1,000.00		\$0.00
Midwest City Chamber of Commerce	Youth Excel	\$2,000.00	\$2,000.00		\$0.00
Midwest City Chamber of Commerce	Construct New Facility	\$50,000.00	\$50,000.00		\$0.00
Midwest City Kiwanis Club	Landscaping Improvements Kiwanis Park	\$9,459.56	\$9,459.56		\$0.00
Midwest City Public Art Board	Tents, etc., ARTOklahoma Event	\$9,875.00	\$9,875.00		\$0.00
Midwest City Public Library	Signage for Entranceways	\$10,015.00	\$8,863.30	\$1,151.70	\$0.00
Midwest City Rotary Club #5750	U.S. Flag Project	\$15,000.00	\$14,664.79	\$335.21	\$0.00
Mission Mid-Del, Inc.	15-Passenger Van	\$24,000.00	\$24,000.00		\$0.00
Retired Senior Volunteer Program Central Oklahoma, Inc.	Blues Program	\$9,600.00	\$9,600.00		\$0.00
Studio Mid-Del, Inc.	Construct Facility	\$50,000.00	\$50,000.00		\$0.00
YWCA of Oklahoma City	SANE Program	\$30,799.00	\$30,799.00		\$0.00
	Total Award Amount	\$500,000.00			
	Sub-Totals		\$490,887.86	\$9,112.14	\$0.00
					\$500,000.00
	Total FY 01-02 Grant Expenditures				-\$490,887.86
	<b>Monies Returned to Hospital Authority Account</b>				<b>\$9,112.14</b>
	Total FY 01-02 Grant Monies Remaining				\$0.00

**MWC Hospital Authority GRANT RECIPIENTS 2000-01**

<b>GRANT RECIPIENT</b>	<b>PURCHASE ITEM</b>	<b>AWARD AMOUNT</b>	<b>EXPENDITURES</b>	<b>MONEY RETURNED</b>	<b>BALANCE</b>
Catholic Charities/Holy Family Name	Van	\$10,000.00	\$10,000.00		\$0.00
Central Oklahoma Habitat for Humanity	Construct 10 homes	\$70,000.00	\$70,000.00		\$0.00
City of Midwest City/Fire Department	Pulse Oximetry, etc.	\$6,472.50	\$6,465.25	\$7.25	\$0.00
City of Midwest City/Fire Department	Fire Safety Libraries (10)	\$3,000.00	\$2,999.56	\$0.44	\$0.00
City of Midwest City/John Conrad Golf Course	Clubhouse Upgrade	\$85,000.00	\$85,000.00		\$0.00
City of Midwest City/Municipal Golf Course	Gazebos	\$12,900.00	\$12,900.00		\$0.00
City of Midwest City/Neighborhood Services	Operation Paintbrush	\$7,500.00	7,283.55	\$216.45	\$0.00
City of Midwest City/Police Department	Audio/Recorders/Equipment for Jail	\$4,092.50	\$4,092.50		\$0.00
City of Midwest City/Police Department	Camera/Microphone/Equipment for Jail	\$5,218.60	\$5,177.05	\$41.55	\$0.00
City of Midwest City/Police Department	Mats/Physical Skills Employee Training	\$2,400.00	\$2,148.33	\$251.67	\$0.00
City of Midwest City/Police Department	Sexual Assault Nurse Examiner (SANE)	\$18,345.00	\$0.00	\$18,345.00	\$0.00
City of Midwest City/Police Department	Voice Messaging Notification System	\$27,400.00	\$26,816.98	\$583.02	\$0.00
City of Midwest City/Soldier Creek Nature Trail	South Trail Upgrade w/Hard Surface	\$23,400.00	\$23,400.00		\$0.00
City of Midwest City/Soldier Creek Nature Trail	Bird Watcher's Lane	\$9,466.76	\$7,613.95	\$1,852.81	\$0.00
City of Midwest City/Street Department	Tree Spade	\$18,100.00	\$18,100.00		\$0.00
Holiday Lights Spectacular, Inc.	Upgrade Electric System	\$25,000.00	\$25,000.00		\$0.00
Literacy Link	Reading & Writing Materials	\$3,008.04	\$3,008.04		\$0.00
Mid-Del Congress of Parents & Teachers	Clothing Room	\$2,000.00	\$2,000.00		\$0.00
Mid-Del Group Homes, Inc.	Forklift	\$10,000.00	\$9,804.45	\$195.55	\$0.00
Mid-Del Schools Academic Center	Outdoor Classroom	\$5,840.00	\$5,840.00		\$0.00
Mid-Del Technology Center	Neighborhood Electric Vehicle Demo. Project	\$7,108.00	\$7,108.00		\$0.00
Mid-Del Youth & Family Center, Inc.	Computer	\$1,457.83	\$1,457.83		\$0.00
Mid-Del Youth & Family Center, Inc.	Safe Place Program	\$6,190.53	\$2,840.98	\$3,349.55	\$0.00
Mid-Del Youth & Family Center, Inc.	Curriculum Second Step Program	\$505.00	\$505.00		\$0.00
Mid-Del Youth & Family Center, Inc.	Storage Building	\$2,443.18	\$2,418.76	\$24.42	\$0.00
Mid-Del Youth & Family Center, Inc.	Type and Talk Translator	\$378.26	\$0.00	\$378.26	\$0.00
Mid-Del Youth & Family Center, Inc.	Prevention Youth Violence Program	\$1,985.00	\$0.00	\$1,985.00	\$0.00
Midwest City High School Museum, Inc.	Museum	\$10,000.00	\$10,000.00		\$0.00
Midwest City Tree Board	Irrigation system/Adair Boulevard median	\$38,878.80	\$38,789.95	\$88.85	\$0.00
MWC Martin Luther King Jr. Prayer Breakfast Comm.	Prayer Breakfast	\$5,000.00	\$5,000.00		\$0.00
OK Country Soccer Club	Marquee signs (2), additional seating & benches	\$18,910.00	\$18,910.00		\$0.00
Studio Mid-Del, Inc.	Build New Facility	\$50,000.00	\$50,000.00		\$0.00
United Scottish Clans of Oklahoma, Inc.	United Scottish Clans Festival	\$8,000.00	\$8,000.00		\$0.00
	Total Award Amount	\$500,000.00			
	Sub-Totals		\$472,680.18	\$27,319.82	\$0.00
	Grant Funds Available				\$500,000.00
	Total FY 00-01 Grant Expenditures				-\$472,680.18
	<b>Monies Returned to Hospital Authority Account</b>				<b>\$27,319.82</b>
	Total FY 00-01 Grant Monies Remaining				0.00

**MWC HOSPITAL AUTHORITY GRANT RECIPIENTS FY 1999-00**

<b>GRANT RECIPIENT</b>	<b>PURCHASE ITEM</b>	<b>AWARD AMOUNT</b>	<b>EXPENDITURES</b>	<b>MONEY RETURNED</b>	<b>BALANCE</b>
Central Okla. Habitat for Humanity	Construct 8 houses	\$56,000.00	\$56,000.00		\$0.00
City of Midwest City	Irrigation system	\$30,000.00	\$30,000.00		\$0.00
City of Midwest City/EOC	Replace 8 emergency warning sirens	\$58,440.00	\$58,440.00		\$0.00
City of Midwest City/Fire Department	Directional Arrow Bar	\$7,456.00	\$7,448.71	\$7.29	\$0.00
City of Midwest City/Holiday Lights Spectacular	Holiday Display	\$791.27	\$791.27		\$0.00
City of Midwest City/Holiday Lights Spectacular	Storage Building	\$40,000.00	\$40,000.00		\$0.00
City of Midwest City/MIS Department	WAN/LAN Computer Interface	\$48,000.00	\$43,833.74	\$4,166.26	\$0.00
City of Midwest City/Parks & Recreation	Pavilion/restroom Project	\$99,310.00	\$99,310.00		\$0.00
City of Midwest City/Police Department	12 sets Turbo Flares	\$5,548.20	\$5,548.20		\$0.00
City of Midwest City/Soldier Creek Nature Trail	Present Trail enhancements	\$40,750.00	\$40,750.00		\$0.00
Literacy Link	Reading & writing materials	\$2,446.53	\$2,446.53		\$0.00
Mid-Del Group Homes	Van	\$12,500.00	\$12,500.00		\$0.00
Mid-Del Public Schools Foundation, Inc.	Biology/Math project	\$4,500.00	\$4,500.00		\$0.00
Mid-Del Youth & Family Center, Inc.	Replace 3 sofas Children's Shelter	\$600.00	\$600.00		\$0.00
Mid-Del Youth & Family Center, Inc.	Replace various appliances Children's Shelter	\$4,553.00	\$4,553.00		\$0.00
Mid-Del Youth & Family Center, Inc.	Network/juvenile offenders	\$6,605.00	\$6,605.00		\$0.00
Midwest City Amateur Athletic Assoc.	Boxing facility	\$48,000.00	\$0.00	\$48,000.00	\$0.00
Midwest City Chamber of Commerce	Business/Industrial Park	\$25,000.00	\$0.00	\$25,000.00	\$0.00
Midwest City Chamber of Commerce	Youth Excel Program	\$1,500.00	\$1,500.00		\$0.00
United Scottish Clans of Oklahoma	United Scottish Clans Festival	\$8,000.00	\$8,000.00		\$0.00
	Total Award Amount	\$500,000.00			
	Sub-Totals		\$422,826.45	\$77,173.55	\$0.00
	Grant Funds Available				\$500,000.00
	Total FY 99-00 Grant Expenditures				-\$422,826.45
	<b>Monies Returned to Hospital Authority Account</b>				<b>\$77,173.55</b>
	Total FY 99-00 Grant Monies Remaining				0.00

### MWC Hospital Authority GRANT RECIPIENTS 1998-99

GRANT RECIPIENT	PURCHASE ITEM	AWARD AMOUNT	EXPENDITURES	MONEY RETURNED	BALANCE
MWC	Downtown Development	\$50,000.00	\$50,000.00		\$0.00
MWC Fire Department	Projector	\$7,281.00	\$7,487.82		\$0.00
MWC Fire Department	Infrared Camera	\$20,805.00	\$20,186.99	\$411.19	\$0.00
MWC John Conrad Golf Course	Irrigation System	\$55,000.00	\$55,000.00		\$0.00
MWC Municipal Golf Course	Fencing, Carpet	\$19,020.00	\$19,020.00		\$0.00
MWC Soldier Creek	Nature Trail	\$28,103.00	\$23,986.08	\$4,116.92	\$0.00
Holiday Lights Spectacular	Light Display	\$15,000.00	\$15,000.00		\$0.00
MWC Senior Advisory Committee	Van	\$40,000.00	\$40,000.00		\$0.00
Associated Catholic Charities	Holy Family Home	\$25,000.00	\$25,000.00		\$0.00
Autumn House	Van	\$26,452.00	\$26,452.00		\$0.00
Carl Albert High School	Visual Arts Equipment	\$1,536.00	\$1,536.00		\$0.00
Central Oklahoma Habitat for Humanity	Homes built in MWC	\$20,000.00	\$20,000.00		\$0.00
Communication Connection "Dog Ears"	2 Dogs & Training for Hearing Impaired	\$6,800.00	\$5,894.16	\$905.84	\$0.00
Literacy Link	Printer, educational material (books)	\$3,658.00	\$3,658.00		\$0.00
Mid-Del PTA Council	Clothing	\$2,000.00	\$2,000.00		\$0.00
Mid-Del Schools	Youth/Senior Citizens	\$12,894.00	\$12,894.00		\$0.00
Mid-Del Youth & Family	Carpet, etc.	\$7,950.00	\$7,950.00		\$0.00
Mid-Del Youth & Family	Storm Shelter	\$4,600.00	\$4,600.00		\$0.00
Mid-Del Youth & Family	Building Renovation	\$11,605.00	\$11,605.00		\$0.00
Midwest City Choral Society	Musicians, etc.	\$3,800.00	\$3,800.00		\$0.00
MWC MLK Jr. Prayer Breakfast Committee	Prayer Breakfast	\$4,000.00	\$4,000.00		\$0.00
OMNI Neighborhood Assoc.	Playground	\$10,000.00	\$9,926.63	\$73.37	\$0.00
Optimist Club	Park	\$10,000.00	\$10,000.00		\$0.00
United Scottish Clans of Oklahoma	Festival	\$7,000.00	\$7,000.00		\$0.00
	Total Award Amount	\$392,504.00			
	Sub-Totals		\$386,996.68	\$5,507.32	\$0.00
					\$392,504.00
	Total FY 98-99 Grant Expenditure				-\$386,996.68
	<b>Monies Returned to Hospital Authority Account</b>				<b>\$5,507.32</b>
	Total FY 98-99 Grant Monies Remaining				\$0.00



SOS



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**AMENDED AND RESTATED  
TRUST INDENTURE**

KNOW ALL BY THESE PRESENTS:

THIS AMENDMENT AND RESTATEMENT OF THE ORIGINAL TRUST INDENTURE dated as of the 1st day of July, 1961, hereinafter referred to as the "Original Trust Indenture," by the MIDWEST CITY CHAMBER OF COMMERCE, a corporation duly organized under the laws of the State of Oklahoma, hereinafter referred to as the "Trustor," and ORIN A. KIMBALL, CLAUDE R. RIGSBY, TOM C. PLEDGER, LLOYD A. SCHANTZ and FRED D. RYAN, JR., being citizens and residents of Midwest City, comprising the then-City Council of the City of Midwest City, Oklahoma, as trustees of this Trust,

W I T N E S S E T H:

THAT in consideration of the payment by the Trustor to the Trustees of the sum of one dollar (\$1), receipt of which was then acknowledged, the mutual covenants set forth in the Original Trust Indenture and other valuable consideration, the Trustees agreed to hold, manage, invest, assign, convey and distribute as provided, authorized and directed in the Original Trust Indenture such property as the Trustor, or others, may have from time to time assigned, transferred, leased, conveyed, given, bequeathed, devised or delivered unto this Trust to have and to hold such property and the proceeds, rents, profits and increases thereof in trust, for the use and benefit of the City of Midwest City, Oklahoma, hereinafter referred to as the "Beneficiary," and upon the following terms and conditions:

ARTICLE I  
CREATION OF TRUST

(1) This Trust was originally formed to create and establish a trust for the use and benefit of the Beneficiary to finance, operate, construct and administer hospital facilities, and for the public purposes set forth in the Original Trust Indenture, under the provisions of Title 60, Oklahoma Statutes 1951, Sections 176 to 180, inclusive, as amended by Title 60, Chapter 4, Oklahoma Sessions Laws 1953, the Oklahoma Trust Act and other applicable statutes of the State of Oklahoma. This Trust is now amended under the provisions of Oklahoma Statutes, Title 60, Chapter 4, Trusts for Furtherance of Public Functions, the Oklahoma Trust Act and any other law written specifically to create or govern the affairs of a public trust (together, as amended, the "Acts") to create and establish a trust for the use and benefit of the Beneficiary to finance, operate, construct and administer hospital facilities, and for the public purposes set forth in the Acts and the Original Trust Indenture.

(2) This Trust was not created and shall not be operated for pecuniary profit, nor shall it have any power to issue certificates of stock or declare dividends. No part of its net earnings shall inure to the benefit of or be distributable to any member, Trustee, officer or individual, except that this Trust shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and

distributions in furtherance of this Trust's purposes as set forth in this Amended Trust Indenture.

## ARTICLE II

### NAME OF TRUST

The name of this Trust shall be "MIDWEST CITY MEMORIAL HOSPITAL AUTHORITY," hereinafter referred to as this "Trust." The Trustees shall conduct all business and execute all instruments, and otherwise perform the duties and functions required in the execution of this Trust.

## ARTICLE III

### PURPOSES OF TRUST

(1) The purposes of this Trust are:

(a) To furnish and supply to the inhabitants, owners and occupants of property, and to industrial, commercial and mercantile establishments and enterprises within the corporate limits of the Beneficiary and in territory in reasonably convenient proximity thereto, and to the Beneficiary and any other governmental agencies or endeavors, services and facilities for the conservation and implementation of the public welfare and protection and promotion of public health, for all purposes that the same be authorized and proper as a function of the Beneficiary; and to fix, demand and collect charges, rates and fees for any services



and/or facilities provided to the same extent as the Beneficiary itself might do provided that the furnishing of any services or facilities to any person delinquent in the payment of any indebtedness whatsoever to this Trust may be discontinued at any time; for the furtherance of the greater convenience and welfare of the Beneficiary and the inhabitants thereof, to provide and/or to aid in providing and/or to participate in providing to the United States of America, the State of Oklahoma, the Beneficiary, the county or counties in which the Beneficiary is located, the school district and/or districts included, in whole or in part, within the limits of the Beneficiary, and/or any agency or instrumentality of any of them, or to any one or more of them, facilities and/or services of any and/or all kinds necessary or convenient for the authorized and proper functioning thereof; and to hold, maintain and administer any leasehold rights in and to properties of the Beneficiary demised to this Trust, and to comply with the terms and conditions of any lease providing said rights;

(b) To acquire by lease, purchase or otherwise, and to hold, construct, install, equip, repair, enlarge, furnish, maintain and operate, or otherwise deal with, any and all physical properties and facilities necessary or convenient for utilization in .

executing or promoting this Trust's purposes, or any of them; to lease, rent, furnish, provide, relinquish, sell or otherwise dispose of, or otherwise make provision for, any or all of said properties and facilities either in execution of any of this Trust's purposes or in the event that any of this Trust's purposes or in the event that any of this Trust's physical properties and facilities shall no longer be necessary or convenient to execute or promote this Trust's purposes;

(c) To provide funds for the cost of financing, acquiring, constructing, purchasing, equipping, maintaining, repairing, improving, extending, enlarging, remodeling, operating and administering any or all of this Trust's services, buildings and facilities, and all properties necessary or convenient for executing and fulfilling this Trust's purposes, and all other charges, costs and expenses necessarily incurred in connection therewith and, in so doing, to incur indebtedness, either unsecured or secured by all or any part of the Trust Estate and its revenues;

(d) To expend all funds coming into this Trust as revenue or otherwise for the payment of any indebtedness incurred by this Trust, and in the payment of the aforesaid costs and expenses, and in payment of any other obligation properly chargeable against the Trust

Estate, and to distribute the residue and remainder of such funds to the Beneficiary upon termination of this Trust in accordance with Article IX of this Amended Trust Indenture. The only funds of this Trust to which the previous provisions of this subparagraph shall not apply are those in the principal amount of approximately \$46 million, hereinafter referred to as the "Principal," that came into this Trust as a result of the lease and/or sale of this Trust's real and personal property. The Principal and all capital gains and all income of any nature or kind earned from the Principal and all previous years' capital gains and all income of any nature or kind earned from the Principal shall hereinafter be referred to as the "Compounded Principal." The Compounded Principal, less and except two percent (2%) of the market value of the Compounded Principal as of June 30 each year, shall be segregated and set apart, and shall not be spent for any reason except in the event that (1) the lease of the real property to Health Management Associates, Inc. and Midwest City HMA, Inc. terminates prematurely prior to the end of the lease and this Trust regains the operation and control of the leased property; or (2) an affirmative vote of a majority of the electors in the city of Midwest City expressed during a public election, duly called as required by law, authorizes an

expenditure of all or any portion of the Compounded Principal for a specific public or governmental purpose or purposes and authorized and proper Trust function indicated on the ballot submitted at such an election. The two percent (2%) of the market value of the Compounded Principal excluded from the Compounded Principal each year, hereinafter referred to as the "Discretionary Funds," shall be available for distribution each year as grants, for other expenditures and/or to be otherwise designated at the Trustees' sole discretion, subject to the restriction contained in this Amended Trust Indenture. The Trustees may distribute or expend all or any portion of the Discretionary Funds as the Trustees may deem prudent or may make no distribution or expenditure of the Discretionary Funds at all. Undesignated Discretionary Funds shall be accumulated for use in subsequent years, provided grants from the Discretionary Funds are used for authorized and proper functions of the Beneficiary and follow the required channel of grant applications as set out in this Amended Trust Indenture;

(e) To seek, request, apply for and receive grants, gifts and donations, either in money or property, from any individual, entity, agency, corporation or organization by gift, devise, bequest or otherwise, absolutely or in trust, and to use the

principal and/or income from them, as may be directed by the grantor of the funds or property, in the furtherance of any authorized and proper essential governmental function; and

(f) To perform any other authorized and proper essential governmental function or act permitted by law to be performed by public trusts in the state of Oklahoma.

(2) (a) In no event shall any of the funds or property of this Trust be used for or to replace or supplant any existing recurring operating expenses or personal property needs of the Beneficiary or any other entity other than this Trust. This shall not preclude the Beneficiary or any other entity from requesting that this Trust make a grant or expenditure of funds or property from this Trust for initial or single occurrence expenses or projects. "Recurring operating expenses or personal property needs" shall be expenses or personal property needs such as maintenance or upkeep costs, supplies, salaries, wages, salary or wage adjustments, bonuses and general operating costs.

(b) Grants for the acquisition of, improvement to or enhancement of property shall be limited to properties or improvements or enhancements to properties that have an expected useful life of greater than twenty (20) years.

ARTICLE IV

DURATION OF TRUST

This Trust shall exist for so long as the Beneficiary exists and until such time as its purposes shall have been fulfilled, or until it shall be terminated as hereinafter provided.

ARTICLE V

THE TRUST ESTATE

The Trust Estate shall consist of:

(1) The funds and property, and any income therefrom, except the Compounded Principal:

(a) Presently owned by this Trust or to be acquired or constructed by this Trust; and

(b) Dedicated by the Trustor and others to be used for this Trust's purposes;

(2) Any and all money, property, contracts, leases, licenses, franchises, benefits and all other things of value coming into the possession of this Trust pursuant to the provisions of this Amended Trust Indenture; and

(3) Any and all money and leasehold rights remised to this Trust by the Beneficiary as authorized and empowered by law.

ARTICLE VI

THE TRUSTEES

(1) The Trustees of this Trust shall be the same persons who are the Mayor and members of the City Council, or any successor governing body that may replace the Mayor and City Council in the future, of the Beneficiary, hereinafter and previously referred to as the "Trustees" or, interchangeably, as this "Trust," and shall remain as Trustees until such person or persons shall have been succeeded and replaced by some other person or persons as Mayor and members of the City Council of the Beneficiary, and such latter person or persons shall without any further act or deed automatically become Trustees of this Trust. To assist the Trustees in their administration of this Trust, there shall be an advisory board which shall be known as the Trust Board of Grantors, hereinafter referred to as the "Board," and which shall consist of nine members. The Trustor shall appoint two members of the Board and the Trustees shall appoint seven members of the Board. The Board shall perform various functions assigned to it by the Trustees including accepting and reviewing grant applications. All funds expended from the Discretionary Funds shall be processed through the Board by the grant application process except those determined by the Trustees to be necessary for the administration of this Trust. The Board will send its funding recommendations to the Trustees. In the event the Trustees reject any or all of the funding recommenda-



tions of the Board, the Board shall, at the request of the Trustees, review and submit additional funding recommendations.

(2) The person who shall be the Mayor of the Beneficiary shall automatically become the Chairman of the Trustees and shall preside at all meetings and perform other duties designated by the Trustees. The person who shall be the Vice Mayor of the Beneficiary shall be automatically the Vice Chairman of the Trustees and preside in event of the absence of the Chairman, and shall, in the absence of the Chairman, perform all duties designated to be performed by the Chairman. The Trustees shall designate the time and place of all regular meetings. All actions by this Trust pursuant to the provisions of this Amended Trust Indenture shall be approved by the affirmative vote of at least a majority of the Trustees qualified to act as such under the provisions of this Amended Trust Indenture.

(3) The person who shall be the City Clerk of the Beneficiary shall act as Secretary of this Trust. The Secretary shall keep minutes of all meetings of the Trustees and shall maintain complete and accurate records of all of this Trust's financial transactions. All minutes, books and records of this Trust shall be on file in the office of the Secretary. All meetings of the Trustees shall be open to the public, and the books, records and minutes of this Trust shall be considered as public records and available for inspection at all times by any interested party.

(4) The person who shall be the City Attorney of the Beneficiary may act as attorney for this Trust. The attorney shall attend all meetings of the Trustees and shall provide them with legal advice. The attorney shall also represent this Trust in all of its legal matters to ensure that its legal interests are appropriately protected.

(5) The Trustees may appoint a general manager or administrator for this Trust, and may employ such other clerical, professional, legal and technical assistance as may be deemed necessary in the discretion of the Trustees to properly operate the business of this Trust, and may fix such employees' duties, terms of employment and compensation. Any such employee may be a person who shall be an officer or employee of the Beneficiary, in which event such officer or employee may receive compensation from this Trust. In the event a general manager or administrator for this Trust is appointed by the Trustees, the general manager or administrator shall administer the business of this Trust as directed from time to time by the Trustees. All Trustees shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their duties hereunder.

(6) The Trustees are authorized to contract, in connection with the incurring of any funded indebtedness secured by the Trust Estate and/or its revenues, or any part of either or both, in the event of a default in the fulfillment of any contract obligation undertaken on behalf of this Trust or in the payment of any indebtedness incurred on behalf of this Trust,

that a temporary trustee or trustees shall be appointed to succeed to the rights, powers and duties of the Trustees then in office. Any contract, if made, shall set out the terms and conditions under which such temporary trustee or trustees shall be appointed and operate this Trust, and provide for compensation to be paid, and appointment to be vacated and the Trustees to be automatically reinstated upon termination of all defaults by which the appointment of the temporary trustee or trustees was authorized.

(7) Bonds or other evidences of indebtedness to be issued by this Trust shall not constitute an indebtedness of the State of Oklahoma, nor of the Beneficiary, nor personal obligations of the Trustees of this Trust, but shall constitute obligations payable solely from the Trust Estate.

(8) The Trustees, the State of Oklahoma and the Beneficiary shall not be charged personally with any liability whatsoever by reason of any act or omission committed or suffered in good faith or in the exercise of their honest discretion in the execution, performance or operation of this Trust; but any act or liability for any omission or obligation of the Trustees in the execution, performance or operation of this Trust shall extend to the whole of the Trust Estate or so much thereof as may be necessary to discharge such liability or obligation.

(9) Notwithstanding any other provision of this Amended Trust Indenture which shall appear to provide otherwise, no Trustee or Trustees shall have the power or authority to bind

or obligate any other Trustee, or the Beneficiary, in his/her or its capacity, nor can the Beneficiary bind or obligate this Trust or any individual Trustee.

## ARTICLE VII

### POWERS AND DUTIES OF THE TRUSTEES

(1) To accomplish the purposes of this Trust, and subject to the provisions and limitations otherwise provided in this Amended Trust Indenture, the Trustees shall have, in addition to the usual powers incident to their office and the powers granted to them in other parts of this Amended Trust Indenture, the following rights, powers, duties, authority, discretion and privileges, all of which may be exercised by them without any order or authority from any court:

(a) To finance, acquire, establish, develop, construct, enlarge, improve, extend, maintain, equip, operate, lease, furnish, provide, supply, regulate, hold, store and administer anything in the Trust Estate and the Compounded Principal, subject to the limitations contained in this Amended Trust Indenture, as the Trustees shall determine necessary for the benefit and development of the Beneficiary;

(b) To enter into contracts for the acquisition of equipment and supplies, and construction of necessary or convenient facilities authorized to be acquired and constructed pursuant to and in compliance with the

terms of this Amended Trust Indenture; provided, however, that:

(i) The Trustees shall be subject to the same limitations, and shall comply with the requirements of Oklahoma law imposed, upon the Beneficiary in relation to contracts for construction and the acquisition of equipment, materials and supplies; and

(ii) The Trustees may reject all bids and readvertise for bids or may enter into a contract or contracts with a responsible bidder or bidders who, in the opinion of the Trustees, shall offer the terms deemed most favorable to this Trust. All bidders to whom any contract for any purpose is let shall be financially responsible and bear a good reputation in the industry. The Trustees may prescribe such bidding qualifications as they deem necessary and desirable;

(c) To enter into contracts for the sale of bonds, notes or other evidences of indebtedness or obligations of this Trust for the purpose of acquiring or constructing works and facilities authorized to be acquired or constructed pursuant to the terms of this Amended Trust Indenture and for those purposes may:

(i) Employ a financial advisor, or committee of advisors, to advise and assist the

Trustees in the marketing of such bonds, notes or other evidences of indebtedness or obligations, and to present financial plans for the financing of the acquisition or construction of each project, and to recommend to, or consult with, the Trustees concerning the terms and provisions of bond indentures and bond issues, and may pay appropriate compensation for such work and services performed in the furtherance of the project;

(ii) Sell all bonds, notes or other evidences of indebtedness or obligations of this Trust in installments or series and on such terms and conditions and in such manner as the Trustees shall deem to be in this Trust's best interests; and

(iii) Appoint attorneys, paying agencies and corporate trustees in connection with the issuance of any such bonds, notes, evidences of indebtedness or other obligations of this Trust;

(d) To enter into and execute, purchase, lease, or otherwise acquire property, real, personal or mixed, contracts, leases, rights, privileges, benefits, choses in action or other things of value, and to pay for the same in cash, with bonds or other evidences of indebtedness or otherwise;

(e) To make and change investments, to lease, improve, exchange or sell, at public or private sale, upon such terms as the Trustees deem proper, and to resell, at any time and as often as they deem advisable, any or all the property in this Trust, to borrow money, or renew loans to this Trust, to refund outstanding bonded indebtedness and to execute therefor evidences of indebtedness, and to secure the same by mortgage, lien, pledge or otherwise; to purchase property from any person, firm or corporation, and lease land and other property to and from the Beneficiary and construct, improve, repair, extend, remodel and equip utilities or buildings, and facilities thereon, and to operate or lease or rent the same to individuals, partnerships, associations, corporations and others, including the United States of America or the State of Oklahoma and agencies or authorities of the United States of America, or of the State of Oklahoma, or of any municipality thereof, and also including all municipal or other political subdivisions of the State of Oklahoma as well as the Beneficiary, and to do all things provided for in Paragraph (1) of Article III of this Amended Trust Indenture, and procure funds necessary for such purpose by the sale of bonds or other evidences of indebtedness by the mortgage, lien, pledge or other encumbrance of such



personal property, utilities and facilities owned or otherwise acquired, leased or controlled by this Trust, and by rentals income, receipts and profits therefrom, or from any other revenues associated with the ownership, operation or control of the property of this Trust; to lease or sublease any property of this Trust or of which this Trust may become the owner or lessee.

(f) To fix, demand and collect charges, rentals and fees for the services and facilities of this Trust to the same extent as the Beneficiary might do and to discontinue furnishing of services and facilities to any person, firm, corporation or public instrumentality delinquent in the payment of any indebtedness to this Trust; and to purchase and sell such supplies, goods and commodities as are incident to the operation of this Trust's properties;

(g) To make and perform contracts of every kind, including management contracts, with any person, firm, corporation, association, trusteeship, municipality, government or sovereignty; and, without limit as to amount, to draw, make, accept, indorse, assume, guarantee, account, execute and issue promissory notes, drafts, bills of exchange, acceptances, warranties, bonds, debentures and other negotiable or non-negotiable instruments, obligations and evidences of unsecured indebtedness, or of indebtedness secured by mortgage,

deed of trust or otherwise upon any or all income of this Trust, in the same manner and to the same extent as a natural person might or could do; to collect and receive any property, money, rents or income of any sort and distribute the same or any portion thereof for the furtherance of the purposes authorized by this Amended Trust Indenture;

(h) To do all other acts in the Trustees' judgment necessary or desirable for the proper and advantageous management, investment and distribution of the Trust Estate and the Compounded Principal and income therefrom, subject to the limitations contained in this Amended Trust Indenture;

(i) To contract for the furnishing of any services or the performance of any duties that the Trustees' may deem necessary, or proper, and pay for the same as they see fit. The Trustees may select depositories for the funds and securities of this Trust; and

(j) To compromise any debts or claims of this Trust or against the Trust Estate, and may adjust any dispute in relation to such debts or claims by arbitration or otherwise and may pay any debts of this Trust or claims against the Trust Estate upon any evidence deemed by the Trustees to be sufficient. The Trustees may bring any suit or action, which in their judgment

is necessary or proper to protect the interests of this Trust, or to enforce any claim, demand or contract for this Trust; and they shall authorize, in their discretion, the defense of any suit against this Trust, or against its employees, agents or servants or the Trustees. The Trustees may compromise and settle any suit or action and discharge the same out of assets of the Trust Estate, together with court costs and attorneys' fees. All such expenditures shall be treated as expenses of executing this Trust.

(2) No purchaser at any sale or lessee under a lease made by the Trustees shall be bound to inquire into the expediency, propriety, validity or necessity of such sale or lease or to see to or be liable for the application of the purchase or rental moneys arising therefrom.

(3) The whole title, legal and equitable, to the properties of this Trust is and shall be vested in this Trust, as such title in this Trust is necessary for the due execution of this Trust. The Trustees shall have and exercise exclusive management and control of the properties of this Trust for the use and benefit of the Beneficiary; but may agree for approval of any or all of its actions and transactions by the Beneficiary.

ARTICLE VIII

BENEFICIARY OF TRUST

(1) The beneficiary of this Trust shall be the City of Midwest City, Oklahoma, a municipal corporation, under and pursuant to the Acts. The Trustor now declares that this Amended Trust Indenture shall be irrevocable from the moment it is signed by it and delivered to the Trustees, and that the Trustor shall thereafter stand without any power whatsoever at any time to alter, amend, revise, modify, revoke or terminate any of the provisions of this Amended Trust Indenture. If, in the future, the Trustees, the Trustor and the Beneficiary agree to amend this Amended Trust Indenture, any such agreed-upon amendment to clauses (1) and (2) of subparagraph (1)(d) of Article III, of this Article VIII or of Article IX can only be accomplished by an affirmative vote of a majority of the electors in the city of Midwest City voting in a public election, duly called as required by law authorizing such an amendment as expressed on the ballot submitted at such an election.

(2) The Beneficiary shall have no legal title, claim or right to the Trust Estate or the Compounded Principal, their income, or to any part thereof, or to demand or require any partition or distribution thereof. Neither shall the Beneficiary have any authority, power or right, whatsoever, to do or transact any business for, or on behalf of, or binding upon the Trustees or upon this Trust, nor the right to control or direct the actions of the Trustees except to the extent herein provided.

The Beneficiary shall be entitled solely to the benefits of this Trust, as administered by the Trustees hereunder, and at the termination of the Trust, as provided herein, and, then only, the Beneficiary shall receive the residue of the Trust Estate.

#### ARTICLE IX

#### TERMINATION OF TRUST

This Trust shall terminate:

(1) When the purposes set out in this Amended Trust Indenture shall have been fully executed; or

(2) In the manner provided by Title 60 of the Oklahoma Statutes, Chapter 4, Section 180, as amended.

Provided, however, that this Trust shall not be terminated by voluntary action if there be outstanding indebtedness or fixed term obligations of this Trust, unless all owners of such indebtedness or obligations shall have consented in writing to such termination. If, in the future, the Trustees, the Trustor and the Beneficiary agree to terminate this Trust, any such agreed-upon termination of this Trust can only be accomplished by an affirmative vote of a majority of the electors in the city of Midwest City voting in a public election, duly called as required by law authorizing such termination as expressed on the ballot submitted at such an election.

Upon the termination of this Trust, the Trustees shall proceed to wind up the affairs of this Trust and, after payment of all debts, expenses and obligations out of the monies and

properties of the Trust Estate and the Compounded Principal to the extent thereof, shall distribute the residue of the money and properties of the Trust Estate to the Beneficiary. Upon final distribution, the powers, duties and authority of the Trustees shall cease.

#### ARTICLE X

#### PARTIAL INEFFECTIVENESS

The invalidity or ineffectiveness for any reason of any one or more words, phrases, clauses, paragraphs, subsections or sections of this Amended Trust Indenture shall not affect its remaining portions so long as such remaining portions shall constitute a rational instrument. Any such invalid or ineffective portions were inserted conditionally upon them being valid and effective only and this instrument shall be construed as if such invalid or ineffective portions had not been inserted herein.

#### ARTICLE XI

#### ACCEPTANCE BY TRUSTEES

The Trustees accept this Trust, created and provided for, and agree to carry out the provisions of this Amended Trust Indenture on their part to be performed.

IN WITNESS WHEREOF, this Amended Trust Indenture has been passed and approved by the Trustor on the 8th day of April, 1998, and by the Trustees on the 7th day of April, 1998.

MIDWEST CITY CHAMBER OF COMMERCE

By: Dara McGlamery  
President

(SEAL)

ATTEST:

Carol L. Judd  
Secretary

as "Trustor"

STATE OF OKLAHOMA )  
                                  :  
STATE OF OKLAHOMA )     ss.

Before me, the undersigned, a Notary Public, in and for said County and State on this 29th day of April, 1998, personally appeared Dara L. McGlamery, to me known to be the President of the Midwest City Chamber of Commerce who executed the within and foregoing instrument and acknowledged to me that she executed the same as her free and voluntary act and deed and as the free and voluntary act and deed of such corporation for the uses and purposes set forth.

Given under my hand and seal the day and year last above written.

Suzanne W. Dockery  
Notary Public

My commission expires: 8-22-98



Jerry R. Maynard  
JERRY R. MAYNARD

Johnny T. Morgan  
JOHNNY T. MORGAN

Lloyd Gorrell  
LLOYD GORRELL

Vaughn K. Sullivan  
VAUGHN K. SULLIVAN

Frederick M. Strothmann  
FREDERICK M. STROTHMANN

Russell Smith  
RUSSELL SMITH

Eddie O. Reed  
EDDIE O. REED

as "Trustees"

STATE OF OKLAHOMA )  
                                  :  
STATE OF OKLAHOMA )     ss.

Before me, the undersigned, a Notary Public, in and for said County and State on this 7th day of April, 1998, personally appeared Jerry R. Maynard, Vaughn K. Sullivan, Johnny T. Morgan, Frederick M. Strothmann, Lloyd Gorrell, Russell Smith and Eddie O. Reed, to me known to be the identical persons who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

Lenia Moore  
Notary Public

My commission expires: 8-28-99

ACCEPTANCE OF BENEFICIAL INTEREST

Pursuant to Resolution No. 98-18 duly adopted by its City Council, the City of Midwest City, Oklahoma, hereby accepts the beneficial interest in the trust created by the within and foregoing Amended and Restated Trust Indenture, in all respects in

accordance with the terms of said Amended and Restated Trust Indenture.

CITY OF MIDWEST CITY, OKLAHOMA

By: *Salvatore Reed*  
Mayor



Attest: (Seal)

*[Signature]*  
City Clerk

Approved as to form and legality this 7th day of April, 1998.

*Natherine Keller*  
City Attorney

"I CERTIFY THAT THIS IS A TRUE AND LIKE COPY OF A INSTRUMENT ON FILE IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MIDWEST CITY OKLAHOMA COUNTY STATE OF OKLAHOMA."

*[Signature]*  
CITY CLERK

FIRST AMENDMENT TO  
AMENDED AND RESTATED TRUST INDENTURE OF THE  
MIDWEST CITY MEMORIAL HOSPITAL AUTHORITY

WHEREAS, on April 8th, 1998, that certain "Amended and Restated Trust Indenture" (hereinafter, the "Amended Trust Indenture") of the Midwest City Memorial Hospital Authority (hereinafter, the "Authority") was adopted amending the original Trust Indenture of the Authority dated July 1st, 1961, for the use and benefit of the City of Midwest City, Oklahoma (the "Beneficiary"); and

WHEREAS, the City Council of the Beneficiary and the Trustees of the Authority now desire to amend said Amended Trust Indenture to clarify the purposes for which the Authority may act, and the powers it may utilize in doing so.

NOW, THEREFORE, pursuant to the authority of the Trustees of the Authority and the City Council of the Beneficiary, and with the consent of the Trustor, the Midwest City Chamber of Commerce, the Amended Trust Indenture is hereby amended, as follows:

SECTION 1. Paragraph 1(f) of Article III of said Amended Trust Indenture is hereby amended in its entirety, to read as follows:

"(f) To perform any other authorized and proper essential governmental function or act permitted by law to be performed by public trusts in the State of Oklahoma, including without limitation, to assist the Beneficiary, the United States, the State of Oklahoma, its municipalities, agencies, private entities and citizens in (i) promoting economic and community development, within and without the territorial limits of the City; (ii) developing additional employment which will benefit and strengthen the economy of the City; (iii) developing or redeveloping areas determined by the Beneficiary to be unproductive, undeveloped, underdeveloped or blighted; (iv) fostering an improved economic climate within the Beneficiary; and (v) otherwise promoting the general welfare and prosperity of the Beneficiary, all in order to achieve maximum utilization of the Beneficiary's human, economic and natural resources; and without restriction, in furtherance of the foregoing general objectives, to utilize the following specific powers or purposes, to-wit:

(1) by promoting, financing and developing any and all public works projects or facilities of any type or description including, but not limited to, those for water, sewer, solid waste, natural gas or other public utilities of any type or description;

(2) by promoting, financing and developing commercial and industrial projects or facilities including, without limitation, offices, warehouses, retail and wholesale marketing facilities, motel and hotel establishments and restaurants; and

(3) by promoting financing and developing recreational, sports, cultural, tourism, entertainment and communication media projects or facilities.

SECTION 2. A new Paragraph 4 shall be added to Article VII of said Amended Trust Indenture which shall read, in its entirety, as follows:


(4) The Trustees hereof shall further have the right, power, duty, authority, discretion and privilege to exercise, for the benefit of the Beneficiary, those powers (including the power of eminent domain) as authorized by the economic, industrial or community development statutes of the State of Oklahoma, including, without limitation, the Local Development Act, the Local Industrial Development Act, and the Neighborhood Redevelopment Act, all as may be amended and supplemented from time to time.

The foregoing First Amendment to Amended and Restated Trust Indenture was approved by the Trustees of the Midwest City Memorial Hospital Authority on the \_\_\_ day of April, 2017.

MIDWEST CITY MEMORIAL HOSPITAL AUTHORITY

(SEAL)  
ATTEST:

BY:   
Chairman

  
Secretary

ACCEPTANCE OF BENEFICIAL INTEREST

Pursuant to Resolution No. \_\_\_\_\_ duly adopted by its City Council, the City of Midwest City, Oklahoma, hereby accepts the beneficial interest in the trust created by the within and foregoing Amended and Restated Trust Indenture, as modified by that certain "First Amendment to Amended and Restated Trust Indenture", in all respects in accordance with the terms of said Amended and Restated Trust Indenture.

CITY OF MIDWEST CITY, OKLAHOMA

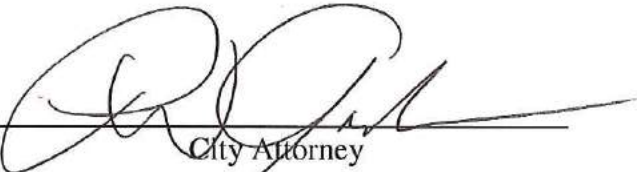
BY:   
Mayor

ATTEST:

  
City Clerk

(SEAL)

Approved as to form and legality this 20<sup>th</sup> day of April, 2017.

  
City Attorney




-----  
The foregoing First Amendment to Amended and Restated Trust Indenture was approved by the City Council of the City of Midwest City, Oklahoma on the \_\_\_ day of April, 2017.

CITY OF MIDWEST CITY, OKLAHOMA

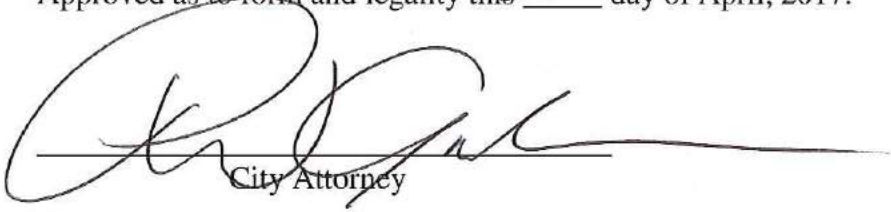
BY:   
Mayor

ATTEST:

  
City Clerk

(SEAL)

Approved as to form and legality this 20<sup>th</sup> day of April, 2017.

  
City Attorney

-----  
The foregoing First Amendment to Amended and Restated Trust Indenture was approved by the Board of Directors of the Midwest City Chamber of Commerce on the 18<sup>th</sup> day of April, 2017.

BY: \*   
President

ATTEST:

  
Secretary

**Midwest City Chamber of Commerce  
Executive Board of Directors Meeting Minutes  
April 17, 2017**

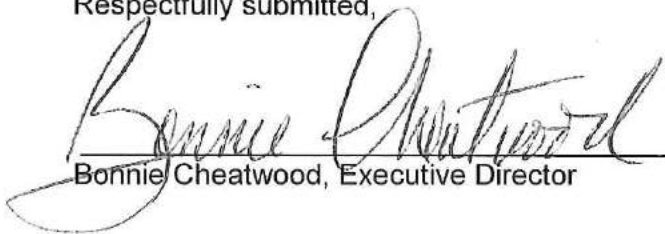
The Midwest City Chamber of Commerce Executive Board met at the Chamber office. The meeting was called to order at 1:35 p.m. Present: President Danita Rose, President-Elect Cliff Aldridge, James Finch, Dr. Jeanie Webb, Mike Kloiber, Wade Moore, Bonnie Cheatwood, City Manager Guy Henson, Economic Development Director Robert Coleman, and the City's legal counsel Dan McMahan. Not present: Randy Smith and Pam Teply.

**FIRST AMENDMENT TO THE AMENDED AND RESTATED TRUST INDENTURE OF THE MIDWEST CITY MEMORIAL HOSPITAL AUTHORITY:** The Midwest City Chamber is Trustor of the Authority, The City Council are the Trustees, and the City is the Beneficiaries. The City Council of the Beneficiary and the Trustee of the Authority is performing a house keeping measure that updates the Trust Indenture as is relates to Economic and Community Development permitted by State Law. The amendment will allow for future economic development projects to promote and foster the general welfare and prosperity of the Beneficiaries. City Manager Guy Henson presented the amendment.

Because of a time sensitive project and the need for a special Council Meeting to be called on Thursday, April 20, 2017, a recommendation was made by Executive Board Member M. Kloiber for a call for a vote electronically by the entire active Board of Directors.

**Action:** The motion was made by M. Kloiber and seconded by J. Finch to approve the First Amendment to the Amended and Restated Trust Indenture of the Midwest City Memorial Hospital Authority. Motion carried.

Respectfully submitted,

  
\_\_\_\_\_  
Bonnie Cheatwood, Executive Director

4-18-17  
\_\_\_\_\_  
Date Approved



**Midwest City Chamber of Commerce  
Board of Directors Meeting Minutes  
April 18, 2017**

The Midwest City Chamber of Commerce Active Board of Directors were presented the following information electronically at the request of the Executive Board, who met at the Chamber office on April 17, 2017.

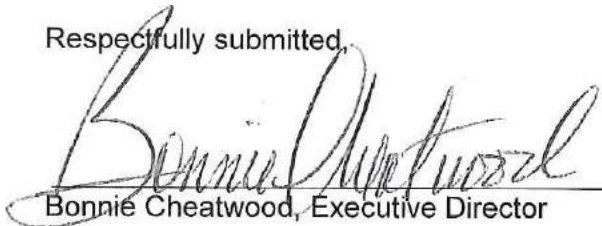
Present at the Executive Board meeting: President Danita Rose, President-Elect Cliff Aldridge, James Finch, Dr. Jeanie Webb, Mike Kloiber, Wade Moore, Bonnie Cheatwood, City Manager Guy Henson, Economic Development Director Robert Coleman, and the City's legal counsel Dan McMahan. Not present: Randy Smith and Pam Teply. City Manager Guy Henson presented the amendment.

The Midwest City Chamber is Trustor of the Authority, The City Council are the Trustees, and the City is the Beneficiaries. The City Council of the Beneficiary and the Trustee of the Authority is performing a house keeping measure that updates the Trust Indenture as is relates to Economic and Community Development permitted by State Law. The amendment will allow for future economic development projects to promote and foster the general welfare and prosperity of the Beneficiaries.

See attached amendment.

**Action:** The motion was made by J. Chappel and seconded by R. Epley to approve the First Amendment to the Amended and Restated Trust Indenture of the Midwest City Memorial Hospital Authority. Motion carried.

Respectfully submitted,

  
\_\_\_\_\_  
Bonnie Cheatwood, Executive Director

4-18-19  
Date Approved

JOINT RESOLUTION

OF

THE TRUSTEES OF THE MIDWEST CITY MEMORIAL HOSPITAL AUTHORITY  
("AUTHORITY"), THE CITY COUNCIL OF THE CITY OF MIDWEST CITY,  
OKLAHOMA, BENEFICIARY OF THE AUTHORITY, AND THE MIDWEST CITY  
CHAMBER OF COMMERCE, TRUSTOR OF THE AUTHORITY

APPROVING

SECOND AMENDMENT TO  
AMENDED AND RESTATED TRUST INDENTURE OF THE MIDWEST CITY  
MEMORIAL HOSPITAL AUTHORITY

WHEREAS, on April 8th, 1998, that certain Amended and Restated Trust Indenture ("Amended Trust Indenture") of the Midwest City Memorial Hospital Authority ("Authority") was adopted amending the original Trust Indenture of the Authority dated July 1st, 1961, for the use and benefit of the City of Midwest City, Oklahoma ("Beneficiary"), which was subsequently amended by the First Amendment to Amended and Restated Trust Indenture of the Midwest City Memorial Hospital Authority in April, 2017 ("2017 Amendment") (collectively, as amended, the "Indenture"); and

WHEREAS, the 2017 Amendment amended Paragraph1(f) of Article III of the Amended Trust Indenture regarding the purposes of the Authority, which now reads in part as follows:

(f) To perform any other authorized and proper essential governmental function or act permitted by law to be performed by public trusts in the State of Oklahoma, including without limitation, to assist the Beneficiary, the United States, the State of Oklahoma, its municipalities, agencies, private entities and citizens in (i) promoting economic and community development, within and without the territorial limits of the City; (ii) developing additional employment which will benefit and strengthen the economy of the City; (iii) developing or redeveloping areas determined by the Beneficiary to be unproductive, undeveloped, underdeveloped or blighted; (iv) fostering an improved economic climate within the Beneficiary; and (v) otherwise promoting the general welfare and prosperity of the Beneficiary, all in order to achieve maximum utilization of the Beneficiary's human, economic and natural resources; and,

WHEREAS, based in part on the foregoing language of Paragraph1(f) of Article III of the Indenture, economic development is an authorized purpose of the Authority, and in furtherance thereof, the City Council of the Beneficiary and the Trustees of the Authority now desire to amend the Indenture with respect to funding of economic development; and,

WHEREAS, the Trustees of the Authority and the City Council of the Beneficiary, with the consent of the Trustor, the Midwest City Chamber of Commerce ("Trustor"), are all of the parties necessary to amend the Indenture and are therefore authorized to so do.



NOW, THEREFORE, BE IT RESOLVED, that pursuant to the authority of the Trustees of the Authority and the City Council of the Beneficiary, and with the consent of the Trustor, the Midwest City Chamber of Commerce, the Indenture is hereby amended, as follows:

The Fifth sentence of Article VI (1) of the Indenture is amended to read as follows, with new language underscored:

All funds expended from the Discretionary Funds shall be processed through the Board by the grant application process (“Grant Application Process”), except those determined by the Trustees to be necessary for administration of the Trust, and except that monies may be expended from Discretionary Funds for (i) promoting, financing and developing commercial and industrial projects or facilities including, without limitation, offices, warehouses, retail and wholesale marketing facilities, motel and hotel establishments and restaurants, along with projects benefitting Tinker Air Force Base and private sector contractors and suppliers of the United States Department of Defense, and (ii) promoting, financing and developing recreational, sports, cultural, tourism, and entertainment projects or facilities (collectively, “Economic Development”) as determined by the Trustees, SUBJECT TO the following, provisions, limitations and requirements:

- (a) Notwithstanding anything contained in the Indenture to the contrary, Twenty-five percent (25%) of annual Discretionary Funds, (“Annual Grant Funds”), shall be annually processed through the Grant Application Process, with the Trustees authorized to expend the annual balance thereof for Economic Development and administration of the Trust (“Annual Economic Development and Trust Administration Funds”), provided that such percentage shall be reviewed for the purpose of possible adjustment and change no less frequently than every ten (10) years from and after September 1, 2018, provided further that any unexpended Annual Grant Funds shall be placed in a special account for use in subsequent years, but only for expenditures authorized by the Grant Application Process; and, unexpended Annual Economic Development and Trust Administration Funds shall be placed in a special account for use in subsequent years, but only for Economic Development and Trust Administration purposes.
- (b) Discretionary Funds authorized for expenditure for Economic Development shall not be used for annual operating expenses or salary expenses of the City, except for direct operating or salary expenses commonly recognized as reasonably necessary to advance Economic Development.
- (c) Unexpended Discretionary Funds existing on September 1, 2018, may be expended for Economic Development as determined by the Trustees, and need not be processed through the Grant Application Process.
- (d) The term “Discretionary Funds”, as set forth in the Amended Indenture, means the total of the two percent (2%) specifically excluded from the Compounded Principal as determined on June 30 of each year.

BE IT FURTHER RESOLVED by the Trustees of the Authority and the City Council of the Beneficiary, that prior funding by the Trustees in furtherance of the purposes of the Authority as set forth by the Indenture, including funding of economic development initiatives, and the procedures by which such funding was authorized, are hereby ratified and approved and the Indenture is amended to the extent necessary to accomplish same, all of which shall have retroactive effect.

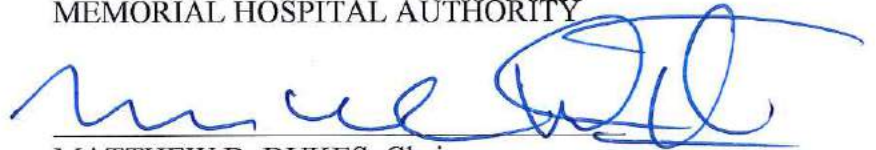
BE IT FURTHER RESOLVED by the Trustees of the Authority, the City Council of the Beneficiary, and the Trustor, the Midwest City Chamber of Commerce, that after approval of this Joint Resolution, a comprehensive amendment and restatement of the Indenture as modified by this Second Amendment to Amended and Restated Trust Indenture of the Midwest City Memorial Hospital Authority shall be prepared, approved and effectuated.

THE UNDERSIGNED AUTHORITY, BENEFICIARY AND TRUSTOR AGREE TO ALL CONTAINED HEREIN.

“Authority”

Date 10.26.18

TRUSTEES OF THE MIDWEST CITY  
MEMORIAL HOSPITAL AUTHORITY



MATTHEW D. DUKES, Chair

ATTEST (SEAL)



SARA HANCOCK, Secretary

“Beneficiary”

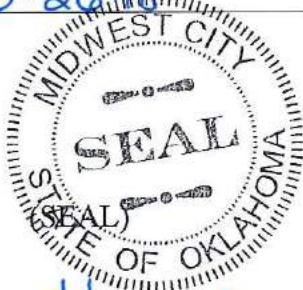
Date 10.26.18

CITY COUNCIL OF THE CITY OF  
MIDWEST CITY, OKLAHOMA



MATTHEW D. DUKES, II, Mayor

ATTEST:



SARA HANCOCK, City Clerk

Date 11 - 1 - 18

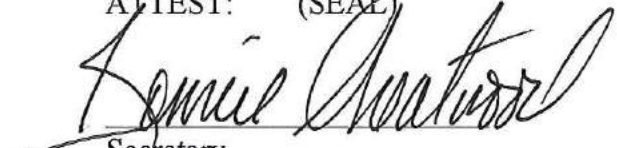
"Trustor"

MIDWEST CITY CHAMBER OF  
COMMERCE

  
\_\_\_\_\_

Cliff A Aldridge \_\_\_\_\_  
Name Title

ATTEST: (SEAL)

  
Secretary



**SECOND AMENDMENT TO  
AMENDED AND RESTATED TRUST INDENTURE OF THE MIDWEST CITY  
MEMORIAL HOSPITAL AUTHORITY**

WHEREAS, on April 8th, 1998, that certain Amended and Restated Trust Indenture ("Amended Trust Indenture") of the Midwest City Memorial Hospital Authority ("Authority") was adopted amending the original Trust Indenture of the Authority dated July 1st, 1961, for the use and benefit of the City of Midwest City, Oklahoma ("Beneficiary"), which was subsequently amended by the First Amendment to Amended and Restated Trust Indenture of the Midwest City Memorial Hospital Authority in April, 2017 ("2017 Amendment") (collectively, as amended, the "Indenture"); and

WHEREAS, the 2017 Amendment amended Paragraph1(f) of Article III of the Amended Trust Indenture regarding the purposes of the Authority, which now reads in part as follows:

(f) To perform any other authorized and proper essential governmental function or act permitted by law to be performed by public trusts in the State of Oklahoma, including without limitation, to assist the Beneficiary, the United States, the State of Oklahoma, its municipalities, agencies, private entities and citizens in (i) promoting economic and community development, within and without the territorial limits of the City; (ii) developing additional employment which will benefit and strengthen the economy of the City; (iii) developing or redeveloping areas determined by the Beneficiary to be unproductive, undeveloped, underdeveloped or blighted; (iv) fostering an improved economic climate within the Beneficiary; and (v) otherwise promoting the general welfare and prosperity of the Beneficiary, all in order to achieve maximum utilization of the Beneficiary's human, economic and natural resources; and,

WHEREAS, based in part on the foregoing language of Paragraph1(f) of Article III of the Indenture, economic development is an authorized purpose of the Authority, and in furtherance thereof, the City Council of the Beneficiary and the Trustees of the Authority now desire to amend the Indenture with respect to funding of economic development; and,

WHEREAS, the Trustees of the Authority and the City Council of the Beneficiary, with the consent of the Trustor, the Midwest City Chamber of Commerce ("Trustor"), are all of the parties necessary to amend the Indenture and are therefore authorized to so do.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the authority of the Trustees of the Authority and the City Council of the Beneficiary, and with the consent of the Trustor, the Midwest City Chamber of Commerce, the Indenture is hereby amended, as follows:

The Fifth sentence of Article VI (1) of the Indenture is amended to read as follows, with new language underscored:

All funds expended from the Discretionary Funds shall be processed through the Board by the grant application process (“Grant Application Process”), except those determined by the Trustees to be necessary for administration of the Trust, and except that monies may be expended from Discretionary Funds for (i) promoting, financing and developing commercial and industrial projects or facilities including, without limitation, offices, warehouses, retail and wholesale marketing facilities, motel and hotel establishments and restaurants, along with projects benefitting Tinker Air Force Base and private sector contractors and suppliers of the United States Department of Defense, and (ii) promoting, financing and developing recreational, sports, cultural, tourism, and entertainment projects or facilities (collectively, “Economic Development”) as determined by the Trustees, SUBJECT TO the following, provisions, limitations and requirements:

- (a) Notwithstanding anything contained in the Indenture to the contrary, Twenty-five percent (25%) of annual Discretionary Funds, (“Annual Grant Funds”), shall be annually processed through the Grant Application Process, with the Trustees authorized to expend the annual balance thereof for Economic Development and administration of the Trust (“Annual Economic Development and Trust Administration Funds”), provided that such percentage shall be reviewed for the purpose of possible adjustment and change no less frequently than every ten (10) years from and after September 1, 2018, provided further that any unexpended Annual Grant Funds shall be placed in a special account for use in subsequent years, but only for expenditures authorized by the Grant Application Process; and, unexpended Annual Economic Development and Trust Administration Funds shall be placed in a special account for use in subsequent years, but only for Economic Development and Trust Administration purposes.
- (b) Discretionary Funds authorized for expenditure for Economic Development shall not be used for annual operating expenses or salary expenses of the City, except for direct operating or salary expenses commonly recognized as reasonably necessary to advance Economic Development.
- (c) Unexpended Discretionary Funds existing on September 1, 2018, may be expended for Economic Development as determined by the Trustees, and need not be processed through the Grant Application Process.
- (d) The term “Discretionary Funds”, as set forth in the Amended Indenture, means the total of the two percent (2%) specifically excluded from the Compounded Principal as determined on June 30 of each year.

BE IT FURTHER RESOLVED by the Trustees of the Authority and the City Council of the Beneficiary, that prior funding by the Trustees in furtherance of the purposes of the Authority as set forth by the Indenture, including funding of economic development initiatives, and the procedures by which such funding was authorized, are hereby ratified and approved and the





**ACCEPTANCE OF BENEFICIAL INTEREST  
AND APPROVAL OF BENEFICIARY**

Pursuant to Resolution No. 2018-21 duly adopted by its City Council on October 9, 2018, the City of Midwest City, Oklahoma, hereby accepts the beneficial interest in the trust created by the above described Amended and Restated Trust Indenture, as previously amended by the above described 2017 Amendment, as further amended by the within and foregoing Second Amendment to Amended and Restated Trust Indenture, each of which are ratified, approved and accepted by the City of Midwest City, Oklahoma.

“Beneficiary”

Date 10-29-18

CITY COUNCIL OF THE CITY OF  
MIDWEST CITY OKLAHOMA

[Signature]  
MATTHEW D. DUKES, II, Mayor

ATTEST: (SEAL)

[Signature]  
SARA HANCOCK, City Clerk



Acknowledgment:

STATE OF OKLAHOMA )  
  )ss:  
COUNTY OF OKLAHOMA )

Before me, the undersigned, a Notary Public, in and for said County and State, on this 29 day of October, 2018, personally appeared Matthew D. Dukes II, to me known to be the identical person who executed the within and foregoing instrument as Mayor and acknowledged to me that he/she executed the same as his/her individual free and voluntary act and deed and as Mayor of the Midwest City, Oklahoma for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

[Signature]  
Notary Public

My Commission Expires:

12-22-19

Commission Number:

15011364



ACCEPTANCE OF BENEFICIAL INTEREST  
AND APPROVAL OF BENEFICIARY

Pursuant to Resolution No. 2018-21 duly adopted by its City Council on October 9, 2018, the City of Midwest City, Oklahoma, hereby accepts the beneficial interest in the trust created by the above described Amended and Restated Trust Indenture, as previously amended by the above described 2017 Amendment, as further amended by the within and foregoing Second Amendment to Amended and Restated Trust Indenture, each of which are ratified, approved and accepted by the City of Midwest City, Oklahoma.

"Beneficiary"

Date 10-29-18



CITY COUNCIL OF THE CITY OF  
MIDWEST CITY OKLAHOMA

[Signature]  
MATTHEW D. DUKES, II, Mayor

ATTEST:

(SEAL)

[Signature]

SARA HANCOCK, City Clerk

Acknowledgment:

STATE OF OKLAHOMA )  
                                  )ss:  
COUNTY OF OKLAHOMA )

Before me, the undersigned, a Notary Public, in and for said County and State, on this 29 day of October, 2018, personally appeared Matthew D. Dukes II, to me known to be the identical person who executed the within and foregoing instrument as Mayor and acknowledged to me that he/she executed the same as his/her individual free and voluntary act and deed and as Mayor of the Midwest City, Oklahoma for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

[Signature]  
Notary Public

My Commission Expires:

12-22-19

Commission Number:

15011364





**CONSENT OF TRUSTOR**

“Trustor”

MIDWEST CITY CHAMBER OF  
COMMERCE

11-1-18  
Date

[Signature]  
Cliff A Aldridge Pres.  
Name Title

ATTEST: (SEAL)  
[Signature]  
Secretary

Acknowledgment:

STATE OF OKLAHOMA )  
 )ss:  
COUNTY OF OKLAHOMA )

Before me, the undersigned, a Notary Public, in and for said County and State, on this 1 day of November, 2018, personally appeared the Above, to me known to be the identical person who executed the within and foregoing instrument as Trustor and acknowledged to me that he/she executed the same as his/her individual free and voluntary act and deed and as Trustor of the Midwest City Municipal Memorial Hospital Authority for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

[Signature]  
Notary Public

My Commission Expires:  
07011098

Commission Number:



**TRUSTEE ACKNOWLEDGMENT**

The undersigned seven (7) Trustees of the Authority, being all of the Trustees of the Authority, each hereby acknowledge and confirm that Resolution No. 2018-04 approved by the Authority on October 9, 2018, authorized approval of amendment of the above described Indenture as set forth by the within and foregoing Second Amendment to Amended and Restated Trust Indenture and hereby acknowledge and memorialize approval of same by the Authority.

Trustee Number 1

10-29-18

Date

*[Signature]*  
Trustee Name Matthew D. Dukos II, Mayor

Acknowledgment:

STATE OF OKLAHOMA    )  
  )ss:  
COUNTY OF OKLAHOMA )

Before me, the undersigned, a Notary Public, in and for said County and State, on this 29 day of October, 2018, personally appeared Matthew D. Dukos II, to me known to be the identical person who executed the within and foregoing instrument as Trustee and acknowledged to me that he/she executed the same as his/her individual free and voluntary act and deed and as Trustee of the Midwest City Municipal Memorial Hospital Authority for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

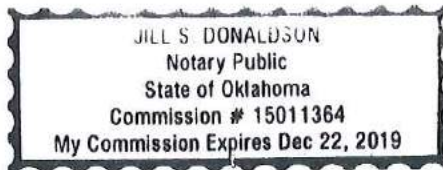
*Jill S. Donaldson*  
Notary Public

My Commission Expires:

12-22-19

Commission Number:

15011364





Trustee Number 3

10/29/18

Date

Pat Byrne

Trustee Name Pat Byrne, Ward 2

Acknowledgment:

STATE OF OKLAHOMA )  
 )ss:  
COUNTY OF OKLAHOMA )

Before me, the undersigned, a Notary Public, in and for said County and State, on this 29 day of October, 2018, personally appeared Pat Byrne, to me known to be the identical person who executed the within and foregoing instrument as Trustee and acknowledged to me that he/she executed the same as his/her individual free and voluntary act and deed and as Trustee of the Midwest City Municipal Memorial Hospital Authority for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

Jill S. Donaldson  
Notary Public

My Commission Expires:

12.22.19

Commission Number:

15011364





Trustee Number 4

October 29, 2018

Date

Espaniola Bowen

Trustee Name Espaniola Bowen, Ward 3

Acknowledgment:

STATE OF OKLAHOMA )  
 )ss:  
COUNTY OF OKLAHOMA )

Before me, the undersigned, a Notary Public, in and for said County and State, on this 29 day of October, 2018, personally appeared Espaniola Bowen, to me known to be the identical person who executed the within and foregoing instrument as Trustee and acknowledged to me that he/she executed the same as his/her individual free and voluntary act and deed and as Trustee of the Midwest City Municipal Memorial Hospital Authority for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

Jill S. Donaldson  
Notary Public

My Commission Expires:

12-22-19

Commission Number:

15011364



Trustee Number 5

10-30-18

Date

Trustee Name Sean Reed, Ward 4

Acknowledgment:

STATE OF OKLAHOMA    )  
  )ss:  
COUNTY OF OKLAHOMA )

Before me, the undersigned, a Notary Public, in and for said County and State, on this 30 day of October, 2018, personally appeared Sean Reed, to me known to be the identical person who executed the within and foregoing instrument as Trustee and acknowledged to me that he/she executed the same as his/her individual free and voluntary act and deed and as Trustee of the Midwest City Municipal Memorial Hospital Authority for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

Jill S Donaldson  
Notary Public

My Commission Expires:

12.22.19

Commission Number:

15011364



Trustee Number 6

10/29/2018

Date

Christine Allen

Trustee Name Christine Allen, Ward 5

Acknowledgment:

STATE OF OKLAHOMA )

)ss:

COUNTY OF OKLAHOMA )

Before me, the undersigned, a Notary Public, in and for said County and State, on this 29 day of October, 2018, personally appeared Christine Allen, to me known to be the identical person who executed the within and foregoing instrument as Trustee and acknowledged to me that he/she executed the same as his/her individual free and voluntary act and deed and as Trustee of the Midwest City Municipal Memorial Hospital Authority for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

Dohna Ebersole

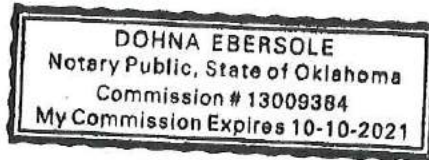
Notary Public

My Commission Expires:

10-10-21

Commission Number:

13009384





**OPERATING CONTRACT BY AND BETWEEN**  
**THE MIDWEST CITY MEMORIAL HOSPITAL AUTHORITY**  
**AND**  
**THE TRUST BOARD OF GRANTORS**

THIS CONTRACT, effective the 1st day of July, 1998, by and between the Midwest City Memorial Hospital Authority, a public trust (hereinafter the "Authority"), and the members of the Trust Board of Grantors (hereinafter the "Board of Grantors"),

WITNESSETH:

WHEREAS, the Authority's Amended and Restated Trust Indenture expressly authorizes the Authority to make and enter into management contracts and for the furnishing of any services or for the performance of any duties deemed by the trustees of the Authority (hereinafter the "Trustees") to be for and in the best interests of the administration of the trust estate; and

WHEREAS, the Authority deems a Board of Grantors to be the best vehicle by which to have certain duties and obligations performed in the Authority's best interests;

IT IS HEREBY CONTRACTED AND AGREED BETWEEN THE PARTIES AS FOLLOWS:

I.

GENERAL PROVISIONS

1.1 Scope and Duration.

1.1.1 Scope. This contract shall be binding upon the Authority, its successors and assigns, and upon the Board of Grantors and its successors.

1.1.2 Duration. This contract shall continue in full force and effect for the duration of the trust or until either party gives the other party thirty (30) days written notice of termination.

1.2 Partial Ineffectiveness. The invalidity or ineffectiveness for any reason of any one or more words, phrases, clauses, sentences, paragraphs, subsections, sections or articles of this contract shall not affect the remaining portions so long as such remaining portions constitute a practicably operable instrument; and any provision herein which shall be in derogation of the obligations and duties of the Authority and which would

constitute a breach of trust under the law of trusts shall be ineffective and inoperative notwithstanding its inclusion herein. Any such invalid or ineffective portion was inserted conditionally upon it being valid and effective only as aforesaid and this contract shall be construed as if such invalid or ineffective portion had been omitted.

## II.

### THE BOARD OF GRANTORS

2.1 Establishment of Board. The Board of Grantors is established to perform the duties and with the powers hereinafter set forth. The Board of Grantors shall be composed of nine (9) members. A quorum of the Board of Grantors shall consist of a majority of its members and at least a majority of its members must be present in order for the Board of Grantors to take any action. Approval of an action shall require the affirmative vote of a majority of the members of the Board of Grantors present at a meeting at which a quorum is present.

2.2 Limitations on Board Members. No member of the Board of Grantors shall be eligible:

(a) To enter, directly or indirectly, into any contract for profit with the Authority or the Board of Grantors;

(b) To profit in any manner, directly or indirectly, by reason of membership on the Board of Grantors;

(c) To be employed by the Authority during his/her term or within two (2) years after expiration of the term for which such member was appointed;

(d) To serve more than two (2) consecutive four-year terms but appointment to serve an unexpired term shall be considered a full term for this purpose only if the appointee serves as such for a period in excess of two (2) years; or

(e) To receive compensation for serving as a member the Board of Grantors, however, members of the Board of Grantors may obtain reimbursement with approval of the Authority for their actual expenses incurred while performing or participating in activities directly related to their duties and responsibilities as members of the Board of Grantors.

2.3 Term, Appointment and Removal.

2.3.1 Term. Each member of the Board of Grantors shall serve a four-year term. No member of the Board of Grantors



shall be eligible to serve more than two (2) consecutive terms. A term shall consist of more than two years of membership.

2.3.2 Qualifications. Members of the Board of Grantors must be at least twenty-five (25) years of age and must be residents of or employed within the corporate limits of the city of Midwest City for at least one (1) year prior to appointment and throughout their term. Members of the Board of Grantors should be chosen for their business or community experience but can also be chosen based upon their representation of an at-risk segment of the Midwest City community.

2.3.3 Appointment. Each Trustee shall nominate one (1) member of the Board of Grantors, which member must be confirmed by an affirmative vote of a majority of the Trustees present to be eligible to serve on the Board of Grantors. The Midwest City Chamber of Commerce shall appoint two (2) members of the Board of Grantors. The initial appointees to the Board of Grantors based on nominations of the trustees who serve as the mayor and as councilmembers for Ward 1, Ward 3 and Ward 5 of the city of Midwest City and one of the Chamber of Commerce's appointees shall serve for a period of two (2) years so that, in the future, every two (2) years approximately one-half of the Board of Grantors shall be appointed or reappointed. In the event of a vacancy on the Board of Grantors, the entity that initially appointed the member last holding the vacant office shall nominate or appoint, as appropriate, a replacement subject to confirmation by an affirmative vote of a majority of the Trustees in the case of an appointment by a Trustee.

2.3.4 Removal. Any member of the Board of Grantors may be removed by the Authority for good and sufficient cause certified by a resolution of the Authority. "Good and sufficient cause" may be defined as, but not limited to, failing to attend more than one-half of all meetings of the Board of Grantors in any period of four (4) consecutive months.

### III.

#### DUTIES OF BOARD OF GRANTORS

##### 3.1 Obligations of Board of Grantors and Authority.

(a) The Board of Grantors shall have the duty to:

(1) Seek, request, apply for and receive, with the permission of the Authority, grants, gifts and donations, in money, property or services, from governmental agencies, individuals, entities, corporations or organizations by gift, devise, bequest or otherwise, absolutely or in trust;



(2) Beginning no later than September 1 of each year, publicly advertise and distribute materials to governmental agencies, individuals, entities, corporations or organizations seeking a grant from the Authority for any public purpose that directly benefits the Midwest City community which may include, but shall not be limited to:

- (i) Economic development;
- (ii) Education;
- (iii) Revitalization of the city of Midwest City;
- (iv) Community;
- (v) Housing;
- (vi) Safety;
- (vii) Youth and family; or
- (viii) Health;

(3) Review the grant applications received from governmental agencies, individuals, entities, corporations or organizations seeking a grant from the Authority and make recommendations to the Authority no later than March 1 each year of which grant applications to fund and in what amount within the budget set by the Authority each year;

(4) Periodically evaluate community needs to assist the Board of Grantors in making its grant funding recommendations to the Authority;

(5) Make such other recommendations to the Authority as may be appropriate for the continuing benefit of the Authority and perform such other duties and have such other powers as the Authority may determine from time to time.

(b) The Authority shall have the duty to:

(1) Review the Board of Grantors's recommendations and fund those grant applications that the Authority deems the most appropriate use of its funds;

(2) Review any other recommendations made by the Board of Grantors and take appropriate action based on those recommendations; and

(3) Determine and notify the Board of Grantors, prior to September 1 of each year, of the amount of the Authority's funds available for distribution for grants.

3.2 Staff.

(a) The City Manager for the City of Midwest City shall be the general manager and administrator of the Authority. He shall assist the Board of Grantors in performing its duties and obligations to the Authority. He shall have the authority and discretion to use the services of the staff of the City of Midwest City, for which the Authority shall reimburse the City, or he may hire such other staff as he deems appropriate to meet the needs of the Authority.

(b) The City Attorney for the City of Midwest City shall be the attorney for the Authority and for the Board of Grantors. The attorney shall attend such meetings and provide such legal advice as requested by the Board of Grantors.

IV.

REPORTS TO AUTHORITY; MEETINGS OF AUTHORITY

4.1 The Board of Grantors shall make a year-end report to the Authority no later than June 30 of each year. Such year-end reports shall contain some indication of the Board of Grantors's objectives, aims and goals.

4.2 At least one member of the Board of Grantors shall attend each meeting of the Authority if requested to do so by the Authority.

V.

MEETINGS OF THE BOARD OF GRANTORS

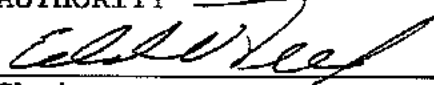
5.1 Organization. The Board of Grantors may determine its own methods of organization and functioning, and its officers and their duties. However, any bylaws of the Board of Grantors that are approved by the Board of Grantors must be approved by the Authority prior to being effective.

5.2 Meetings. The Board of Grantors shall meet as often as it deems appropriate. Notice of the time and place of each meeting of the Board of Grantors shall be given and posted as required by the Oklahoma Open Meetings Act. Copies of the notice and agenda of meetings and supporting documents of the Board of Grantors shall be furnished to members of the Authority and to the City Attorney of the City of Midwest City.

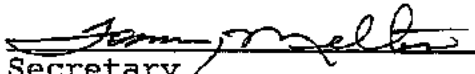
IN WITNESS WHEREOF, the parties hereto have executed this contract in multiple counterparts, each of which constitutes one and the same contract, to be effective as of July 1, 1998.

DATED this 28th day of July, 1998.

MIDWEST CITY MEMORIAL HOSPITAL  
AUTHORITY


  
Chairman

ATTEST:

  
Secretary

MEMBERS OF THE TRUST BOARD OF  
GRANTORS

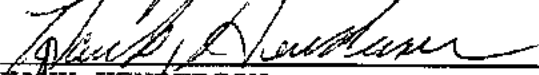
8/04/98  
Date

  
KEITH BEACHLER

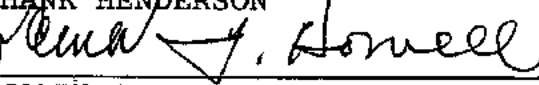
8/04/98  
Date

  
PHILLIP HEIN

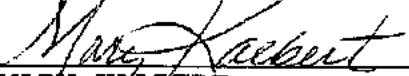
8/04/98  
Date

  
HANK HENDERSON


8/04/98  
Date

  
JAMES F. HOWELL

8/04/98  
Date

  
MARY KALBERT

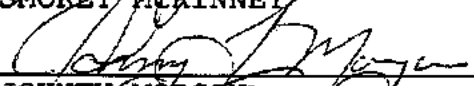
8/04/98  
Date

  
JERRY MAYNARD

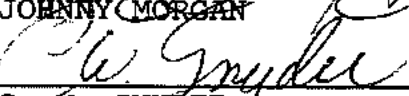
8/04/98  
Date

  
SMOKEY MCKINNEY

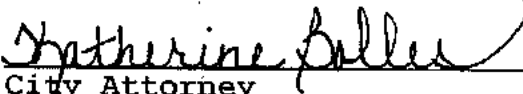
8/04/98  
Date

  
JOHNNY MORGAN

8/04/98  
Date

  
C. W. SNYDER

APPROVED AS TO FORM AND LEGALITY this 4th day of  
August, 1998.

  
City Attorney



## Midwest City Memorial Hospital Authority

100 North Midwest Boulevard  
Midwest City, Oklahoma 73110  
(405) 732-2281 FAX (405) 739-1208 TDD (405) 739-1359

J. Guy Henson  
General Manager/  
Administrator

*Trustees*

Jerry Maynard  
Turner Mann  
Ruth Cain  
James Ray  
Michael Pung  
Richard Rice  
Russell Smith

*Board of Grantors*

Andrew J. Johns  
Lynn Nelson  
Tommy Melton  
Ray Hardin  
Beverly Young  
Brenda Bodenheimer  
Steve Coleman  
Dara McGlamery  
Pam Hall

### MEMORANDUM

TO: Honorable Hospital Authority Chairman and Trustees  
Honorable Board of Grantors Chairman and Members

FROM: J. Guy Henson, General Manager/Administrator

DATE: April 8, 2008

RE: Discussion and consideration of amending the Operating Contract;  
the Bylaws of the Trust Board of Grantors; and/or the Policies and  
Procedures of the Trust Board of Grantors

This meeting was called to provide both the Hospital Authority trustees and the members of the Board of Grantors the opportunity to discuss any concerns or issues either body may have with the terms and conditions of the Operating Contract, the Board's Bylaws and/or the Board's Policies and Procedures. Several issues have been raised in the past, such as the definition of "community" as it pertains to grant applications; the eligibility requirements for grant applications; the grant application process; and the City's eligibility to apply for grant funds, that I thought all of you might want to discuss as a group.

Action is at your discretion.

  
\_\_\_\_\_  
J. GUY HENSON  
General Manager/Administrator

Attachments (4):

Amended and Restated Trust Indenture  
Operating Contract  
Bylaws  
Policies and Procedures

**BYLAWS**  
**OF**  
**THE TRUST BOARD OF GRANTORS**

PREAMBLE

For the purpose of these bylaws, the words "Board of Grantors" shall mean the Trust Board of Grantors and the word the "Authority" shall mean the Midwest City Memorial Hospital Authority.

Membership on the Board of Grantors carries with it a responsibility that makes it obligatory for each member of the Board of Grantors to perform the duties involved as conscientiously and as efficiently as possible.

The members of the Board of Grantors are appointed by the Authority and the Midwest City Chamber of Commerce, and shall perform their obligations and duties in accordance with the rules, regulations and procedures established by the Authority.

The Mission Statement governing the Board of Grantors when considering grant applications shall be to preserve, endow and support the betterment of the community of Midwest City.

**ARTICLE I**

OFFICERS OF THE BOARD OF GRANTORS

As soon as practicable after the initial Board of Grantors is appointed, and annually thereafter, the Board of Grantors shall meet and elect from among its members a chairman, a vice-chairman and a secretary/treasurer. No member of the Board of Grantors may serve more than two (2) consecutive one-year terms in any one office.

The chairman shall preside at all meetings and shall be an ex-officio member of all committees. S/he shall sign all official documents approved by the Board of Grantors.

The vice-chairman shall preside at all meetings and perform all other duties of the chairman when the chairman is absent or otherwise unable or unwilling to perform the duties of chairman. When acting as the chairman in the absence, inability or unwillingness of the chairman to act, the vice-chairman shall have all of the powers and authority of the chairman.

The secretary/treasurer shall keep the minutes and proceedings of all meetings of the Board of Grantors. The secretary/treasurer shall also be the custodian of all correspondence, reports and records of the Board of Grantors. The

secretary/treasurer is also responsible for the proper accounting of the recommendations to the Authority for the disbursement of grant funds.

## ARTICLE II

### COMMITTEES

Committees of the Board of Grantors shall be standing or special committees. Committees shall be created as necessary by a majority vote of the Board of Grantors.

## ARTICLE III

### MEETINGS OF THE BOARD OF GRANTORS

The fiscal year of the Board of Grantors shall be from July 1 through June 30. The Board of Grantors shall hold meetings as needed to accomplish its mission. Notice of the time and place of the Board of Grantors's regular meetings shall be made in writing by December 15 of each year to the Midwest City City Clerk indicating the date, time and place for each regular meeting for the following calendar year. Public notice of each meeting shall be filed and posted as required by the Oklahoma Open Meetings Act. Copies of the notice and agenda of meetings of the Board of Grantors and supporting documents shall be furnished to members of the Authority and to the attorney for the Board of Grantors and the Authority. A quorum of a majority of the members of the Board of Grantors must be present at any meeting for the Board of Grantors to conduct any business. Approval of an action shall require the affirmative vote of a majority of the members of the Board of Grantors present at a meeting at which a quorum is present. Members of the Board of Grantors may be subject to removal if they are absent from more than one-half of all of the meetings held by the Board of Grantors in any consecutive four-month period.

Special meetings may be called as necessary to carry out the purposes of the Board of Grantors. Special meetings may be called by the chairman or by written request to the secretary/treasurer of a majority of the members of the Board of Grantors. Notice of such special meeting shall be given to all members of the Board of Grantors.

The following is a suggested agenda for the Board of Grantors:

1. Call to order
2. Approval of minutes of previous meetings
3. Old business



4. New business
5. Reports of officers and committees
6. Communications
7. Other business.

#### IV.

##### DUTIES OF THE BOARD OF GRANTORS

The Board of Grantors shall have the duty to:

(a) Seek, request, apply for and receive, with the permission of the Authority, grants, gifts and donations, in money, property or services, from governmental agencies, individuals, entities, corporations or organizations by gift, devise, bequest or otherwise, absolutely or in trust;

(b) Beginning no later than September 1 of each year, publicly advertise and distribute materials to governmental agencies, individuals, entities, corporations or organizations seeking a grant from the Authority for any public purpose that directly benefits the Midwest City community which may include, but shall not be limited to:

- (1) Economic development;
- (2) Education;
- (3) Revitalization of the city of Midwest City;
- (4) Community;
- (5) Housing;
- (6) Safety;
- (7) Youth and family; or
- (8) Health;

(c) Review the grant applications received from governmental agencies, individuals, entities, corporations or organizations seeking a grant from the Authority and make recommendations to the Authority no later than March 1 each year of which grant applica-

tions to fund and in what amount within the budget set by the Authority each year;

(d) Periodically evaluate community needs to assist the Board of Grantors in making its grant funding recommendations to the Authority;

(e) Make such other recommendations to the Authority as may be appropriate for the continuing benefit of the Authority and perform such other duties and have such other powers as the Authority may determine from time to time; and

(f) Disclose any and all relationships that any member of the Board of Grantors has or may have with any governmental agency, individual, entity, corporation or organization that applies for a grant from the Authority. This duty also applies to each member of the Board of Grantors requiring that s/he disclose to the Board of Grantors any and all relationships s/he has or may have with any governmental agency, individual, entity, corporation or organization prior to the Board of Grantors's consideration of any grant application from a governmental agency, individual, entity, corporation or organization with which any member of the Board of Grantors has or may have a relationship of any kind or description.

## V.

### STAFF

The City Manager for the City of Midwest City shall be the general manager and administrator of the Authority. He shall assist the Board of Grantors in performing its duties and obligations to the Authority. He shall have the authority and discretion to use the services of the staff of the City of Midwest City, for which the Authority shall reimburse the City, or he may hire such other staff as he deems appropriate to meet the needs of the Authority. The Board of Grantors may adopt policies and procedures. These policies and procedures should guide the staff in its implementation of the Board of Grantors's duties and obligations to the Authority.

## VI.

### REPORTS TO, MEETINGS OF AUTHORITY

The Board of Grantors shall make a year-end report to the Authority no later than June 30 of each year. Such year-end reports shall contain some indication of the Board of Grantors's objectives, aims and goals.

At least one member of the Board of Grantors shall attend each meeting of the Authority if requested to do so by the Authority.

## VII.

### APPLICATIONS FOR GRANT FUNDS

(1) All applications for grant funds, to be eligible for consideration by the Board of Grantors, must contain the following information and such other information as the Board of Grantors may request:

(a) Name, address and telephone number of the applicant and the name of a specific contact person who shall represent the applicant during the application process;

(b) A specific description of for what the grant funds, if received, will be used; and

(c) A specific description of how the use of the grant funds, if received, will benefit the Midwest City community.

(2) All applications shall be reviewed and receive equal consideration regardless of the applicant's race, creed, color, religion, sex, handicap or national origin.

## VIII.

### INDEMNIFICATION OF THE BOARD OF GRANTORS

Every person who is now or shall be a member of the Board of Grantors in the future shall be indemnified by the Authority against all costs and expenses, including attorneys' fees, actually and necessarily incurred by or imposed upon any member in connection with or resulting from any action, suit or proceeding of whatever nature to which such member is or shall be made a party by reason of being or having been a member of the Board of Grantors, whether or not such member holds that position at the time the member is made a party to such action, suit or proceeding or at the time such costs or expenses are incurred or imposed. The Authority shall not, however, indemnify any member of the Board of Grantors in any action, suit or proceeding when it has been determined that the member acted outside the scope of the member's duties as a member of the Board of Grantors.

IX.

AMENDMENTS TO BYLAWS

These bylaws may be amended after notice is given at any regular meeting of the Board of Grantors. At the next meeting following the meeting at which notice that the bylaws would be amended was provided, a two-thirds (2/3) majority of the members of the Board of Grantors present shall be required for adoption of the amendment. An amendment shall be effective upon its approval by the Authority.

X.

ADOPTION OF BYLAWS

These bylaws may be adopted at any meeting of the Board of Grantors and shall become effective when approved by the Board of Grantors and the Authority. In the event any of these bylaws shall be in conflict with the Amended and Restated Trust Indenture or the Operating Contract between the Authority and the Board of Grantors, the Amended and Restated Trust Indenture and the Operating Contract shall prevail over these bylaws.

THESE BYLAWS WERE PASSED, APPROVED AND ADOPTED by the Board of Grantors on the 7th day of July, 1998, and approved by the Authority on the 14th day of July, 1998.

TRUST BOARD OF GRANTORS

Robert J. Howell  
Chairman

ATTEST:

Mary Kaibest  
Secretary/Treasurer

MIDWEST CITY MEMORIAL HOSPITAL  
AUTHORITY


Eddie O. Reed  
Eddie O. Reed, Chairman

ATTEST:

Tommy Melton  
Tommy Melton, Secretary

1998.

APPROVED AS TO FORM AND LEGALITY this 14th day of July,

  
City Attorney

**POLICIES AND PROCEDURES OF  
THE MIDWEST CITY MEMORIAL HOSPITAL AUTHORITY  
TRUST BOARD OF GRANTORS**

**DEFINITIONS:**

Authority: The Midwest City Memorial Hospital Authority, a public trust, or, interchangeably, the trustees of that trust.

Board of Grantors or Board: The Trust Board of Grantors of the Authority or, interchangeably, the members of that board.

Policy: A basic principle by which the Board of Grantors guides its affairs and organization.

Procedure: An established method or manner by which the bylaws and policies of the Board of Grantors is implemented.

**A. POLICIES**

**ADMINISTRATION:**

(1) Purposes and objectives of the Board of Grantors:  
The purposes and objectives of the Board of Grantors are to:

- (a) Seek, request, apply for and receive grants, gifts and donations;
- (b) Advertise and distribute materials to members of the public seeking a grant from the Authority;
- (c) Review the returned completed grant applications from members of the public seeking a grant from the Authority; and
- (d) Make recommendations to the Authority, within the funding limits set by the Authority each year, as to which grant applications should be funded.

(2) Duties and responsibilities of the Board officers:

Chairman: Preside at all meetings; be an ex-officio member of all committees; and sign all official documents approved by the Board of Grantors;

Vice-Chairman: Preside at all meetings; perform the duties of the chairman when the chairman is absent or unwilling to perform the duties of the chairman; and, when acting as the chairman, have all the powers and authority of the chairman.

Secretary/treasurer: Keep the minutes and proceedings of all meetings of the Board of Grantors; be the custodian of all correspondence, reports and records; and be responsible for the proper accounting of the disbursement of grant funds.

(3) Meetings: Prior to December 15 of each year a list of all of the dates and times of all of the regular meetings of the Board of Grantors for the next calendar year shall be forwarded to the Authority and the city clerk for the City of Midwest City. The Board of Grantors and all of its committees shall comply with the Oklahoma Open Meetings Act, as it may be amended from time to time.

(4) Equal opportunity statement: No employee of the Authority or grant applicant will be discriminated against because of race, color, creed, sex, age, religion, physical handicap or national origin.

## B. PROCEDURES

(1) Board of Grantors: Seven (7) members of the Board of Grantors are appointed by the Authority and two (2) by the Midwest City Chamber of Commerce. The Board members shall elect a chairman, a vice-chairman and a secretary/treasurer.

(2) Committees: There shall be two types of committees of the Board of Grantors: standing and special. Committees shall be created as necessary by the chairman or by a majority vote of the Board of Grantors.

(3) Meetings: Unless otherwise indicated on the agenda, all meetings of the Board of Grantors will convene in the second floor conference room at Midwest City City Hall, 100 North Midwest Boulevard, Midwest City, Oklahoma. All dates, times and places of all committee meetings shall be given to the Secretary of the Authority at least 72 hours prior to each meeting. Special meetings of the Board of Grantors can be called on an as-needed basis as determined by the chairman or by a majority of the Board of Grantors. The Board of Grantors and all of its committees shall comply with the Oklahoma Open Meetings Act, as it may be amended from time to time.



(4) Duties of the Board of Grantors:

- (a) To seek, request, apply for and receive grants, gifts and donations to be administered by the Authority with the assistance of the Board of Grantors;
- (b) To review applications for the disbursement of grant monies ensuring that the applications comply with the Authority's objectives and the guidelines of the Operating Agreement between the Authority and the Board of Grantors. The following guidelines shall be used in the evaluation of each application:
  - (i) The primary and foremost consideration of the benefit to the community shall be the final determination whether to fund grant applications.
  - (ii) Each application will be individually reviewed and evaluated by each Board member uniformly and without bias prior to the ranking meeting. Each Board member shall complete evaluation forms that have a numerical weight to each area of the application for each application prior to the ranking meeting.
  - (iii) If there is an application that is illegible or that a Board member cannot understand, he/she shall seek advice of counsel prior to evaluating or abstain from evaluating that application. Any Board member that discovers he/she has a potential conflict of interest pertaining to any grant application must inform the Board of Grantors of that conflict and should abstain from evaluating that application.
- (c) To rate the submitted grant applications on a competitive basis using the following criteria:
  - (i) Need for the project in the community of Midwest City, Oklahoma;
  - (ii) Project description and specific plans for implementation and use of grant funds;

- (iii) Number of citizens or visitors that the project would benefit in the community;
  - (iv) Positive impact the project would have in the community; and
  - (v) Plans for project evaluation objectives;
- (d) Periodically conduct a community analysis and submit a report to the Authority as to the needs of the community. This can be a committee project and reviewed annually;
  - (e) Send to the Authority by March 1 of each year a ranking list of those grant applications that meet the guidelines; and
  - (f) Make recommendations to the Authority as may be appropriate for the benefit of the Authority, and perform such duties and have such other powers as the Authority may determine from time to time.

(5) Rating of grant applications: After each Board member has read all of the grant applications and completed an evaluation form for each with rating numbers, all sections of the evaluation form will be added together to determine that Board member's point total for each grant application. All of the Board members' point totals for each grant application will be added together and divided by the total number of evaluating Board members. This number then becomes the ranking number for that grant application. This procedure continues until all grant applications are evaluated and ranked from the highest to lowest. If clarification of a grant application or a project is needed, this can be accomplished by a visit by or to the Board of Grantors or by written clarification submitted by an applicant of specific areas of a grant application or a project at the sole and exclusive discretion of the Board of Grantors.

(6) Grant limitations: Only one application will be considered if two or more identical applications are submitted. No identical grant will be funded in subsequent years but multi-year grant applications will be considered. All grant applications must be double spaced and typewritten or printed in black ink, and must be received by the Secretary of the Authority prior to 5:00 p.m. on the designated deadline to qualify for consideration for funding by the Board of Grantors.

(7) Annual review: These procedures shall be reviewed annually or as directed by the chairman of the Board of Grantors or of the Authority.

(8) Attendance at Authority meetings: At least one member of the Board of Grantors shall attend meetings of the Authority when requested to do so by the Authority.

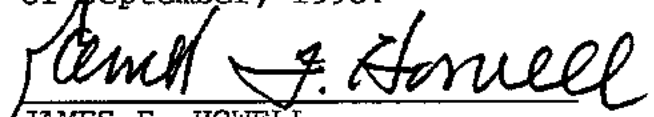
### C. REPORTS TO THE AUTHORITY

(1) Ranking report: The Board of Grantors shall prepare and submit to the Authority a report ranking those grant applications with the highest total point averages as its recommendations as to which grant applications should be funded. At no time shall the funding recommendations of the Board of Grantors exceed the funding limits identified by the Authority no later than September 1 of each year as being available for distribution as grants.

(2) Year-end report: The Board of Grantors shall make a year-end report to the Authority no later than June 30 of each year. The year-end report will contain some indication of the objectives, aims and goals of the Board of Grantors.

(3) Budget: The Board of Grantors shall submit a budget of its intended expenditures for the following fiscal year to the Authority before May 1 of each year. This budget will be prepared by the Authority's Secretary and approved by the Board of Grantors prior to submission for the Authority's approval.

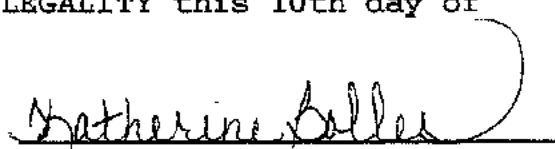
THESE POLICIES AND PROCEDURES were passed and approved by the Trust Board of Grantors of the Midwest City Memorial Hospital Authority on the 10th day of September, 1998.

  
JAMES F. HOWELL  
Chairman

ATTEST:

  
MARY KALBERT  
Secretary/Treasurer

APPROVED AS TO FORM AND LEGALITY this 10th day of September, 1998.

  
KATHERINE BOLLES  
Attorney for the Trust Board  
of Grantors

RESOLUTION NO. 2020- 28

**WHEREAS**, the Trustees of the Midwest City Memorial Hospital Authority ("Authority") will consider the attached and incorporated Resolution on December 8, 2020 approving a Joint Resolution and authorizing the Chairman to take actions in furtherance thereof ("Resolution of December 8, 2020"); and, the Council of the City of Midwest City desires to take the following actions.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MIDWEST CITY, OKLAHOMA:**

The Resolution of December 8, 2020 is hereby joined in and approved by the City of Midwest City, Oklahoma ("City"), including approval of the THIRD AMENDMENT TO AMENDED AND RESTATED TRUST INDENTURE OF THE MIDWEST CITY MEMORIAL HOSPITAL AUTHORITY as provided for by the Resolution of December 8, 2020 ("Third Amendment") as beneficiary of the Authority, with the Mayor authorized to execute Third Amendment for and on behalf of the City.

**PASSED AND APPROVED** by the Mayor and Council of the City of Midwest City, Oklahoma, this 8<sup>th</sup> day of December, 2020.

CITY OF MIDWEST CITY, OKLAHOMA



Matthew D. Dukes II  
MATTHEW D. DUKES II, Mayor

ATTEST:

Sara Hancock  
SARA HANCOCK, City Clerk

APPROVED as to form and legality this 11 day of December, 2020.

Heather Poole  
HEATHER POOLE, City Attorney

JOINT RESOLUTION

OF

THE TRUSTEES OF THE MIDWEST CITY MEMORIAL HOSPITAL AUTHORITY ("AUTHORITY"), THE CITY COUNCIL OF THE CITY OF MIDWEST CITY, OKLAHOMA, BENEFICIARY OF THE AUTHORITY, AND THE MIDWEST CITY CHAMBER OF COMMERCE, TRUSTOR OF THE AUTHORITY

APPROVING

THIRD AMENDMENT TO  
AMENDED AND RESTATED TRUST INDENTURE OF THE MIDWEST CITY  
MEMORIAL HOSPITAL AUTHORITY

WHEREAS, on April 8th, 1998, that certain Amended and Restated Trust Indenture ("Amended Trust Indenture") of the Midwest City Memorial Hospital Authority ("Authority") was adopted amending the original Trust Indenture of the Authority dated July 1st, 1961, for the use and benefit of the City of Midwest City, Oklahoma ("Beneficiary"), which was subsequently amended by the First Amendment to Amended and Restated Trust Indenture of the Midwest City Memorial Hospital Authority on April, 2017 ("2017 Amendment") (collectively, as amended, the "Indenture"); and amended again by the Second Amendment to the Amended and Restated Trust Indenture of the Midwest City Memorial Hospital Authority on October 9, 2018.

WHEREAS, the 2018 Amendment Paragraph 2(b) of Article III of the Amended Trust Indenture regarding the purposed of the Authority, which now reads in part as follows:

(b) Grants for the acquisition of, improvement to or enhancement of property shall be limited to properties or improvements or enhancements to properties that have an expected useful life of greater than twenty (20) years.

WHEREAS, based in part on the foregoing language of Paragraph 2(b) of Article III of the Indenture, the City Council of the Beneficiary and the Trustees of the Authority now desire to amend said Amended Trust Indenture to clarify the purposes of the Trust, specifically for what purposes the Trust funds may be awarded; and,

WHEREAS, the Trustees of the Authority and the City Council of the Beneficiary, with the consent of the Trustor, the Midwest City Chamber of Commerce ("Trustor"), are all of the parties necessary to amend the Indenture and are therefore authorized to so do.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the authority of the Trustees of the Authority and the City Council of the Beneficiary, and with the consent of the Trustor, the Midwest City Chamber of Commerce, the Indenture is hereby amended, as follows:



SECTION I. Paragraph 2 (b) of Article III of said Amended Trust Indenture is hereby amended, to read as follows, with new language underscored:

(b) Grants for the acquisition of, improvement to or enhancement of property shall be awarded with preference to be given to those properties or improvements or enhancements to properties that have an expected useful life of greater than twenty (20) years but requests can be considered that include requests for property items that include technology or other software dependent property items that will aid the Beneficiaries identified in Article III, (1) (a).

THE UNDERSIGNED AUTHORITY, BENEFICIARY AND TRUSTOR AGREE TO ALL CONTAINED HEREIN.

APPROVED FOR AND ON BEHALF OF THE TRUSTEES OF THE MIDWEST CITY MEMORIAL HOSPITAL AUTHORITY, as authorized by Resolution No. HA 2020-03 approved by the Authority on December 8, 2020.

Date 12/10/20

ATTEST:

*Sara Hancock*

SARA HANCOCK, Secretary



Date 12/10/20

ATTEST:

*Sara Hancock*  
SARA HANCOCK, City Clerk



"Authority"

TRUSTEES OF THE MIDWEST CITY  
MEMORIAL HOSPITAL AUTHORITY

*Matthew D. Dukes*  
MATTHEW D. DUKES, Chair

"Beneficiary"

CITY COUNCIL OF THE CITY OF  
MIDWEST CITY, OKLAHOMA

*Matthew D. Dukes II*  
MATTHEW D. DUKES II, MAYOR

Date 12-2-20

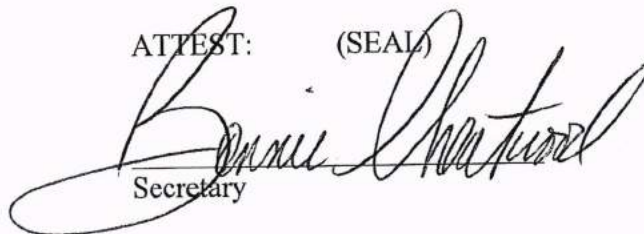
"Trustor"

MIDWEST CITY CHAMBER OF  
COMMERCE



Shane Willard, President  
Name Title

ATTEST: (SEAL)



Secretary



RESOLUTION NO. HA 2020- 03

**WHEREAS**, the Council of City of Midwest City approved the attached and incorporated Resolution on December 8, 2020 authorizing the Trustees of the Midwest City Memorial Hospital Authority ("Authority") to consider and approve a Joint Resolution and authorize the Chairman to take actions in furtherance thereof ("Resolution of December 8, 2020"); and, the Chairman of the Midwest City Memorial Hospital Authority desires to take the following actions.

**NOW, THEREFORE, BE IT RESOLVED BY THE TRUSTEES OF THE MIDWEST CITY MEMORIAL HOSPITAL AUTHORITY:**

The Resolution of December 8, 2020 is hereby joined in and approved by the Midwest City Hospital Authority, Oklahoma ("City"), including approval of the THIRD AMENDMENT TO AMENDED AND RESTATED TRUST INDENTURE OF THE MIDWEST CITY MEMORIAL HOSPITAL AUTHORITY as provided for by the Resolution of December 8, 2020 ("Third Amendment") as beneficiary of the Authority, with the Chair authorized to execute Third Amendment for and on behalf of the Authority.

**PASSED AND APPROVED** by the Chairman and Trustees of the Midwest City Memorial Hospital Authority, Oklahoma, this 8<sup>th</sup> day of December, 2020.

MIDWEST CITY HOSPITAL  
AUTHORITY, a public trust

  
\_\_\_\_\_  
MATTHEW D. DUKES II, Chairman

ATTEST:

  
  
\_\_\_\_\_  
SARA HANCOCK, Secretary

**APPROVED** as to form and legality this 11 day of December, 2020.

  
\_\_\_\_\_  
HEATHER POOLE, City Attorney

JOINT RESOLUTION

OF

THE TRUSTEES OF THE MIDWEST CITY MEMORIAL HOSPITAL AUTHORITY ("AUTHORITY"), THE CITY COUNCIL OF THE CITY OF MIDWEST CITY, OKLAHOMA, BENEFICIARY OF THE AUTHORITY, AND THE MIDWEST CITY CHAMBER OF COMMERCE, TRUSTOR OF THE AUTHORITY

APPROVING

THIRD AMENDMENT TO  
AMENDED AND RESTATED TRUST INDENTURE OF THE MIDWEST CITY  
MEMORIAL HOSPITAL AUTHORITY

WHEREAS, on April 8th, 1998, that certain Amended and Restated Trust Indenture ("Amended Trust Indenture") of the Midwest City Memorial Hospital Authority ("Authority") was adopted amending the original Trust Indenture of the Authority dated July 1st, 1961, for the use and benefit of the City of Midwest City, Oklahoma ("Beneficiary"), which was subsequently amended by the First Amendment to Amended and Restated Trust Indenture of the Midwest City Memorial Hospital Authority on April, 2017 ("2017 Amendment") (collectively, as amended, the "Indenture"); and amended again by the Second Amendment to the Amended and Restated Trust Indenture of the Midwest City Memorial Hospital Authority on October 9, 2018.

WHEREAS, the 2018 Amendment Paragraph 2(b) of Article III of the Amended Trust Indenture regarding the purposed of the Authority, which now reads in part as follows:

(b) Grants for the acquisition of, improvement to or enhancement of property shall be limited to properties or improvements or enhancements to properties that have an expected useful life of greater than twenty (20) years.

WHEREAS, based in part on the foregoing language of Paragraph 2(b) of Article III of the Indenture, the City Council of the Beneficiary and the Trustees of the Authority now desire to amend said Amended Trust Indenture to clarify the purposes of the Trust, specifically for what purposes the Trust funds may be awarded; and,

WHEREAS, the Trustees of the Authority and the City Council of the Beneficiary, with the consent of the Trustor, the Midwest City Chamber of Commerce ("Trustor"), are all of the parties necessary to amend the Indenture and are therefore authorized to so do.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the authority of the Trustees of the Authority and the City Council of the Beneficiary, and with the consent of the Trustor, the Midwest City Chamber of Commerce, the Indenture is hereby amended, as follows:



SECTION I. Paragraph 2 (b) of Article III of said Amended Trust Indenture is hereby amended, to read as follows, with new language underscored:

(b) Grants for the acquisition of, improvement to or enhancement of property shall be awarded with preference to be given to those properties or improvements or enhancements to properties that have an expected useful life of greater than twenty (20) years but requests can be considered that include requests for property items that include technology or other software dependent property items that will aid the Beneficiaries identified in Article III, (1) (a).

THE UNDERSIGNED AUTHORITY, BENEFICIARY AND TRUSTOR AGREE TO ALL CONTAINED HEREIN.

APPROVED FOR AND ON BEHALF OF THE TRUSTEES OF THE MIDWEST CITY MEMORIAL HOSPITAL AUTHORITY, as authorized by Resolution No. HA 2020-03 approved by the Authority on December 8, 2020.

Date 12/10/20

ATTEST: (SEAL)  
Sara Hancock  
SARA HANCOCK, Secretary

"Authority"

TRUSTEES OF THE MIDWEST CITY  
MEMORIAL HOSPITAL AUTHORITY  
Matthew D. Dukes  
MATTHEW D. DUKES, Chair

Date 12/10/20

ATTEST:  
Sara Hancock  
SARA HANCOCK, City Clerk



"Beneficiary"

CITY COUNCIL OF THE CITY OF  
MIDWEST CITY, OKLAHOMA  
Matthew D. Dukes II  
MATTHEW D. DUKES II, MAYOR

Date 12-2-20

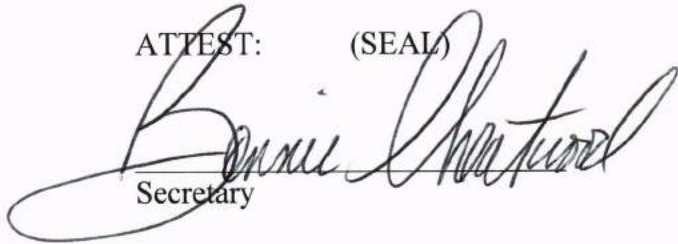
"Trustor"

MIDWEST CITY CHAMBER OF  
COMMERCE



Shane Willard, President  
Name Title

ATTEST: (SEAL)



Secretary



DISCUSSION ITEM





**Memorial Hospital Authority**

General Manager/Administrator, Tim Lyon  
100 North Midwest Boulevard  
Midwest City, Oklahoma 73110  
Office (405) 739-1201  
tlyon@midwestcityok.org  
[www.midwestcityok.org](http://www.midwestcityok.org)

MEMORANDUM

To: Honorable Chairman and Trustees

From: Tiatia Cromar, Finance Director

Date: July 26, 2022

Subject: Discussion and consideration of adoption, including any possible amendment, of action to reallocate assets, change fund managers or make changes in the Statement of Investment Policy, Guidelines and Objectives.

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Jim Garrels, President of Fiduciary Capital Advisors, asked staff to put this item on each agenda in the event that the Hospital Authority's investments need to be reallocated, an investment fund manager needs to be changed, or changes need to be made to the Statement of Investment Policy on short notice.

Tiatia Cromar  
Finance Director



NEW BUSINESS/  
PUBLIC DISCUSSION







**ECONOMIC DEVELOPMENT COMMISSION AGENDA**  
City Hall - Midwest City Municipal Court, 100 N. Midwest Boulevard

July 26, 2022 – 6:03 PM

Presiding members: Chairman Matthew Dukes		City Staff:
Commissioner Susan Eads	Commissioner Sean Reed	City Manager Tim Lyon
Commissioner Pat Byrne	Commissioner Sara Bana	City Clerk Sara Hancock
Commissioner Megan Bain	Commissioner Rick Favors	City Attorney Don Maisch

A. **CALL TO ORDER.**

B. **CONSENT AGENDA.** These items are placed on the Consent Agenda so the Commissioners, by unanimous consent, can approve routine agenda items by one motion. If any Commissioner requests to discuss an item(s) or if unanimous consent is not received, then the item or items will be removed and heard in regular order.

1. Discussion and consideration for adoption, including any possible amendments, of the April 26, 2022 meeting minutes. (Secretary - S. Hancock)

2. Review of the Communications, Marketing, and CVB Quarterly Activity Reports for the period ending June 30, 2022. No action is necessary; this item is presented for informational and discussion purposes only. (Communications, Marketing and CVB - J. Ryan)

3. Review of the Midwest City Chamber of Commerce's Quarterly Activity Report for the period ending June 30, 2022. No action is necessary; this item is presented for informational and discussion purposes only. (City Manager - T. Lyon)

C. **NEW BUSINESS/PUBLIC DISCUSSION.** In accordance with State Statue Title 25 Section 311. Public bodies - Notice. A-9, the purpose of the "New Business" section is for action to be taken at any Council/Authority/Commission meeting for any matter not known about or which could not have been reasonably foreseen 24 hours prior to the public meeting. The purpose of the "Public Discussion" section of the Agenda is for members of the public to speak to the Commission on any Subject not scheduled on the Regular Agenda. The Commission shall make no decision or take any action, except to direct the City Manager to take action, or to schedule the matter for discussion at a later date. Pursuant to the Oklahoma Open Meeting Act, the Commission will not engage in any discussion on the matter until that matter has been placed on an agenda for discussion. **THOSE ADDRESSING THE COMMISSION ARE REQUESTED TO STATE THEIR NAME AND ADDRESS PRIOR TO SPEAKING TO THE COMMISSION.**

D. **ADJOURNMENT.**



CONSENT AGENDA



Notice for the Midwest City Economic Development Commission meetings was filed for the calendar year with the City Clerk of Midwest City. Public notice of this agenda was accessible at least 24 hours before this meeting at City Hall and on the Midwest City website (www.midwestcityok.org).

## Midwest City Economic Development Commission Minutes

April 26, 2022

This meeting was held in Midwest City Council Chambers at City Hall, 100 N. Midwest Boulevard, Midwest City, County of Oklahoma, State of Oklahoma.

Chairman Matt Dukes called the meeting to order at 7:18 PM with the following members present:

Commissioner Susan Eads	Commissioner Sean Reed	City Manager Tim Lyon
Commissioner Pat Byrne	Commissioner Sara Bana	City Clerk Sara Hancock
Commissioner Megan Bain	Commissioner Rick Favors	City Attorney Don Maisch

CONSENT AGENDA. Eads made a motion to approve the consent agenda with exception of pulling Item #3, seconded by Reed. Voting Aye: Eads, Byrne, Bain, Reed, Bana, Favors, and Dukes. Nay: none. Absent: none. Motion carried.

1. Discussion and consideration for adoption, including any possible amendment, of the January 25, 2022 meeting minutes.
2. Review of the Communications, Marketing, and CVB Quarterly Activity Reports for the period ending March 31, 2022. No action is necessary; this item is presented for informational and discussion purposes only.
- 3. Review of the Midwest City Chamber of Commerce's Quarterly Activity Report for the period ending March 31, 2021.** No action is necessary; this item is presented for informational and discussion purposes only. Chamber of Commerce Executive Director Marcy Jarrett presented information.

NEW BUSINESS/PUBLIC DISCUSSION. There was no new business or public discussion.

### ADJOURNMENT.

There being no further business, Chairman Dukes adjourned the meeting at 7:26 PM.

ATTEST:

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MATTHEW D. DUKES II, Chairman

---

SARA HANCOCK, Secretary



**Communications & Marketing**

100 N. Midwest Boulevard  
Midwest City, OK 73110  
jryan@midwestcityok.org  
Office: 405.739.1206  
www.midwestcityok.org

MEMORANDUM

TO: Honorable Chairman and Commissioners

FROM: Josh Ryan, Communications & Marketing Director

DATE: July 26, 2022

SUBJECT: Review of the Communications, Marketing, and CVB Quarterly Activity Reports for the 2<sup>nd</sup> quarter period ending June 30, 2022. No action is necessary; this item is presented for informational and discussion purposes only. (Communications, Marketing and CVB - J. Ryan)

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The Quarterly CVB Activity Report is developed by Susan MacQuarrie, Convention & Visitors Bureau Manager. The 2022 2nd Quarter Activity Report is attached for your review.

The Quarterly Communications & Marketing Activity Report is developed by Josh Ryan, Communications & Marketing Director. The 2022 2nd Quarter Activity Report is attached for your review.

Josh Ryan, Communications & Marketing Director

## 2nd Quarter 2022 Highlights

### SPECIAL EVENTS OFFICE:

- **Cruise in for Coffee** and **Fourth Friday Films** have been successful through the halfway point of the summer event season. Planning for **Tribute to Liberty** and **Daddy/Daughter Dance** kept our team very busy in Q2. **Doggie Paddle** and **Rockin' Regional** planning was also started in Q2.
- Special Events staff was heavily engaged in assisting the annual Tinker Inter-Tribal Council Pow-Wow at Joe B. Barnes Regional Park when they were affected by heavy rains this year. Alternate plans were developed to assist the event organizers and City staff so that park grounds were not heavily damaged by event activities.
- As anticipated, multiple event organizers have been contacting us about special event permitting for Joe B. Barnes Regional Park. Several 5K races and a basketball tournament organizer have reached out to us, wanting to use the facilities for their fundraising efforts and competitive tournaments. The basketball tournament didn't work out, due to postponement until 2023, but they are very excited to begin their planning efforts again next year.

### COMMUNICATIONS & MARKETING OFFICE (CAMO):

- The opening of two Parks and Recreation facilities were the big news of the quarter as the CAMO team helped the community celebrate the new Midwest City MAC and the reopening of Reed Ballpark. Both facilities have been utilized by tournament organizers and community leagues.
- Associated with the opening of the new facilities, and in cooperation with the CVB, we have developed an advertising program for the new sports facilities. The program will sell advertising space on the outfield fences of the new ballparks, as well as provide City-branded screening for the fields. Leg work for the new program was completed in Q2, installation and sales will begin in Q3.
- Unfortunately, the official opening of Palmer Loop trail had to be postponed due to weather. This exciting addition to the Spirit Trails network will be celebrated with the groundbreaking for the connection trail, near Midwest City Elementary, in September.
- Photography support was provided for the Annual Midwest City Martin Luther King, Jr. Prayer Breakfast. This event helped to celebrate Juneteenth in the community in 2022.
- In May, media support was provided to multiple responding departments when a dog hoarding home was discovered in the community. Media outlets continue to request information and updates on the incident as the City is now processing the home for demolition.
- The big social media post of Q2 goes to Parks and Recreation's April Fool's Day Hissy Fits Cat Park post. It saw some great engagement with the community. The post jokingly suggested that the City would be opening a cat park in conjunction with Fred Quinn Happy Tails Dog Park. Followers enjoyed the humor and bad graphic design, giving the post hundreds of interactions, comments and shares. It gave us the opportunity to invite more than 500 individual users to follow the City on Facebook as we strive to increase our followers to 12,000+.



## **Convention & Visitors Bureau Activities: Q2 April, May, June 2022**

The mission of the Convention & Visitors Bureau is to stimulate Midwest City's economic vitality through tourism by positioning and selling the community in partnership with public and private sectors as a premier destination for conventions, tradeshow, corporate meetings, group tours, and individual leisure travel. The CVB offers assistance with site tours and acquiring bids at our hospitality venues and information on special events, dining, catering, entertainment and local attractions.

In pursuit of its mission, the CVB generates increased visitor spending for the overall business community through creative marketing programs, attractive incentive packages, and special events.

- 774 guides were sent this quarter directly to individuals requesting information from OTRD and direct CVB contact, indicating a slight decline year over year.
- The CVB is experienced an increase in family reunion and special interest / hobby group inquiries for the 2022 summer / fall.
- Confidence and excitement is growing within the tourism sector as we rebound from the pandemic, as we open the new Delta by Marriott hotel and as we unveil several new sport destination facilities. The recovery, reopening and grand openings will prove to have a positive impact across the multiple markets.
- Community/visitor response to the Midwest City MAC (multi-athletic complex) has been overwhelmingly positive and requests to use the facility, along with the newly renovated Reed Ballpark, continue to flow in to Parks and Recreation. The CVB has reached out to several tournament organizers to help them with their needs in the Midwest City community.
- The CVB has organized and planned to sponsor an exhibit at the July 11 & 12 OSAE conference in Duncan, OK. The CVB continues to participate in travel & tourism industry events hosted by OTIA, OSAE and TravelOK. This assembly of travel and tourism experts provide an understanding of the opportunities and expectations that destination marketing organizations will experience as we continue to move forward.
- The "Experience Midwest City" resource guide is very close to distribution. Final touches are being added to the new publication highlighting Midwest City's facilities, restaurants and business listings. We're ensuring the guide is as accurate as possible for mass printing. Our goal with the publication is to increase overall exposure for our Midwest City businesses and capture the opportunity to highlight the amenities of our community for relocation prospects, new business interests and visitor perspectives.
- The CVB learned that Indian Hills Lodging at Tinker AFB will be permanently closing October 1. We are coordinating how to capture those lodging accommodations to our Midwest City hotels.
- The Midwest City Chamber of Commerce invited the CVB and the Economic Development Departments to participate in the 2022 Tinker and the Primes annual conference. This year's TAP event will showcase several big changes in setup , distribution of information and will

highlight the 4 major milestone birthdays of the City of Midwest City and Tinker Air Force Base's 80<sup>th</sup> Anniversary's and the 75<sup>th</sup> Birthdays of the United States Air Force and the Midwest City Chamber of Commerce.

- The CVB will be an exhibitor and serve as a one stop information hub for all things Midwest City during TAP. The CVB will also be promoting the 2023 Airshow as TAP participants are also key airshow sponsors.
- The CVB joined with the Economic Development and Communications & Marketing (CAM) Depts. on identifying a targeted, multi-faceted (print & digital) marketing campaign with the Journal Record. Special issues: Focus on Tourism, Focus on Sports, Focus on Veterans and Focus on Midwest City will provide in-depth, creative coverage of these specific Midwest City topics in Midwest City.
- The CVB met with the new management & sales team at the Home 2 Suites. As newcomers to the area, they were excited to learn more about Midwest City and how their CVB can serve and partner with them to increase occupancy.
- The CVB and CAM are working together on a new marketing campaign at our sports facilities that will help get community brand and local business exposure to our visitors and residents.

#### **Current Bookings, Status and Value Amounts (July 2022 Data)**

Definite – 9    \$ 468,000  
Tentative – 0    \$  
Prospect – 1    \$ 68,000  
Total: 10    \$ 536,000

***Please note:** The CVB does not work with every group booked at the center. The CVB works with groups who seek support in a convention services capacity that exceeds reasonable expectations of the conference center staff. This includes; but not limited to, conference planning, welcome bags, exhibitor participation, conference sponsorship, assistance with registration, name tags, welcome speeches, proclamations, transportation to off property events. The CVB welcomes opportunities to groom accounts, secure repeat bookings, and to offer groups special attention they do not get in other cities.*

#### **Midwest City Hotel / Motel Assembly Quarterly Meeting –**

Quarterly Midwest City Hotel / Motel Assembly meetings:

Tuesday, September 13, 2022

Tuesday, December 13, 2022

#### **CVB Marketing Campaigns-**

- **Digital**
  - **Website** – [www.visitmidwestcity.com](http://www.visitmidwestcity.com) Online request form for visitors guide.
  - **Social Media – Facebook & Twitter-** posts are made on a regular basis on all social media resources. Some weeks with heavy events or activities, multiple posts are made on a daily basis.



- **Cross promote** – Rose State College activities, Hudiburg Chevrolet Center shows & events, Parks & Recreation Activities & Special Events, Shopping, dining and Hotels.
  - **Print**
    - The new **Experience Midwest City** resource guide is in the process of being designed. The CVB has learned there is a shortage of paper therefore shopping around for the best print quote for 30K + initial copies.
    - **Journal Record** - Several print advertisements and promotional pieces have been submitted: 2022 Meeting Planners Guide, special publications Focus on Tourism and Focus on Midwest City.
    - **OTRD – Oklahoma Tourism & Recreation Department** – Advertisements in the State Travel Guide and the Outdoor Guide for 2022 have been submitted. The Outdoor Guide is being distributed now and includes a full page feature promoting the SCIP Trails. OTRD distributes the visitors guide at all state Welcome Centers and online request fulfillment program.
    - **OSAE – Oklahoma Society of Association Executives** – Member and Sponsor, ad in quarterly meeting planner magazine. OSAE is the state’s premier organization for meeting planner networking and showcasing meeting facilities and hotels.
    - **OTIA- Oklahoma Travel Industry Association-** Member & Sponsor. OTIA continues to offer complimentary continued education training webinars and Travel & Tourism road shows.
- **Cross Promotion & Marketing-** The Communications & Marketing Department continues to work closely with the Parks & Recreation Dept., Rose State College/ Hudiburg Chevrolet Center, Town Center Plaza and the Chamber of Commerce to ensure the overall brand message & public impression that Midwest City is the ideal place to work, shop, live, educate and visit. Although the CVB promotes all the aspects of Midwest City; the focus of the CVB is to market, promote, position and sell the tourism amenities featured in Midwest City.
- **Special Events** – The Communications & Marketing team encompasses the programming, sponsorships, marketing, execution and follow-up for Midwest City special events.
- The **Cruise in for Coffee** Event resumed in April and is held the third Saturday of each month until October (8A-11A). Santa Fe Cattle Co. restaurant will continue to be the host location. HealthCare Express is our new donut sponsor. We do expect this monthly car show to bring continued business to Town Center Plaza and surrounding businesses.
- The **Midwest City MAC (Multi-Athletic Complex)** opened Friday, April 22<sup>nd</sup>. The grand reopening of the newly renovated **Marion C. Reed Ballpark** was held on Friday, June 17<sup>th</sup>.
- Marketing and planning the grand reopening of the newly renovated **John Conrad Regional Golf Course** will be the next focus for grand reopening / unveiling celebrations.
- The CAM office recently toured the **W.P. “Bill” Atkinson Park** construction site again. Great progress is being made at the park and hangar. The team discussed grand opening ideas with October 1 as a tentative grand opening date.

- The **Central Oklahoma MOPAR Association (COMA)** has booked their annual MOPAR show back in Midwest City. Once a regular event; COMA hasn't hosted this event in Midwest City since 2015. The event will be on Joe B. Barnes drive October 1.
- All available resources are utilized to promote all Midwest City special events including websites, newsletters, social media, digital and print.

Submitted By: **Susan MacQuarrie, July 8, 2022**



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MEMORANDUM

TO: Honorable Chairman and Commissioners  
Midwest City Economic Development Commission

FROM: Tim Lyon, City Manager

DATE: July 26, 2022

SUBJECT: Review of the Midwest City Chamber of Commerce's Quarterly Activity Report for the period ending June 30, 2022. No action is necessary; this item is presented for informational and discussion purposes only.

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The Midwest City Chamber of Commerce has provided the attached report.

Tim Lyon, City Manager

Midwest City Chamber of Commerce, Quarterly Report  
April – June/July 2022

The Chamber celebrated four ribbon-cuttings and one Open House for a new member, and welcomed 10 new members.

April

- Chamber staff attended the OKC YMCA's Military Welcome Center Grand Opening at the Will Rogers Airport. This is a main military entry point for Oklahoma. Staff is developing a relationship with them to provide Midwest City information, especially the Midwest City Guide.
- Confirmed the OK Dept of Commerce Exec. Director as the opening speaker for Tinker and The Primes on Wednesday.
- Updating sponsorship levels for Tinker and The Primes. New vendors are expressing interest in more sponsorship opportunities.
- Provided a 'thank you' lunch for the Public Works Administration employees and City senior staff.
- Provided requested items to assist with the Mid-Del Teacher Fair – table holders and mints.
- Began planning the Women in Aeronautics Reception at TAP with Sandra Shelton, OK Aeronautics Commission.
- Chamber board members and staff attended the Boeing 70<sup>th</sup> Anniversary of B 52 flight and High Bay Dedication ceremony.
- Began working with the Navy League on planning the Navy Birthday Ball, October 13.
- Met with Tinker team members to discuss the program and possible speakers for TAP. The Tinker team members will continue to firm up speaker details before moving forward.
- Received information on a #BeautifyMidwestCity effort by SSM Health. Sharing information with SSM on Keep Oklahoma Beautiful's Great American Cleanup program offered March 1 – May 31 each year. Possible collaboration with KOB and SSM next year.
- Chamber staff picked up trash across from Altitude 1291 as part of SSM Health's #BeautifyMidwestCity initiative. Provided photos and information on the amount of trash and participants to Keep Oklahoma Beautiful for inclusion in their Great American Cleanup report.
- Leadership MWC class sessions ended with tour of SSM Health-Midwest. Tours and a panel of health professionals provided information. The leadership class was the first tour group since Covid began.
- Participated virtually in the Oklahoma Humanities Board of Trustees quarterly meeting where grants from around the state were approved.
- Attended the Air Depot Corridor Planning meeting. Honored to be included and provide input.

May

- Met with City Manager Tim Lyon to touch base. Discussed how the Chamber could help the City's economic development efforts.
- Received information on the *Skytrain* showing on June 6. Provided a social media post, email and added it to the billboard display.
- Chamber staff delivered pizza to Fire Administration Office and a fire station in celebration of International Firefighter's Day.
- Coordinating with Midwest City CVB and Airmen and Family Readiness Office at Tinker AFB to present information on Midwest City to the quarterly orientation meeting for new airmen.
- Met with Factor 110 to review the app, its capabilities and what additional information is needed to get it ready. Staff was impressed with the options for gathering data that will help us get to know the attendees and their areas of interest, as well as the follow-up evaluation of the conference.
- Partnered with MDTC to sponsor the Women's Leadership Retreat where over 85 attended the inaugural event. MDTC plans to continue hosting this event in the future. Chamber sponsored MCHS grad Kelli Masters as the keynote speaker and provided a copy of her book as a door prize.
- Participated in a two-day virtual conference on 'Placemaking' offered by the U.S. Dept. of Agriculture.
- Hosted several TAP planning meetings with Tinker team members as well as Factor 110 staff for training on the new app.
- Confirmed cost and ability for the Reed Center to upgrade WiFi capabilities for TAP. Proceeding with Chamber paying half the upgrade cost.

## June

- Attended the Battle of Midway Dinner with the Oklahoma Navy League. Met new Navy spouses and other personnel.
- Participated in the Oklahoma Humanities Council's Strategic Planning Retreat.
- Attended the *Skytrain* movie premiere. Chamber purchased a DVD to show at Tinker and The Primes and other events.
- Met with 72d Air Base Wing Protocol staff to discuss the June 24 dinner for the Under Secretary of the Air Force, hosted by Col. Sebren. We offered to sponsor the event due to the Wing not having the finances to cover the cost of the event. Sponsorship funds from the State of Tinker AFB event on June 21<sup>st</sup> were used to support the event.
- Met with Erinn Oller, COO, SSM Health-Midwest, to get an update on their plans, staffing situation and other needs. Among the many topics discussed was SSM's desire to 'grow their own' to support the need for an array of healthcare positions.
- Gathering and preparing requested items for the Annual Audit of the Chamber.
- Met with TSgt Jackson to determine needs for the Air Force 75<sup>th</sup> Birthday Ball to be held at the Chickasaw Bricktown Ballpark.
- Tinker Team members are pleased with the ease of registration using the new TAP conference app. Provided Robert Coleman with his complimentary code for TAP registration.
- Attended the Painted Sky Opera performance of *Pagliacci* at the Hudiburg Chevrolet Center. There was a great crowd and the setting worked very well for the production.
- Met with Del Quest Committee to discuss possibly combining a couple of sessions that support the mission of both youth leadership programs. Discussed the need to confirm mentors earlier with the goal of providing leadership insight, instead of career shadowing.
- Connected Rose State College PR and Marketing department staff with Keep Oklahoma Beautiful (KOB). KOB has supplies to support clean-up efforts and other programs during the year. RSC has on-campus organizations that look for volunteer opportunities.
- Planning has begun for Youth Excel. Determining sessions, dates and which sessions that might combine well with Del Quest.
- Joined in the celebration of the re-opening of the Reed Ballpark.
- Hosted the State of Tinker AFB luncheon featuring Col. Hall Sebren, base commander. He shared information on upcoming additions to the base which will increase the workforce size. We appreciate the sponsors that supported this luncheon.
- Attended a dinner for the Under Secretary of the Air Force who was visiting and touring Tinker AFB. The Chamber was honored to provide the funding for the dinner in support of our partners at Tinker.
- Confirmed plans for the Women In Aeronautics Reception on August 8 at the Sheraton/Delta Reed Center. Invited the three top-ranked females at Tinker AFB to be speakers at the inaugural reception celebrating Living Heroines.
- Loaned napkins and table linens to the Sheraton/Delta for use in promotional photos for the renovated hotel. We are glad to support the sales effort and look forward to helping showcase the upgraded facility.

## July

- Began the paperwork requesting the flyover for the Veterans Day Parade. Will follow-up on the process as needed and keep Josh in the loop.
- Attended the City's 'Tribute to Liberty' event. Great placement of the stage, food trucks and all.
- Tinker and The Primes preparation, including confirming speakers, monitoring registration, speaker's gifts, hotel guest welcome gifts, supplier interview arrangements, menu, and sponsors.
- Attended pre-opening gathering for Friends of the John Conrad Golf Course and tours of the newly renovated golf course. This renovation will bring new guests to the city and offer new fun challenges to the local golfers.
- Chamber provided event space for Pam and Mike Kloiber to host a Home Away From Home gathering for Tinker officials, airmen and their families.
- Chamber hosted a Sunrise Social at Panera Bread. Panera wanted to highlight their new location and the addition of the drive-thru. The regional manager and the general manager were impressed with the attendance.
- Gathering door prizes for the Annual All-Member meeting at Mid-Del Technology Center on July 19.
- Provided contact to Sally Newey for Tinker tours. She wants to provide a tour to her high school Rotarians.



NEW BUSINESS/  
PUBLIC DISCUSSION





**SPECIAL ECONOMIC DEVELOPMENT AUTHORITY AGENDA**

City Hall - Midwest City Municipal Court, 100 N. Midwest Boulevard

July 26, 2022 – 6:04 PM

Presiding members: Chairman Matthew Dukes

Trustee Susan Eads

Trustee Pat Byrne

Trustee Megan Bain

Trustee Sean Reed

Trustee Sara Bana

Trustee Rick Favors

City Staff:

City Manager Tim Lyon

City Clerk Sara Hancock

City Attorney Don Maisch

A. CALL TO ORDER.

B. CONSENT AGENDA. These items are placed on the Consent Agenda so the Trustees, by unanimous consent, can approve routine agenda items by one motion. If any Trustee requests to discuss an item(s) or if unanimous consent is not received, then the item or items will be removed and heard in regular order.

1. Discussion and consideration for adoption, including any possible amendments, of the June 14, 2022 meeting minutes. (Secretary - S. Hancock)
2. Discussion and consideration of passing and approving, including any possible amendment of a resolution for the Midwest City Economic Development Authority, a public trust, to release unappropriated fund balances at the close of day June 30, 2022 to be made available for fiscal year 2022-2023; and amending the budget for fiscal year 2022-2023 to include the released appropriations from the fiscal year 2021-2022 budgets as supplemental appropriations; and, effective July 1, 2022, renewing encumbrance commitments canceled at the close of day June 30, 2022. (Finance - T. Cromar)

C. DISCUSSION ITEM.

1. Discussion, consideration and possible action to amend and/or approve a resolution of the Midwest City Economic Development Authority approving that certain “Economic Development Assistance Agreement,” by and between the Midwest City Economic Development Authority, Centrillum Proteins, LLC, and MTG Property Holdings, LLC (the “Development Assistance Agreement”); authorizing and directing the execution and delivery of the Development Assistance Agreement; and containing other provisions relating thereto. (Economic Development – R. Coleman)

D. PUBLIC DISCUSSION. These items are placed on the Consent Agenda so the Authority, by unanimous consent, can approve routine agenda items by one motion. If any Trustee requests to discuss an item(s), it/they will be removed and heard in regular order. If the Consent Agenda is not approved unanimously, and no item(s) is requested for discussion, then each item will be heard in regular order.

E. ADJOURNMENT.





CONSENT AGENDA



Notice for the Midwest City Economic Development Authority special meeting was filed with the City Clerk of Midwest City at least 48 hours prior to the meeting. Public notice of this agenda was accessible at least 24 hours before this meeting at City Hall and on the Midwest City website (www.midwestcityokorg).

**Midwest City Economic Development Authority Minutes  
Special Meeting**

**June 14, 2022**

This meeting was held in the Midwest City Chambers at City Hall, 100 N Midwest Blvd, Midwest City, County of Oklahoma, State of Oklahoma.

Chairman Matt Dukes called the meeting to order at 6:45 PM with following members present:

Trustee Susan Eads	Trustee Sean Reed	City Manager Tim Lyon
Trustee Pat Byrne	Trustee Sara Bana	City Clerk Sara Hancock
Trustee Megan Bain	Trustee Rick Favors	City Attorney Don Maisch

DISCUSSION ITEMS.

- 1. Discussion and consideration for adoption, including any possible amendments, of the May 24, 2022 meeting minutes.** Eads made a motion to approve the minutes, seconded by Byrne. Voting Aye: Eads, Byrne, Bain, Reed, Bana, Favors, and Dukes. Nay: none. Motion carried.
- 2. Public hearing with discussion and consideration of adopting a resolution of the Midwest City Economic Development Authority approving its budget for Fiscal Year 2022-2023 in the amount of \$7,964,699.** Reed made a motion to adopt Resolution EDA2022-01, seconded by Eads. Voting Aye: Eads, Byrne, Bain, Reed, Bana, Favors, and Dukes. Nay: none. Motion carried.

PUBLIC DISCUSSION. There was no public discussion.

ADJOURNMENT.

There was no further business, Chairman Dukes adjourned the meeting at 6:46 PM.

ATTEST:

\_\_\_\_\_  
MATTHEW D. DUKES II, Chairman

\_\_\_\_\_  
SARA HANCOCK, Secretary



**Finance Department**

100 N. Midwest Boulevard  
Midwest City, OK 73110

[tcromar@midwestcity.org](mailto:tcromar@midwestcity.org)

Office: 405-739-1245

[www.midwestcityok.org](http://www.midwestcityok.org)

TO: Honorable Chairman and Trustees  
Economic Development Authority

FROM: Tiatia Cromar, Finance Director

DATE: July 26, 2022

SUBJECT: Discussion and consideration of passing and approving, including any possible amendment of a resolution for the Midwest City Economic Development Authority, a public trust, to release unappropriated fund balances at the close of day June 30, 2022 to be made available for fiscal year 2022-2023; and amending the budget for fiscal year 2022-2023 to include the released appropriations from the fiscal year 2021-2022 budgets as supplemental appropriations; and, effective July 1, 2022, renewing encumbrance commitments canceled at the close of day June 30, 2022.

Staff recommends that the resolution be adopted with the amounts provided.

*Tiatia Cromar*

Finance Director

Attachment: Proposed Resolution

RESOLUTION NO. EDA 2022-\_\_\_\_\_

**A RESOLUTION APPROVING FOR THE MIDWEST CITY ECONOMIC DEVELOPMENT AUTHORITY, A PUBLIC TRUST, TO RELEASE UNAPPROPRIATED FUND BALANCE AT THE CLOSE OF DAY JUNE 30, 2022 TO BE MADE AVAILABLE FOR FISCAL YEAR 2022-2023; AND AMENDING THE BUDGET FOR FISCAL YEAR 2022-2023 TO INCLUDE THE RELEASED APPROPRIATIONS FROM THE FISCAL YEAR 2021-2022 BUDGET AS SUPPLEMENTAL APPROPRIATIONS; AND, EFFECTIVE JULY 1, 2022, RENEWING ALL ENCUMBRANCE COMMITMENTS CANCELLED AT THE CLOSE OF DAY JUNE 30, 2022.**

**WHEREAS**, it is the Economic Development Authority’s intent to effectively cancel all remaining encumbrance commitments outstanding at June 30, 2022 as chargeable to the FY 2021-2022 budget, renew those same commitments effective July 1, 2022, and provide budget amounts necessary for those renewed commitments to be charged against the FY 2022-2023 fiscal year budget; and

**WHEREAS**, the trustees of the Midwest City Economic Development Authority have determined it is in the best interest of the Economic Development Authority to expedite the availability of the remaining fund balance at the close of day June 30, 2022, for these amounts to be available for budgeting as an available resource into the subsequent fiscal year;

**NOW, THEREFORE, BE IT RESOLVED BY THE TRUSTEES OF THE MIDWEST CITY ECONOMIC DEVELOPMENT AUTHORITY:**

**SECTION 1.** All remaining encumbrance commitments outstanding at the close of day June 30, 2022, formerly charged against and payable from FY 2021-2022 budget, are hereby cancelled and renewed effective July 1, 2022, to be charged against and payable from additional FY 2022-2023 fiscal year budget amounts to be provided through budget amendments effective July 1, 2022.

**SECTION 2.** Any remaining unexpended fund balance within the fund at the close of day June 30, 2022, is considered no longer a credit for that fiscal year, and is released. This released fund balance amount from FY 2021-2022 shall be and is hereby deemed available for use as a resource in funding original or amended budget amounts for the 2022-2023 fiscal year effective July 1, 2022. The FY 2022-2023 budget is hereby amended to add the following budgeted amounts for encumbrance commitments renewed effective July 1, 2022 and chargeable to and payable from FY 2022-2023 budget.

Economic Development Authority (353-9550)    \$10,778

PASSED AND APPROVED by the trustees of the Midwest City Economic Development Authority this 26th day of July, 2022.

MIDWEST CITY ECONOMIC DEVELOPMENT  
AUTHORITY, a public trust

\_\_\_\_\_  
MATT DUKES, Chairman

ATTEST:

\_\_\_\_\_  
SARA HANCOCK, Secretary

APPROVED as to form and legality this 26th day of July, 2022.

\_\_\_\_\_  
DONALD MAISCH, City Attorney



DISCUSSION ITEM



MEMORANDUM

To: Honorable Chairman and Trustees

From: Tim Lyon, General Manager/Administrator

Date: July 26, 2022

Subject: Discussion, consideration and possible action to amend and/or approve a resolution of the Midwest City Economic Development Authority approving that certain “Economic Development Assistance Agreement,” by and between the Midwest City Economic Development Authority, Centrillum Proteins, LLC, and MTG Property Holdings, LLC (the “Development Assistance Agreement”); authorizing and directing the execution and delivery of the Development Assistance Agreement; and containing other provisions relating thereto. (Economic Development – R. Coleman)

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MTG Properties is currently under contract to purchase 24 acres from the EDA as the site for a new ± \$20 Million food processing facility for leasing to Centrillum Proteins. Centrillum plans to hire 90+ workers to operate the ± 55,000 square foot facility. The subject site, 7210 NE 36<sup>th</sup> Street, lacks sanitary sewer and rail services.

The Economic Development Authority proposes assistance by extending facilities to the site prior to its completion, and to extend a rail spur to the site after it opens.

Please contact Economic Development Director Robert Coleman (405/739-1218) with any question.

Respectfully,



Tim Lyon, General Manager/Administrator

Attachment: Resolution  
Development Agreement

**RESOLUTION NO. EDA2022-\_\_\_\_\_**

**A RESOLUTION OF THE MIDWEST CITY ECONOMIC DEVELOPMENT AUTHORITY THAT CERTAIN “ECONOMIC DEVELOPMENT ASSISTANCE AGREEMENT,” BY AND BETWEEN THE MIDWEST CITY ECONOMIC DEVELOPMENT AUTHORITY, CENTRILLIUM PROTEINS, LLC AND MTG PROPERTY HOLDINGS, LLC (THE “ECONOMIC DEVELOPMENT ASSISTANCE AGREEMENT”); AUTHORIZING AND DIRECTING EXECUTION AND DELIVERY OF THE DEVELOPMENT ASSISTANCE AGREEMENT; AND CONTAINING OTHER PROVISIONS RELATING THERETO.**

**WHEREAS**, Centrillum Proteins, an Oklahoma Limited Liability Company (hereinafter the “Centrillum”), and MTG Property Holdings, LLC, a Delaware limited liability company (hereinafter the “MTG” and together with Centrillum the “Companies”), intend to develop, construct, equip and operate a ± 55,000 square foot food processing facility at approximately 7210 NE 36<sup>th</sup> Street, also known as a ± 24.03-acre tract in a part of the Northwest Quarter of Section Twenty-Two (22), Township Twelve (12) North, Range Two (2) West of the Indian Meridian, Midwest City, OK; and to create approximately 90 new jobs having an average annualized wage equal to or greater than the average annualized wage required for participation in the Quality Jobs Program for jobs located in Oklahoma County (hereinafter the “Project”); and

**WHEREAS**, as additional consideration for the Company’s agreement to undertake the Project, the Midwest City Economic Development Authority, an Oklahoma public trust (hereinafter “EDA”), has agreed to provide limited economic development assistance to the Company in connection with the Project, pursuant to the terms and conditions of that certain “Economic Development Assistance Agreement”, dated as of July 26, 2022, by and between the EDA and the Companies; and

**WHEREAS**, the Trustees of the EDA have determined that it is in the best interest of the residents of Midwest City, Oklahoma that the Development Assistance Agreement be approved.

**NOW, THEREFORE, BUT IT RESOLVED BY THE CHAIRMAN AND TRUSTEES OF THE MIDWEST CITY ECONOMIC DEVELOPMENT AUTHORITY, AS FOLLOWS:**

**SECTION 1. Approving the Terms and Conditions of the Development Assistance Agreement.** The Trustees of the Midwest City Economic Development Authority hereby approve that certain “Economic Development Assistance Agreement”, dated as of July 26, 2022, by and between the EDA and the Companies (“the Development Assistance Agreement”), in substantially the form submitted at this meeting, with such changes as made be hereafter approved by the Chairman of the EDA.

**SECTION 2. Authorizing and Directing Execution and Delivery of the Development Assistance Agreement and All Related Instruments.** The Chairman and the Secretary are hereby authorized and directed to execute and deliver the Development Assistance Agreement and such other instruments as may be necessary or appropriate in order to effectuate the execution and delivery of the Development Assistance Agreement.



PASSED AND APPROVED by the Chairman and Trustees of the Midwest City Economic development Authority this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

MIDWEST CITY ECONOMIC DEVELOPMENT AUTHORITY

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Matthew D. Dukes II, Chairman

{SEAL}

ATTEST:

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Sara Hancock, Secretary

APPROVED as to form and legality this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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Don Maisch, City Attorney

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CENTRILLIUM PROJECT

ECONOMIC DEVELOPMENT ASSISTANCE AGREEMENT

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By and Among The

MIDWEST CITY ECONOMIC DEVELOPMENT AUTHORITY,

CENTRILLIUM PROTEINS, LLC

And

MTG PROPERTY HOLDINGS, LLC

Dated as of \_\_\_\_\_, 2022

# CENTRILLIUM PROJECT

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## CENTRILLIUM PROJECT

### ECONOMIC DEVELOPMENT ASSISTANCE AGREEMENT

THIS ECONOMIC DEVELOPMENT ASSISTANCE AGREEMENT, dated as of \_\_\_\_\_, 2022 (hereinafter, the “Development Assistance Agreement”), is made and entered into by and among the Midwest City Economic Development Authority, an Oklahoma public trust (hereinafter, the “Authority”), Centrillium Proteins, LLC, an Oklahoma limited liability company (hereinafter, “Centrillium”) and MTG Property Holdings, LLC, a Delaware limited liability company (hereinafter, “MTG” and together with Centrillium, the “Companies”).

#### WITNESSETH:

WHEREAS, the Authority is a public trust created pursuant to the provisions of Title 60, Sections 176 et seq. of the Oklahoma Statutes, as amended (hereinafter, the “Public Trust Act”), as an agency of the State of Oklahoma and the duly constituted authority of its beneficiary, the City of Midwest City, Oklahoma (hereinafter, the “City”) for purposes which include the following: to provide for, and stimulate, future economic growth and development, to generally promote economic welfare and prosperity, to further the general economic development within and without the municipal limits of the City, and specifically to promote, finance and develop commercial and industrial projects or facilities; and

WHEREAS, in order to accomplish its designated purposes, the Authority is empowered to provide funds for the costs of acquiring, constructing, rehabilitating, equipping, securing, maintaining and developing real and personal property within and near the City; and

WHEREAS, MTG intends to develop, construct and equip an advanced no-kill meat processing plant (hereinafter, the “Project Facilities” and desire to locate a portion of the activities of such facilities within the Northwest Quarter (“NW/4”) of Section Twenty-Two (“22”), Township Twelve North (“T12N”), Range Two West (“R02W”) of the Indian Meridian (“I.M.”), Oklahoma County, Oklahoma on that certain real property more particularly described on Appendix “1” hereto (hereinafter, the “Project Site”); and

WHEREAS, MTG, as landlord, intends to enter into a long term lease of the Project Facilities with Centrillium, as tenant, pursuant to which Centrillium will operate the Project Facilities to serve its customers (hereinafter, the “Lease”); and

WHEREAS, Centrillium expects to create no less than ninety (90) new jobs at the Project Facilities, with such jobs having an average annualized wage equal to or higher than the average annualized wage required for participation in the Quality Jobs Program, as specified in the Oklahoma Quality Jobs Program Act, codified at 68 Okla. Stat. § 3601 et. seq. (hereinafter, the “Quality Jobs Program”), in effect as of the date of this Agreement for jobs located within Oklahoma County; and

WHEREAS, as an inducement to MTG to develop, construct and equip the Project Facilities within the boundaries of the City and as an inducement to Centrillium to operate the Project Facilities and to create therein no less than ninety (90)-new jobs with such jobs having an average annualized wage equal to or higher than the average annualized wage required for participation in the Quality Jobs Program, for jobs located within Oklahoma County, the Authority has agreed, among other things, to:

- (i) sell the Project Site to MTG on the terms set forth in that certain “Agreement for Purchase and Sale of Real Estate” dated as of May 26, 2022, by and between the Authority and MTG (hereinafter, the “Real Estate Agreement”);

(ii) at the Authority's cost, ensure all utilities necessary to serve the Project Facilities are available at the property lines prior to the issuance of a Certificate of Occupancy pursuant to the terms set forth herein; and

(iii) at the Authority's cost, design and construct a rail spur to serve the Project Facilities to be completed within one (1) year after the Project Facilities Completion Date. For purposes of this Development Assistance Agreement, the "Project Facilities Completion Date" shall be the date that the construction and equipping of the Project Facilities has been fully completed as evidenced by both the issuance of a Certificate of Occupancy for the Project Facilities issued by the City and a certificate from MTG or Centrillum that all necessary equipment for the meat processing operations have been installed.

WHEREAS, the parties wish to set forth the terms under which the Authority agrees to provide the development assistance herein described.

IN CONSIDERATION of the mutual covenants and agreements contained herein, the Authority, MTG and Centrillum hereby agree as follows:

## ARTICLE I

### PURPOSE OF AGREEMENT

#### SECTION 1.01 Purpose of Agreement.

A. Subject to the terms and conditions hereinafter provided, MTG hereby agrees:

(i) to acquire the Project Site from the Authority on the terms and conditions set forth in the Real Estate Agreement; and

(ii) to cause the design, construction and equipping of (a) building(s) with a minimum of 50,000 square feet of conditioned, enclosed area with adequate space to accommodate up to 90 employees, which is expected to be completed and operational by no later than March 18, 2024 (herein the "Project Facilities");

B. Subject to the terms and conditions hereinafter provided, Centrillum hereby agrees:

(i) to operate and manage the Project Facilities for the period and in the manner set forth herein; and

(ii) to create and maintain the employment of the workforce within or near the City of a minimum of ninety (90) Full-Time Equivalent Jobs for any twelve (12) month period commencing on the first day of the 36th month following the month in which the Project Facilities Completion Date falls (hereinafter, the "Jobs Requirement Commencement Date") and ending six years from the Jobs Requirement Commencement Date (hereinafter, the "Jobs Requirement Period") with such jobs having an average annualized wage equal to or higher than the average annualized wage required for participation in the Quality Jobs Program for jobs located within Oklahoma County. For all purposes of the Development Assistance Agreement, "Full-Time Equivalent Jobs" shall mean that number of employees employed and working within the Project Facilities, or facilities located within or near the City and operated by Centrillum and MTG in connection with the Project Facilities, during a given twelve (12) month period determined by dividing the total number of

hours worked during such period by all employees of Centrillum and MTG within such facilities by 2080.

(The undertaking of the foregoing by the Companies may be hereinafter referred to as the “Project”.)

C. Subject to the terms hereinafter set forth, the Authority hereby agrees to provide development assistance and other incentives for the Project as hereinafter set forth in this Development Assistance Agreement.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES

#### SECTION 2.01 Status of MTG and Centrillum.

A. MTG represents that it is a limited liability company duly organized and existing under the laws of the State of Delaware. MTG is authorized to conduct business in the State of Oklahoma, and is not in violation of any provisions of its certificate of formation, operating agreement or any other agreement governing MTG, or any law of the State of Oklahoma affecting MTG’s ability to perform under this Development Assistance Agreement.

B. Centrillum represents that it is a limited liability company duly organized and existing under the laws of the State of Oklahoma. Centrillum is authorized to conduct business in the State of Oklahoma, and is not in violation of any provisions of its articles of organization, operating agreement or any other agreement governing Centrillum, or any law of the State of Oklahoma affecting Centrillum’s ability to perform under this Development Assistance Agreement.

SECTION 2.02 Inducement to the Companies. The Companies represent that the Companies’ ability to accomplish the Project with development assistance from the Authority has induced both companies to proceed with the Project and the Companies hereby covenant to complete the same and continue to maintain and operate the Project, until all commitments made in this Development Assistance Agreement have been fulfilled.

SECTION 2.03 Full Power and Authority. The Companies represent that they have the full power and authority to execute this Development Assistance Agreement, and this Development Assistance Agreement shall constitute a legal, valid and binding obligation of both Companies in accordance with its terms, and the consent of no other party is required for the execution and delivery of this Development Assistance Agreement by either Company or the consummation of the transactions contemplated hereby.

SECTION 2.04 No Breach. The Companies represent that the execution and delivery of this Development Assistance Agreement, the consummation of the transactions contemplated herein, and the fulfillment of or compliance with the terms and conditions of this Development Assistance Agreement are not prevented or limited by or in conflict with, and will not result in a breach of, other provisions of its certificate of formation, articles of organization, operating agreement or any other agreement governing either company or with any evidence of indebtedness, mortgages, agreements, or instruments of whatever nature to which the Companies, individually or together, are a party or by which they may be bound, and will not constitute a default under any of the foregoing.

SECTION 2.05 Litigation. The Companies represent that there is not currently pending any action, suit, proceeding or investigation, nor, to the knowledge of the undersigned representative of either MTG or Centrillum,- is any such action threatened which, if adversely determined, would materially adversely



affect either Company or the Project, or impair the ability of the Companies to carry on their business substantially as now conducted or result in any substantial liability not adequately covered by insurance.

SECTION 2.06 Conflicts of Interest. The Companies represent that neither paid or has given and will not pay or give any officer, employee or agent of the City or the Authority any money or other consideration for obtaining this Development Assistance Agreement. The Companies further represent that, to its best knowledge and belief, no officer, employee or agent of the City or the Authority who exercises or has exercised any functions or responsibilities with respect to the Project during his or her tenure, or who is in a position to participate in a decision making process with regard to the Project, has or will have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the Project, or in any activity, or benefit therefrom, during or after the term of this Development Assistance Agreement.

SECTION 2.07 Financial Representations. The Companies represent that: (i) the financial statements of the Companies heretofore delivered to the Authority and the City are true and correct in all material respects, and fully and accurately present the financial condition of the Companies on the respective dates thereof; and (ii) there has been no material adverse change in the financial condition of either company since the date of the latest statement furnished.

SECTION 2.08 Disclosures. The Companies represent that neither this Development Assistance Agreement nor any statement or document referred to herein or delivered by the Companies pursuant to this Development Assistance Agreement contains any untrue statement or omits to state a material fact necessary to make the statements made herein or therein not misleading when made.

SECTION 2.09 Status of the Authority. The Authority represents that the Authority is a duly organized and validly existing public trust under the laws of the State of Oklahoma and as such, is a duly constituted authority of the City and an agency of the State of Oklahoma.

SECTION 2.10 Authorization of the Authority. The Authority represents that: (i) the Authority is fully empowered to enter into the Real Estate Agreement and this Development Assistance Agreement, and to perform the transactions contemplated thereby and generally to carry out its obligations hereunder and thereunder; and (ii) the Authority has duly authorized its Chairman, or in his absence, its Vice-Chairman, to execute and deliver the Real Estate Agreement and this Development Assistance Agreement, and all other documentation required to consummate the transaction contemplated herein on behalf of the Authority.

SECTION 2.11 Availability of Utility Services. The parties hereto agree that certain utility services are currently available to the Project Site, namely, electrical, gas, water and telephone services. The parties agree to cooperate in upgrading the sanitary sewer utilities required for the Project-as hereafter described in Section 3.15.

SECTION 2.12 No Default. The Authority represents that the ~~The~~ performance by the Authority under this Development Assistance Agreement will not violate any provision or constitute a default under any indenture, agreement or instrument to which the Authority is currently bound or by which it is affected.

SECTION 2.13 No Further Approvals. The Authority represents that as of the date of execution hereof, all requisite governmental action for the execution and delivery of the Real Estate Agreement and this Development Assistance Agreement has occurred and no further consent, approval or other authorization by any court, administrative agency or governmental authority is required in connection with the execution and delivery of or performance under this Development Assistance Agreement by the Authority or the execution of or performance under any of the other instruments referred to in this

Development Assistance Agreement, except as otherwise specifically provided in this Development Assistance Agreement.

SECTION 2.14 No Litigation. The Authority represents that there is no action, suit, proceeding or inquiry at law or in equity pending or, to the knowledge of the undersigned officer of the Authority, threatened, affecting the Authority wherein any unfavorable decision, ruling or finding would materially adversely affect the Authority's ability to perform under this Development Assistance Agreement or under any other instrument pertinent to the transaction contemplated herein to which the Authority is a party.

SECTION 2.15 Survival of Representation and Warranties. All representations and warranties made by the Companies and the Authority herein shall survive.

### ARTICLE III

#### ACQUISITION OF PROJECT SITE; CONSTRUCTION OF THE PROJECT FACILITIES

SECTION 3.01 Acquisition of the Project Site. The Authority hereby represents that it now holds fee simple title to all real property comprising the Project Site, and has granted to MTG a valid contractual right to purchase the Project Site, pursuant to the terms of the Real Estate Agreement.

SECTION 3.02 Scope of Development. The Project Site shall be developed within the general requirements established by the zoning and building codes of the City (hereinafter, the "Code") and related laws of the State of Oklahoma governing municipal planning, zoning and subdivision applicable to the Project Site. MTG shall be responsible for the construction, renovation, improvement, equipping, repair and installation, of all private improvements in conformance with such requirements, except as may otherwise be provided for herein.

SECTION 3.03 Preliminary Construction Documents. Within sixty (60) days following the date of execution of this Development Assistance Agreement, MTG shall prepare and submit to the City: (i) a site plan for the Project Facilities, including preferred location and length of rail spur, (ii) floor plan, and (iii) building elevation (hereinafter, the "Preliminary Construction Documents") for its review pursuant to the Code. Thereafter, if MTG desires to make any substantial or significant changes in the Preliminary Construction Documents, MTG shall submit the proposed changes to the City for its determination that the changes in the Preliminary Construction Documents comply with the Code. MTG and its agents shall communicate and consult as frequently with the City as is necessary to ensure that any modifications to the Preliminary Construction Documents can receive prompt and speedy consideration by the City. If any material revisions or corrections of Preliminary Construction Documents shall be required by the City or any other government official, agency, department or bureau having jurisdiction or any lending institution involved in financing, MTG and the Authority shall cooperate in efforts to develop a mutually acceptable alternative.

SECTION 3.04 Construction of Improvements. MTG agrees that all construction, renovation, improvement, equipping, repair and installation in and to the Project Facilities shall be done in accordance with the building and safety codes of the City, and the approved construction plans and related documents as originally approved by the City, or as amended with the approval of the City.

SECTION 3.05 Construction Documents; City and Other Governmental Permits. Upon the later of September 23, 2022 and thirty (30) days after approval of rezoning of the Project Site in accordance with Section 6.4 of the Real Estate Agreement, MTG shall, at its own expense, submit to the City building plans

and other required documents for the issuance of building permits for the Project for its review pursuant to the Code (the “Construction Documents”). Thereafter, if MTG desires to make any substantial or significant changes in the Construction Documents, MTG shall submit the proposed changes to the City for its approval. MTG and its agents shall communicate and consult as frequently with the City as is necessary to ensure that any modifications to the Construction Documents can receive prompt and speedy consideration by the City. If any material revisions or corrections of Construction Documents shall be required by the City or any other government official, agency, department or bureau having jurisdiction or any lending institution involved in financing, MTG and the Authority shall cooperate in efforts to develop a mutually acceptable alternative. Upon approval of the Construction Documents, MTG shall, at its own expense, proceed to secure or cause to be secured any and all permits and approvals which may be required by the City and any other governmental agency having jurisdiction as to such construction, development or work. The Authority shall cooperate with and provide all usual assistance to MTG in securing these permits, and approvals, and shall diligently process, review and consider all such permits and approvals as may be required by law.

SECTION 3.06 Construction Schedule. Simultaneously with the delivery to the City of the Construction Documents, MTG or its designated agent will provide to the Authority a schedule for completion of the Project Facilities in accordance with the Construction Documents. This schedule will serve as a general management tool to forecast resource requirements, and to monitor overall project planning and execution. This schedule may be modified as necessary by MTG, provided that any substantial or significant extension of time in the completion schedule shall require approval of the Authority, which shall not be unreasonably withheld, conditioned or delayed. This schedule shall include the following provisions:

- (i) That not later than one hundred eighty (180) days following Closing (as defined in the Real Estate Agreement), MTG shall begin, and promptly thereafter diligently prosecute to completion, the design, construction, renovation, improvement, equipping, repair and installation of the Project Facilities; and
- (ii) That not later than twenty-four (24) months following Closing (as defined in the Real Estate Agreement), Centrillium and/or MTG must have a City Certificate of Occupancy for the Project Facilities Facility.

If it appears the Project Facilities cannot be completed within the period of time set forth in this section, MTG shall promptly provide an updated schedule regarding the time required for the completion of such Project Facilities. All revisions to the original construction schedule or any revision or amendment thereto shall be subject to approval by the Authority, which approval shall not be unreasonably withheld, conditioned or delayed. Any time extension to MTG to complete the Project Facilities shall also be granted to the Authority for the completion of the railroad switch and spur identified in Section 3.16.

SECTION 3.07 Rights of Access. For the purpose of ensuring compliance with this Development Assistance Agreement, representatives of the Authority shall have the right of access to the Project Site, without charges or fees, at normal construction hours during the period of construction for the purposes of this Development Assistance Agreement, including, but not limited to, the inspection of the work being performed in constructing, renovating, improving, equipping, repairing and installing the Project, so long as they comply with applicable safety rules. Said right of access shall be subject to reasonable notice and consent of MTG, which consent shall not be unreasonably withheld. Except in the case of an emergency, prior to any such access, such representatives of the Authority will check in with the on-site manager. All such representatives of the Authority shall carry proper identification, shall insure their own safety, assuming the risk of injury, and shall not interfere with the construction activity. The Authority agrees to cooperate with MTG in facilitating access by MTG to the Project Site for construction purposes, provided that the Authority shall incur no financial obligations therefor.

**SECTION 3.08 Indemnification of the Authority.** The Companies shall defend, indemnify, assume all responsibility for, and hold the Authority and its respective elected and appointed officers and employees and agents, harmless from, all costs (including attorneys fees and costs); claims, demands, liabilities or judgments (except those which have arisen from the willful misconduct or negligence of the Authority, its officers, employees and agents) for injury or damage to property and injuries to persons, including death, which may be caused directly or indirectly by any of the Companies' activities under this Development Assistance Agreement, whether such activities or performance thereof be by the Companies or anyone directly or indirectly contracted with or employed by Companies and whether such damage shall accrue or be discovered before or after termination of this Development Assistance Agreement. This indemnity includes, but is not limited to, any repair, cleanup, remediation, detoxification, or preparation and implementation of any removal, remediation, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance or hazardous wastes including petroleum and its fractions as defined in the Comprehensive Environmental Response, Compensation and Liability Act; codified at Title 42, Sections 9601, et seq. of the United States Code (hereinafter, "CERCLA"), and all amendments thereto, at any place where Company owns or has control of real property pursuant to any of Company's activities under this Development Assistance Agreement. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA to assure, protect, hold harmless and indemnify the Authority from liability.

**SECTION 3.09 Liability Insurance.**

A. In addition to the indemnification of the Authority required in Section 3.08 hereof, MTG and/or Centrillum shall take out and maintain during the period set forth in subsection (D) of this Section, a comprehensive general liability policy covering the Project Facilities in the amount of at least One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) general aggregate with respect to bodily injury and property damage, including contractual liability, and for any occurrence, and One Hundred Thousand Dollars (\$100,000) with respect to damage to property. MTG and/or Centrillum will name the Authority as an "Additional Insured" and include endorsements to the effect that the insurer agrees to notify the Authority not less than thirty (30) days in advance of any modification or cancellation thereof.

B. MTG and/or Centrillum shall furnish a certificate of insurance signed by an authorized agent of the insurance carrier setting forth the general provisions of the insurance coverage. This certificate of insurance shall name the City and the Authority as an additional insured under the policy. The certificate of insurance shall contain a statement of obligation on the part of the carrier to notify the Authority by certified mail of any modification, cancellation or termination of the coverage at least thirty (30) days in advance of the effective date of any such modification, cancellation or termination. Coverage provided hereunder by MTG and/or Centrillum shall be primary insurance and not contributing with any insurance maintained by the City and the Authority, and the policy shall contain such an endorsement. The required certificate shall be filed with the Authority at the time of execution of this Development Assistance Agreement.

C. MTG shall also furnish or cause to be furnished to the Authority evidence satisfactory to the Authority that any contractor with whom it has contracted for the performance of work on the Project Site or otherwise pursuant to this Development Assistance Agreement carries workers compensation insurance as required by law.

D. The insurance obligations set forth in this Section shall remain in effect until performance of the obligations in Section 1.01A of this Development Assistance Agreement.

**SECTION 3.10 Local, State and Federal Laws.** The Companies shall carry out the provisions of this Development Assistance Agreement in conformity with all applicable local, state and federal laws and regulations.

SECTION 3.11 Antidiscrimination During Construction. The Companies, for themselves, their successors and assigns, and any contractor with whom Companies have contracted for the performance of work on the Project Site, agrees that in the construction, renovation, improvement, equipping, repair and installation of the Project provided for in this Development Assistance Agreement, the Companies shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, age, sex, marital status, handicap, national origin or ancestry.

SECTION 3.12 Taxes, Assessments, Encumbrances and Liens. The Companies shall pay when due all real estate taxes and assessments on the Project Site. During the period of this agreement, the Companies shall not place or allow to be placed on the Project Site or any part thereof any uncontested mechanic's lien, any mortgage, trust deed, encumbrance or lien other than as expressly allowed by this Development Assistance Agreement. Nothing herein contained shall be deemed to prohibit the Company from contesting the validity or amounts of any tax assessment, encumbrance or lien, nor to limit the remedies available to the Company in respect thereto.

SECTION 3.13 Prohibition Against Transfer of the Project Site or Structures Therein and Assignment of Agreement. Except as otherwise permitted in this Development Assistance Agreement and the Lease for a period of three (3) years following the date in which Centrillum first creates and maintains the employment of the workforce within or near the City of a minimum of ninety (90) Full-Time Equivalent Jobs (the "Transfer Restriction Period"), MTG shall not make any total or partial sale, transfer, conveyance, assignment or lease of the Project Facilities without the prior written consent of the Authority, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that the foregoing restrictions on assignment, transfer and conveyance shall not apply to: (a) any construction or permanent lender holding a mortgage lien or security interest granted to secure indebtedness; (b) any purchaser of the Project at a foreclosure sale or grantee in a deed in lieu of foreclosure transaction, and (c) the leasing or subleasing of portions of the Project Facilities to such third- parties as it may deem advisable, in its sole discretion. After the expiration of the Transfer Restriction Period, MTG may make any total or partial sale, transfer, conveyance, assignment or lease of the Project Facilities without needing the prior written consent of the Authority.

SECTION 3.14 Reports By MTG; Sales and Use Tax Collections. MTG shall establish and maintain records and reports for all costs associated with the Project. Such records shall be made available for review or audit at the offices of MTG upon written request by the Authority at a reasonable time and after reasonable notice of such request.

SECTION 3.15 Construction of Water Distribution and Sanitary Sewer System Extensions. As an inducement for MTG to construct the Project Facilities, and for Centrillum to operate the Project Facilities on the Project Site, the Authority agrees, at the Authority's sole cost and expense, to construct or cause the construction of water distribution and sanitary sewer system extensions sufficient to serve the Project Facilities, as such facilities are described herein. In connection with such construction:

- (i) the Authority agrees, at the Authority's sole cost and expense, to commence construction of sanitary sewer service extension within thirty (30) days following the purchase of the Project Site by MTG; and
- (ii) at the Authority's sole cost and expense, to diligently proceed with the construction of such sanitary sewer service extension to be completed on or before the completion of the Project Facilities.
  - (a) Potable water is currently available via the City of Oklahoma City distribution system. Centrillum agrees to disconnect from City of Oklahoma City water service and to connect

to City of Midwest City water service within ninety (90) days following official notification service is available, and under the following conditions:

(b) The City shall locate the water distribution main so there are no unusual difficulties in changing service.

(c) Centrillum shall obtain necessary permit(s) and document all expenses involved in the tapping the main, purchasing and installing the water meter, and in connecting to the Project Facilities' water service line.

(d) Documentation may be submitted to the Authority for reimbursement after the City inspector approves the installation.

(e) The Authority shall reimburse Centrillum for the expenses for the tapping, installation and reconnection work within thirty (30) days after documentation is submitted to the Authority and only after (an) approved City inspection(s).

Provided, however, that: (1) if MTG shall fail to commence construction of the Project Facilities within one hundred eighty (180) days after the Closing under the Real Estate Agreement, or (2) if, prior to the completion of the Project Facilities, MTG shall cease construction of the Project Facilities for a period of at least thirty (30) consecutive days, then the Authority shall have the right to suspend its construction of the utility extensions until such time as MTG shall commence or resume construction of the Project Facilities.

SECTION 3.16 Construction of the Rail Switch, Spur. As an additional inducement for Centrillum to operate the Project Facilities on the Project Site, the Authority agrees, at the Authority's sole cost and expense, to construct or cause the construction of a rail switch and spur connecting to the Stillwater Central Railroad (formerly, the "Burlington-Northern Railroad"), which spur shall be sufficient, in Centrillum's reasonable judgment, to serve the Project Facilities, as such facilities are described herein. The parties further agree that:

(i) At the Authority's sole cost and expense, the Authority shall negotiate with a professional engineer for surveying, design and inspection services following MTG's submittal of Preliminary Construction Documents.

(ii) Following the submittal of the Construction Documents for permitting, the Authority shall enter into a contract with said professional engineer to create construction plans leading to the installation of a rail switch and rail spur to serve the Project Facilities; and such plans shall thereafter be subject to the review and written approval of MTG and Centrillum, which approval shall not be unreasonably withheld, conditioned or delayed. -

(iii) The Authority shall contract for the construction of the switch and spur, at the Authority's cost, only after ~~the~~ MTG and Centrillum's written approval of such plans, which approval shall not be unreasonably withheld, conditioned or delayed, and the granting of all easements and right-of-ways reasonably necessary.

(iv) Construction of the switch and spur shall commence following the commencement of the meat processing operations at opening of the Project Facilities.

(v) The Authority shall be responsible for the cost and coordination of all permits and inspections leading to the installation of the switch and spur.

(vi) MTG and Centrillum shall be responsible for all costs associated with the maintenance and liability of the spur following construction, subject to the terms and conditions of any spur track agreement with the applicable railroad.

(vii) The construction of such rail spur shall be completed no later than one (1) year from the commencement of the meat processing operations at the Project Facilities unless an extension is necessary as identified in Section 3.06.

## ARTICLE IV

### EVENTS OF DEFAULT AND REMEDIES

SECTION 4.01 Events of Default. The following shall constitute Events of Default hereunder and under each of the instruments executed pursuant to this Development Assistance Agreement:

(i) Material variance from the approved Construction Documents without prior written consent of the Authority with regard to any of the materials, machinery or equipment acquired in connection with the Project Facilities or the appurtenances thereto, or any other material variance from the approved plans;

(ii) Default by Centrillum or MTG in the performance or observance of any other covenant contained in this Development Assistance Agreement, or any other instrument executed pursuant to this Development Assistance Agreement, or under the terms of any other instrument delivered to the Authority in connection with this Development Assistance Agreement, including, without limitation, the falsity or breach of any representation, warranty or covenant;

(iii) Any representation, statement, certificate, schedule or report made or furnished to the Authority by Centrillum or MTG with respect to the matters and transactions covered by this Development Assistance Agreement which proves to be false or erroneous in any material respect at the time of its making or any warranty of a continuing nature which ceases to be complied with in any material respect and Centrillum or MTG fails to take or cause to be taken corrective measures satisfactory to the Authority within thirty (30) days after written notice by the Authority;

(iv) The initiation of bankruptcy or receivership proceedings by or against Centrillum or MTG and the pendency of such proceedings for ninety (90) days;

(v) The failure by Centrillum and MTG to create and maintain the employment of the workforce within or near the City of a minimum of ninety (90) Full-Time Equivalent Jobs for any twelve (12) month period during the Jobs Requirement Period with such jobs having an average annualized wage equal to or higher than the average annualized wage required for participation in the Oklahoma Quality Jobs Program for jobs located in Oklahoma County; and/or

(vi) Default by the Authority in the performance or observance of any covenant or agreement contained in this Development Assistance Agreement, or any other instrument executed pursuant to this Development Assistance Agreement, or under the terms of any other instrument delivered to MTG and Centrillum in connection with this Development Assistance Agreement, including, without limitation, the falsity or breach of any representation, warranty, covenant or agreement.

SECTION 4.02 Notice of Default; Remedies.

A. The Authority will provide Centrillum or MTG with written notice and thirty (30) days opportunity



to cure any Event of Default described in Section 4.01(i) through (iv). The Authority will provide Centrillium or MTG with notice and 365 days opportunity to cure any Event of Default described in Section 4.01(v). Centrillium and MTG will provide the Authority with written notice and thirty (30) days opportunity to cure any Event of Default described in Section 4.01(vi).

B. Upon the failure of any party to cure any Event of Default to the other party's satisfaction within the applicable period of time described in Section 4.01(A), the non-defaulting party may, at its option, proceed simultaneously or selectively and successively to enforce its rights under this Development Assistance Agreement and any of the instruments executed pursuant to the terms hereof, of any one or all of them.

SECTION 4.03 Selective Enforcement. In the event that any party shall elect to selectively and successively enforce its rights under any of the aforementioned documents, such action shall not be deemed a waiver of any default under this Development Assistance Agreement.

SECTION 4.04 Enforced Delay; Extension of Times of Performance.

A. In addition to specific provisions of this Development Assistance Agreement, performance by either party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Development Assistance Agreement shall be extended, where the party seeking the extension has acted diligently and delays or defaults are due to events beyond the reasonable control of the party such as but not limited to: insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; invasion, lack of transportation; litigation; unusually severe weather; or any other causes beyond the control or without the fault of the party claiming an extension of time to perform.

B. Times of performance under this Development Assistance Agreement may also be extended in writing by the mutual agreement of the Authority and Centrillium or MTG.

SECTION 4.05 Non-liability of Officials, Employees and Agents of the Authority. No official, employee or agent of the Authority shall be personally liable to the Company, or any successor in interest, pursuant to the provisions of this Development Assistance Agreement, for any default or breach by the Authority.

## ARTICLE V

### MISCELLANEOUS

SECTION 5.01 Covenant for Non-Discrimination. The Companies covenant by and for themselves and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, familial status, marital status, age, handicap, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Project Site, nor shall Centrillium or MTG itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Project Site. The covenants established in this section shall, without regard to technical classification and designation, be binding for the benefit and in favor of the Authority, its successors and assigns and any successor in interest to the Project Site or any part thereof. The covenants contained in this section shall remain for so long as any of the improvements promised in this Development Assistance Agreement and the Real Estate Agreement remains outstanding.



SECTION 5.06 Amendment. This Development Assistance Agreement may not be amended or modified in any way, except by an instrument in writing executed by both parties hereto and approved in writing by either or both Companies, whichever is applicable, and the Authority.

SECTION 5.07 Non-Waiver; Cumulative Remedies. No failure on the part of any party hereto to exercise and no delay in exercising any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by any party hereto of any right hereunder preclude any other or further right thereof. The remedies herein provided are cumulative and not alternative.

SECTION 5.08 Assignment. The rights and benefits under this Development Assistance Agreement may not be assigned by any party hereto without the prior written consent of all of the parties hereto, which consent shall not be unreasonably withheld, conditioned or delayed.

SECTION 5.09 Applicable Law. This Development Assistance Agreement and the documents issued and executed hereunder shall be deemed to be a contract made under the laws of the State of Oklahoma and shall not be construed to constitute the Authority as a joint venture with either Company or to constitute a partnership among the parties. Any legal action arising from the contract must be filed in the proper State or Federal Court located in Oklahoma County.

SECTION 5.10 Descriptive Headings. The descriptive headings of the articles and sections of this Development Assistance Agreement are for convenience only and shall not be used in the construction of the terms hereof.

SECTION 5.11 Integrated Agreement. This Development Assistance Agreement and the Real Estate Agreement constitute and incorporate the entire agreement between the parties hereto, and there are no agreements, understandings, warranties or representations between the parties regarding the financing of the Project other than those set forth herein. Any amendment must be made in writing and signed by all parties hereto.

SECTION 5.12 Time of Essence. Time is of the essence in the performance of this Development Assistance Agreement.

SECTION 5.13 Binding Effect. This Development Assistance Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, legal representatives and assigns.

SECTION 5.14 Right to Defend. The Authority shall have the right, but not the obligation, with benefit of counsel selected by the Authority, at MTG's or Centrillium's expense, whichever is applicable, to commence, appear in or defend any action or proceeding purporting to affect the rights or duties of the parties hereunder, except in a suit by either Company against the Authority, in which case the prevailing party shall be entitled to such fees and expenses as a part of any judgment obtained.

SECTION 5.15 Trustees' Disclaimer. This instrument is executed by the trustees or officers or both of the Midwest City Economic Development Authority in their official capacities as such trustees or officers. By the execution hereof all parties agree that, for the payment of any claim or the performance of any obligations hereunder, resort shall be had solely to the specific assets of the Authority described herein and no Trustee or officer of the Authority shall be held personally liable therefore. In this regard, specific reference is made to Section 179 of the Public Trust Act and to the Amended Trust Indenture, as registered with the Oklahoma Secretary of State on December 21, 2018 pursuant to which the Authority was created, a copy of which is of record in the office of the City Clerk of Midwest City, Oklahoma.

SECTION 5.16 Termination. This Development Assistance Agreement shall terminate at the expiration of the Jobs Requirement Period.

IN WITNESS WHEREOF, Centrillum, MTG and the Authority hereto have caused this instrument to be duly executed this \_\_\_\_\_ day of July, 2022.

MIDWEST CITY ECONOMIC DEVELOPMENT AUTHORITY

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Chairman

(SEAL)  
ATTEST:

---

Secretary

MTG PROPERTY HOLDINGS, LLC

---

David F. Grohne, Manager

CENTRILLIUM PROTEINS, LLC

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James Harrison, Chief Executive Officer



STATE OF OKLAHOMA     )  
  ) SS:  
COUNTY OF OKLAHOMA    )

BEFORE ME, a notary public in and for said City and state, on this \_\_\_\_ day of \_\_\_\_\_, 2022, personally appeared James Harrison, to me known to be the identical person who subscribed the name of CENTRILLIUM PROTEINS, LLC to the foregoing instrument as its Chief Executive Officer and acknowledged to me that he executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of such limited liability company for the uses and purposes therein set forth.

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

\_\_\_\_\_

Notary Public

(SEAL)

My Commission expires \_\_\_\_\_

APPENDIX "1"

LEGAL DESCRIPTION OF THE PROJECT SITE

A part of the Northwest Quarter of Section 22, T. 12 N., R. 2 W., I.M., Midwest City, Oklahoma County, Oklahoma, being more particularly described as follows:

Commencing at the Northeast Corner of the Northwest Quarter of said Section 22, thence S.89°36'11"W., along the North Line of the Northwest Quarter of said Section 22 and the basis for the bearings in the following description, a distance of 904.87 feet to THE POINT OR PLACE OF BEGINNING; thence S.14°25'07"W., a distance of 1420.55 feet; thence N.79°28'01"W., a distance of 753.87 feet; thence N.00°30'02"W. and parallel with the West Line of the Northwest Quarter of said Section 22, a distance of 614.17 feet to the Easterly Right of Way Line of The Burlington-Northern Railroad; thence N.40°59'32"E., along the Easterly Right of Way Line of The Burlington-Northern Railroad, a distance of 821.35 feet to the North Line of the Northwest Quarter of said Section 22; thence N.89°36'11"E., along the North Line of the Northwest Quarter of said Section 22, a distance of 561.49 feet to the point or place of beginning. Said described tract contains 1,046,752.582 Square Feet or 24.030 Acres, more or less.





PUBLIC DISCUSSION

