



CITY OF MIDWEST CITY MEETINGS FOR August 27, 2024

All Council/Authority/Commission meetings of the City of Midwest City (MWC) elected officials will be held in the Council Chamber located at 100 N. Midwest Blvd., Midwest City, OK 73110, Oklahoma County, Oklahoma, unless notified otherwise.

Regularly scheduled meetings of the elected officials will be streamed live and recorded on the MWC YouTube channel: [Bit.ly/CityofMidwestCity](https://bit.ly/CityofMidwestCity) with the recorded videos available there within 48 hours.

Special Assistance for a Meeting: Send request via email to tanderson@midwestcityok.org or call 405-739-1220 no less than 24 hours prior to the start of a meeting. If special assistance is needed during a meeting, call 739-1388.

Please note that the elected officials will informally gather at or after 5:00 PM in the City Manager's Conference room for dinner for evening meetings; however, no business will be discussed or acted upon. Meals will only be provided to the City Council and staff. Doors to the Council Chamber will be open to the public fifteen minutes prior to the start of a meeting.

For the purposes of all meetings of the MWC elected and/or appointed officials, the term "possible action" shall mean possible adoption, rejection, amendments, postponements, and/or recommendation to the City Council and/or Authorities.

Pursuant to Midwest City Resolution 2022-50, the following rules of conduct and engagement are in effect for all meetings of the MWC elected and/or appointed officials:

1. Only residents of the City, and/or identifiable business doing business in or with the City, or where it is required by statute during public hearings may speak during a public meeting, unless by majority vote of the City Council, non-residents may be permitted to comment on agenda items that impact them. To verify this new requirement, speakers must state their name and City residential/business address or provide/present proof of residential/business address to the City Clerk before addressing the elected officials.
2. There will be a 4 (four) minute time restriction on each speaker, which can be extended by a vote of the City Council, only if it benefits and/or clarifies the discussion at hand. The City Clerk, or designee, will be the timekeeper and will notify the chair when time has expired.
3. The Mayor/Chair reserves the right to remove individuals from the audience if they become disorderly. If the Mayor/Chair asks a disruptive individual to leave and the individual refuses to leave, the meeting will be recessed and appropriate law enforcement action will be taken.
4. Agenda items requesting action of the elected officials shall include:
 1. Presentation by City Staff and/or their invited guest speaker;
 2. If a public hearing is required, questions and discussion by and between the elected officials, City Staff, and the public;
 3. Questions and discussion by and between the elected officials and City Staff, invited guest speaker, and/or public during a public hearing; and
 4. Motion and second by the elected officials.
 5. If a motion is to be amended, the one who made the motion may agree and restate the motion with the amendment; however, if the maker of the motion does not agree to the amendment, the motion may be voted on as it stands.
 6. Final discussion and possible action/amended motion by the elected officials.



CITY OF MIDWEST CITY COUNCIL AGENDA

City Hall - Midwest City Council Chambers, 100 N. Midwest Boulevard

August 27, 2024 – 6:00 PM

Presiding members: Mayor Matthew Dukes

Ward 1 Susan Eads

Ward 3 Rita Maxwell

Ward 5 Sara Bana

Ward 2 Pat Byrne

Ward 4 Marc Thompson

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 Council Member
- Community-related announcements and comments

C. CONSENT AGENDA. These items are placed on the Consent Agenda so the Council members, by unanimous consent, can approve routine agenda items by one motion. If any Council member requests to discuss an item(s) or if there is not unanimous consent, then the item(s) will be removed and heard in regular order.

1. Discussion, consideration, or possible action to approve the July 23, 2024 meeting minutes. (City Clerk - S. Hancock)
2. Discussion, consideration and possible action of approving supplemental budget adjustments to the following funds for FY 2024-2025, increase: General Gov't Sales Tax Fund, expenditures/City Manager (01) \$155,474; expenditures/Personnel (03) \$6,974; expenditures/Community Development (05) \$57,594; expenditures/Park & Rec (06) \$1,958; expenditures/Street (09) \$431,944; expenditures/General Gov't (14) \$3,052,673; expenditures/Neighborhood Svcs (15) \$5,180; expenditures/I.T. (16) \$100,166; expenditures/Swimming Pools (19) \$1,716; expenditures/Engineering & Const Svcs (24) \$10,824; expenditures/Senior Center (55) \$160,087. Street & Alley Fund, expenditures/Street (09) \$386,473. Technology Fund, expenditures/General Gov't (14) \$60,846. Reimbursed Projects Fund, expenditures/Street (09) \$4,495; expenditures/Engineering & Const Svcs (24) \$54,306. Police Capitalization Fund, expenditures/Police Department (62) \$791,906. Fire Capitalization Fund, expenditures/Fire Department (64) \$64,516. MWC Welcome Center Fund, expenditures/Tourism (74) \$90,000. Dedicated Tax 2012 Fund, expenditures/Park & Rec (06) \$379,002; expenditures/Parks (23) \$450,367; expenditures/Streets (66) \$75,000; expenditures/Economic (87) \$73,452. Emergency Oper Fund, expenditures/Emergency Oper Fund (21) \$170,803. Public Works Fund, expenditures/Public Works (30) \$281,003. Fleet Fund, expenditures/Fleet (25) \$456,919. Surplus Property Fund, expenditures/Surplus Property (26) \$3,375. Activity Fund, expenditures/Recreation (78) \$30,000. Park & Recreation Fund,

expenditures/Park & Rec (06) \$185,404; expenditures/Communications (20) \$50; expenditures/MWC Parks (23) \$200,000. Capital Improvements Fund, expenditures/Capital Improvements (57) \$1,384,081. Downtown Redevelopment Fund, expenditures/29th Street (92) \$277,008. Animals Best Friend Fund, expenditures/Animal Welfare (10) \$7,634. 2002 G.O. Street Bond Fund, expenditures/Street Bond (69) \$671. 2018 Election GO Bonds Fund, expenditures/Park & Rec (06) \$22,402; expenditures/Street (09) \$40,163; expenditures/Animal Welfare (10) \$1,124; expenditures/General Gov't (14) \$1,472,734; expenditures/Fire (64) \$12,170; expenditures/29th Street (92) \$372. 2018 Election GO Bonds – Proprietary Fund, expenditures/JC Regional Golf (47) \$1,632. 2022 Issue G.O. Bond Fund, expenditures/MWC Fire Department (64) \$836,577. Grant Fund, expenditures/Emergency Oper Fund (21) \$8,936; expenditures/Transfer Out (42) \$1,300,000; expenditures/Capital Improvements (57) \$132,150. (Finance - T. Cromar)

3. Discussion, consideration and possible action of approving supplemental budget adjustments to the following funds for FY 2024-2025, increase: Grants/Housing Activities Fund, revenue/Intergovernmental (37) \$155,000; expenditures/Housing (37) \$142,500. Fire Fund, expenditures/Transfers Out (64) \$24,500. Fire Capitalization Fund, revenue/Transfers In (00) \$24,500; expenditures/Fire (64) \$13,454. Reimbursed Projects Fund, revenue/Intergovernmental (39) \$763,038; expenditures/Community Development (05) \$3,273; expenditures/Park & Recreation (06) \$12,287; expenditures/Animal Welfare (10) \$15,000; expenditures/Neighborhood Services (15) \$638; expenditures/Housing (37) \$35,000; expenditures/Transfers Out (39) \$7,660; expenditures/Grants Management (39) \$125,991; expenditures/Fire (64) \$1,720; expenditures/Recreation (78) \$5,000; expenditures/Economic (87) \$49,443. CDBG Fund, revenue/Transfers In (00) \$7,660. Grants Fund, revenue/Intergovernmental (06) \$254,000; expenditures/Transfers Out (06) \$254,000; revenue/Intergovernmental (09) \$51,810; expenditures/Transfers Out (09) \$51,810; revenue/Intergovernmental (21) \$10,000; expenditures/Transfers Out (21) \$10,000; revenue/Intergovernmental (24) \$117,820; expenditures/Transfers Out (24) \$117,820; revenue/Intergovernmental (42) \$1,300,000; expenditures/Transfers Out (42) \$1,300,000; revenue/Intergovernmental (43) \$343,694; expenditures/Transfers Out (43) \$343,694; revenue/Intergovernmental (57) \$1,097,150; expenditures/Transfers Out (57) \$790,000; revenue/Intergovernmental (61) \$325,000; expenditures/Transfers Out (61) \$325,000; revenue/Intergovernmental (62) \$68,868; expenditures/Police (62) \$41,445. Street Tax Fund, revenue/Transfers In (00) \$254,000. Reimbursed Projects Fund, revenue/Transfers In (09) \$51,810. Emergency Operations Fund, revenue/Transfers In (21) \$10,000. General Gov't Sales Tax Fund, revenue/Transfers In (24) \$117,820. Capital Improvements Fund, revenue/Transfers In (00) \$790,000. Police Impound Fees Fund, expenditures/Transfers Out (62) \$2,797. Reimbursed Projects Fund, expenditures/Municipal Golf (48) \$9,706. Grants Fund, revenue/Intergovernmental (62) \$12,326; expenditures/Police (62) \$12,326. CDBG Fund, expenditures/Grants Management (39) \$92,259. (Finance - T. Cromar)
4. Discussion, consideration and possible action to accept and approve the Annual Report for City of Midwest Tax Increment Finance Districts for FY 2023 - 2024. (R. Coleman - Economic Development)

5. Discussion, consideration, and possible action of approving a Memorandum of Understanding (MOU) between the City of Midwest City, the Midwest City Economic Development Authority and the Midwest City Utilities Authority for the engineering, design and construction of a rail spur for the Soldier Creek Industrial Park (SCIP). (R. Coleman – Economic Development Director).
6. Discussion, consideration, and possible action of making a matter of record Permit No. SL000055240427 from the State Department of Environmental Quality for the Sooner Rose Sanitary Sewer Improvements, Midwest City, Oklahoma. (Engineering & Construction Services - P. Menefee)
7. Discussion, consideration and possible action to approve an Operating Agreement with the Arkansas – Oklahoma Railroad Company for railroad track within the Soldier Creek Industrial Park. (R. Coleman - Economic Development)
8. Discussion, consideration, and possible action of renewing the subscription of Microsoft licensing with Softchoice Corporation, which holds the Oklahoma Statewide Contract for Microsoft Software Products/Services # SW1079, in the amount of \$137,100.15. (Information Technology - A. Stephenson)
9. Discussion, consideration, and possible action of approving a programming resolution for possible inclusion into the Transportation Alternatives Program for a project to construct approximately half a mile of sidewalk along Crosby Blvd., and three-tenths of a mile of multi-use trail along Crosby Blvd and SE 15th Street. (Planning & Zoning - M. Summers)
10. Discussion, consideration, and possible action of approving a programming resolution for possible inclusion into the Transportation Alternatives Program for a project to construct Crutch Creek Trail Phase 1. (Planning & Zoning - M. Summers)
11. Discussion, consideration, and possible action of approving a programming resolution for possible inclusion into the Transportation Alternatives Program for a project to construct approximately half a mile of multi-use trail along the east side of Soldier Creek. (Planning & Zoning - M. Summers)
12. Discussion, consideration, and possible action of approving a programming resolution for possible inclusion into the Transportation Alternatives Program for a project to construct approximately a quarter (1/4) of a mile of the Tributary 4 trail. (Planning & Zoning - M. Summers)
13. Discussion, consideration, and possible action of approving a federal aid programming resolution to make eligible an application for inclusion into the Transportation Improvement Plan for a project to resurface Air Depot Blvd from SE 29th St to SE 15th St. (Engineering - B. Bundy)

14. Discussion, consideration, and possible action of approving a federal aid programming resolution to make eligible an application for inclusion into the Transportation Improvement Plan for a project to resurface Air Depot Blvd from SE 29th St to SE 15th St and reconstruct the intersection of Air Depot Blvd and SE 15th St. (Engineering - B. Bundy)
15. Discussion, consideration, and possible action approving a resolution amending the 1983 Amended Agreement Creating the Association of Central Oklahoma Governments. (City Manager – T. Lyons)
16. Discussion, consideration, and possible action of approving a federal aid programming resolution to make eligible an application for inclusion into the Transportation Improvement Plan for a project to upgrade traffic signals at various locations throughout the City for the purposes of improving pedestrian access and safety, known as Signal Upgrade Project 9. (Engineering - B. Bundy)
17. Discussion, consideration, and possible action of approving a federal aid programming resolution for inclusion into the Transportation Improvement Plan for a project to resurface Post Road from Reno Avenue to NE 10th Street. (Engineering - B. Bundy)
18. Discussion, consideration, and possible action of approving a federal aid programming resolution to make eligible an application for inclusion into the Transportation Improvement Plan for a project to repave SE 15th St from Midwest Blvd to Douglas Blvd including trail, sidewalk, and improvements to the Soldier Creek Bridge. (Engineering - B. Bundy)
19. Discussion, consideration, and possible action of approving a federal aid programming resolution to make eligible an application for inclusion into the Transportation Improvement Plan for a project to construct sidewalks in six (6) locations in the City. (Engineering - B. Bundy)
20. Discussion, consideration, and possible action of approving a federal aid programming resolution to make eligible an application for inclusion into the Transportation Improvement Plan for a project to restripe various locations throughout the City, known as Stripe Project 8. (Engineering - B. Bundy)
21. Discussion, consideration, and possible action of accepting three (3) grants of Permanent Easement from various grantors, across certain parcels of land located within the corporate boundaries of Midwest City in Section 27, Township 12 North, Range 2 West of the Indian Meridian, Oklahoma County, Oklahoma. (Engineering & Construction Services - P. Menefee)
22. Discussion, consideration, and possible action of declaring (1) 2016 BMW 1200 and its contents, as surplus and authorizing disposal by public auction, sealed bid or other means necessary.
23. Discussion, consideration, and possible action of declaring Lion Brand Wildland Firefighting (61) coats and (59) pants as surplus and authorizing disposal by public auction, sealed bid or other means as necessary. (Fire - B. Norton)

D. DISCUSSION ITEMS.

1. Discussion, consideration, and possible action of appointing Lorenzo Banks as a Municipal Court Judge for the City of Midwest City. (T. Lyon – City Manager).
2. Discussion, consideration, and possible action of appointing Joanne Horn as a Municipal Court Judge for the City of Midwest City. (T. Lyon – City Manager).
3. Discussion, consideration, and possible action to enter into a professional services agreement with Freese and Nichols, Inc, in an amount not to exceed \$350,000 to prepare a comprehensive plan for the City of Midwest City consistent with standards, procedures, and best management practices in Oklahoma. (Planning & Zoning - M. Summers)
4. (PC-2181) Public hearing, discussion, consideration, and possible action of approving the Final Plat of Glenhaven Commercial for the property described as a tract of land lying in the Southwest Quarter (SW/4) of Section Thirty-Four (34), Township Twelve (12) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma. (Planning & Zoning- M. Summers)
5. (PC-2182) Public hearing, discussion, consideration, and possible action of approving the Final Plat of Glenhaven for the property described as a tract of land lying in the Southwest Quarter (SW/4) of Section Thirty-Four (34), Township Twelve (12) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma. (Planning & Zoning- M. Summers)
6. (PC-2183) Public hearing, discussion, consideration, and possible action approving a resolution to amend the Comprehensive Plan from Single-Family Detached Residential Land Use to High Density Residential Land Use; and an ordinance to redistrict from Single-Family Detached Residential District (“R-6”) to High Density Residential District (“R-HD”), for the property described as a part of the Northeast Quarter (NE/4) of Section Twenty-Six (26), Township Twelve (12) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma, located at 1905 & 1919 N. Douglas Blvd., Midwest City. (Planning & Zoning- M. Summers)

- E. 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.**”

F. EXECUTIVE SESSION.

1. Discussion, consideration, and possible action 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. (City Manager - T. Lyon)
2. Discussion and consideration, and possible action of, 1) entering into executive session, as allowed under 25 O.S. § 307(B)(3), to discuss the purchase or appraisal of real property; and 2) in open session, authorizing the general manager/administrator to take action as appropriate based on the discussion in executive session. (City Manager - T. Lyon)

G. DISCUSSION ITEMS Continued.

7. Discussion, consideration, and possible action regarding the renewal of the Collective Bargaining Agreement (CBA) between the City of Midwest City and the Fraternal Order of Police (FOP) Lodge 127, as negotiated to be effective from July 1, 2024, through June 30, 2025. (Human Resources - T. Bradley)
8. Discussion, consideration, and possible action regarding a 0.8% percent across the board increase to the base salary of City Employees not covered by a collective bargaining agreement, to be effective July 1, 2024. (Human Resources - T. Bradley)
9. Discussion, consideration, and possible action of approving a Resolution of Necessity to acquire through condemnation proceedings 2813 and 2816 Parklawn Drive in Midwest City. (T. Lyon – City Manager).

H. FURTHER INFORMATION.

1. Review of the City Manager's Report for the month of July 2024. (Finance - T. Cromar)
2. Review of the July 2, 2024 Planning Commission Meeting Minutes. (Planning & Zoning - M. Summers)
3. Monthly Residential and Commercial Building report for July 2024 Building Report (Engineering & Construction Services—B. Bundy)
4. Monthly report on the City of Midwest City Employees' Health Benefits Plan by the City Manager for July 2024. (Human Resources - T. Bradley)

I. ADJOURNMENT.



CONSENT AGENDA



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

City of Midwest City Council Minutes

July 23, 2024

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

Mayor Matt Dukes called the meeting to order at 6:02 PM with the following member present:

Ward 1 Susan Eads	Ward 2 Pat Byrne	City Manager Tim Lyon
Ward 3 Rita Maxwell	Ward 4 Marc Thompson	City Clerk Sara Hancock
	Ward 6 Rick Favors	City Attorney Don Maisch

Absent: Ward 5 Sara Bana

OPENING BUSINESS. The Invocation was given by Assistant City Manager Vaughn Sullivan. The Pledge of Allegiance was led by Boy Scout Troop 147. Mayor Dukes and City Manager Lyons presented a proclamation to retiree Merle Davis. City Manager Lyons made community-related announcements and comments.

CONSENT AGENDA. Eads made a motion to approve the consent agenda except for pulling items 3, 11 and 12, seconded by Byrne. Voting Aye: Eads, Byrne, Maxwell, Thompson, Favors and Dukes. Nay: None. Absent: Bana. Motion Carried.

1. Discussion, consideration, or possible action to approve the June 25, 2024 meeting minutes.
2. Discussion, consideration and possible action of approving Resolution 2024-11 for the City of Midwest City, Oklahoma to release unappropriated fund balances in the amount of \$7,978,589 at the close of day June 30, 2024 to be made available for fiscal year 2024-2025; and amending the budgets for fiscal year 2024-2025 to include the released appropriations from the fiscal year 2023-2024 budgets as supplemental appropriations; and effective July 1, 2024, renewing encumbrance commitments cancelled at the close of day June 30, 2024.
4. Discussion, consideration and possible action of approving supplemental budget adjustments to the following funds for FY 2023-2024, increase: Emergency Operations Fund, expenditures/Transfers Out (21) \$3,329. Grants Fund, revenue/Transfers In (21) \$3,329.
5. Discussion, consideration and possible action of approving supplemental budget adjustments to the following funds for FY 2024-2025, increase: Police Impound Fees Fund, revenue/Investment Interest (00) \$420; expenditures/Police (62) \$420. Decrease: Police Lab Fee Fund, revenue/Investment Interest (00) \$420; expenditures/Police (62) \$420.
6. Discussion, consideration, and possible action of making a matter of record Permit No. SL000055240520 from the State Department of Environmental Quality for the subdivision Eagle Landing Addition, Midwest City, Oklahoma.

7. Discussion, consideration, and possible action of making a matter of record Permit No. WL000055240519 from the State Department of Environmental Quality for the subdivision Eagle Landing Addition, Midwest City, Oklahoma.
8. Discussion, consideration, and possible action of entering into a contract with Association of Central Oklahoma Governments for the FY 2023-2024 Unified Planning Work Program (UPWP).
9. Discussion, consideration, and possible action renewing without modification the Fire Equipment Agreement with the Board of County Commissioners of Oklahoma County for FY 24-25.
10. Discussion, consideration, and possible action of extending contracts without modifications, with UniFirst Holdings, Inc., for uniforms and supplies and with Midstate Traffic Control, Inc., for traffic signal maintenance for FY 2024/2025.
13. Discussion, consideration and possible action to accept the end of year report from the Midwest City Urban Renewal Authority for Fiscal Year 2023 - 2024.
14. Discussion, consideration, and possible action of 1) declaring various computer equipment and other miscellaneous items of City property as obsolete, defective, or replaced; and 2) authorizing their disposal by public auction, sealed bid or other means as necessary.
15. Discussion, consideration, and possible action of declaring miscellaneous items as surplus and authorizing disposal by public auction, sealed bid or other means necessary.
3. **Discussion, consideration, and possible action of approving the School Resource Officer Mutual Cooperation Agreement with the Mid-Del School System for the time period of July 1, 2024 – June 30, 2025. Mid-Del School System will pay the City the amount of \$369,965.00 for the term of the contract.**

Lyons addressed Council. After discussion, Eads made a motion to approve the contract, seconded by Byrne. Voting Aye: Eads, Byrne, Maxwell, Thompson, Favours and Dukes. Nay: None. Absent: Bana. Motion Carried.

11. **Discussion, consideration, and possible action regarding approving an MOU extending the collective bargaining agreement between the City of Midwest City and the FOP Lodge #127 while negotiations are ongoing.**

Lyons and Bradley addressed the Council. After discussion, Eads made a motion to approve the MOU, seconded by Byrne. Voting Aye: Eads, Byrne, Maxwell, Thompson, Favours and Dukes. Nay: None. Absent: Bana. Motion Carried.

12. **Discussion, consideration, and possible action of a approving Resolution 2024-12 nominating Matthew D. Dukes, II, Mayor, City of Midwest City to the Oklahoma Municipal League Board of Directors.**

Byrne addressed the Council. Thompson made a motion to approve Resolution 2024-12, seconded by Eads. Voting Aye: Eads, Byrne, Maxwell, Thompson, and Favors. Nay: None. Recused: Dukes. Absent: Bana. Motion Carried.

DISCUSSION ITEMS.

1. **(PC-2180) Public hearing, discussion, consideration, and possible action to approve a Special Use Permit (SUP) to allow Moderate Impact Institutional Permitted in the (R-6) Single-Family Detached Residential District for the property described as a part of the Southwest Quarter (SW/4) of Section One (1), Township Eleven (11) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma, located at 9113, 9125, 9201 SE 15th St.**

Summers and Applicant Carlos Adamson applicant of 1501 SW 113th Pl., OKC, OK addressed the Council. After discussion, Byrne made a motion to approve, seconded by Favors. Voting Aye: Eads, Byrne, Maxwell, Thompson, Favors and Dukes. Nay: None. Absent: Bana. Motion Carried.

2. **(PC-2168) Public hearing, discussion, consideration, and possible action approving a Resolution amending the Comprehensive Plan from Office/Retail to Office/Retail and High Density Residential and; an ordinance to redistrict from Community Commercial District (“C-3”) to Planned Unit Development (“PUD”) with C-3 as a base zoning district, for the property described as Lot Three (3), Blocks Five (5), Six (6), Seven (7) and Eight (8) in Heritage Park Mall, A Re-Subdivision of Blocks 3, 4 and 5 of Miracle Mile Addition, An Addition to Midwest City, Oklahoma County, Oklahoma, As Shown By the Recorded Plat Thereof.**

Summers addressed the Council. Maisch presented a letter from applicant requesting to table or take no action. After discussion, Eads made a motion to deny the request for continuance, seconded by Thompson. Voting Aye: Eads, Byrne, Maxwell, Thompson, Favors and Dukes. Nay: None. Absent: Bana. Motion Carried. Item will be heard.

Summers, Maisch, Attorney Kelly Work, and partner of project, Alexandria Mu El of 1606 NW 33, Kay Carroll of 108 S Bell Dr., and Thomas Galbraith of 913 Lotus Ave. addressed Council. After discussion was had, Thompson made a motion to deny request, seconded by Eads. Voting Aye: Eads, Byrne, Maxwell, Thompson, Favors and Dukes. Nay: None. Absent: Bana. Motion Carried.

At 7:14 PM Council took a recess and returned at 7:25 PM.

3. **Public Hearing, discussion, consideration, and possible action approving an ordinance amending Midwest City Municipal Code, Chapter 43 Water, Sewer, Sewage Disposal and Stormwater Quality; Article III, Sewers and Sewage Disposal; Division 5, Other Provisions Relating to Taps and Connections; Section 43-182, Connections to sewer mains in Sections 9 and 10, Township 11 N, Range 1 W; Section 43-183, Connections to sewer mains in Sections 1, Township 11N, Range 2W; Section 43-184, Reserved; providing for repealer and severability.**

Bundy, Evenson, and Jeff Moore of 516 N Cedar Dr. addressed the Council. After discussion, Byrne made a motion to approve Ordinance 3564 with amended language under 43-184, Section A adding “of total building area”, seconded by Eads. Voting Aye: Eads, Byrne, Maxwell, Thompson, Favours and Dukes. Nay: None. Absent: Bana. Motion Carried.

At 8:00 PM Eads left the meeting and returned at 8:03 PM.

4. Discussion, consideration, and possible action of approving an ordinance amending the Midwest City Municipal Code, Chapter 43, Water, Sewer, Sewage Disposal and Stormwater Quality, Article III, Sewers and Sewage Disposal, Division 8, Usage Rates and Charges; Section 43-224 Sewer User Charge; Section 43-230 Capital Improvement Charges; and providing for a repealer and severability.

Streets and Evenson addressed the Council. After discussion, Byrne made a motion to approve Ordinance 3565, seconded by Favours. Voting Aye: Eads, Byrne, Thompson, Favours and Dukes. Nay: Maxwell. Absent: Bana. Motion Carried.

5. Discussion, consideration, and possible action regarding Resolution 2023-25 pertaining to the moratorium on new construction and new development that will connect to the Midwest City wastewater collection system that serves a portion of the east side of Midwest City.

Bundy and Choctaw Superintendent Reid addressed the Council. After discussion, Favours made a motion to lift the moratorium August 22, seconded by Eads. Voting Aye: Eads, Byrne, Maxwell, Thompson, Favours and Dukes. Nay: None. Absent: Bana. Motion Carried.

6. Discussion, consideration, and possible action of awarding the bid to and entering into a contract with Wynn Construction Co., Inc. for \$1,614,883 and 210 Calendar Days for the Mid-America Park Phase 1 Project, a 2018 GO Bond project. City Council delegates the Mayor to sign and execute the contract.

Bundy, Lyons, and Sullivan addressed the Council. After discussion, Favours made motion to approve, seconded by Byrne. Voting Aye: Byrne, Maxwell, Thompson, Favours and Dukes. Nay: Ead. Absent: Bana. Motion Carried.

7. Discussion, consideration, and possible action of approving a Professional Services Agreement with Freese and Nichols, Inc., in the amount of \$799,000.00 to develop a citywide stormwater master plan.

Streets, Evenson, Lyon addressed the Council. After discussion, Favours made a motion to approve the agreement, seconded by Byrne. Voting Aye: Byrne, Maxwell, Thompson, Favours and Dukes. Nay: None. Abstain: Eads. Absent: Bana. Motion Carried.

8. Discussion, consideration, and possible action of awarding the bid to and entering into a contract with H&H Plumbing & Utilities, Inc. for \$2,230,775 to construct the North Side Utilities Water Project. City Council delegates the Mayor to sign and execute the Contract.

Favors made a motion to approve, seconded by Eads. Voting Aye: Eads, Byrne, Maxwell, Thompson, Favors and Dukes. Nay: None. Absent: Bana. Motion Carried.

NEW BUSINESS/PUBLIC DISCUSSION.

Margarita Shaw with Community Health Center addressed Council announcing services.

Ricky Lee Hanks of 2203 S Avery Ave. addressed Council concerning flooding issues.

FURTHER INFORMATION.

1. Monthly report on the City of Midwest City Employees' Health Benefits Plan by the City Manager for June 2024.
2. Monthly Residential and Commercial Building report for June 2024.
3. Review of the June 4, 2024 Planning Commission Meeting Minutes.
4. Code Enforcement report for January 1 through June 30, 2024.
5. Review of the City Manager's Report for the month of June 2024.

ADJOURNMENT. There being no further business, Mayor Dukes adjourned the meeting at 9:03 PM

ATTEST:

MATTHEW 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

DATE: August 27, 2024

SUBJECT: Discussion, consideration and possible action of approving supplemental budget adjustments to the following funds for FY 2024-2025, increase: General Gov't Sales Tax Fund, expenditures/City Manager (01) \$155,474; expenditures/Personnel (03) \$6,974; expenditures/Community Development (05) \$57,594; expenditures/Park & Rec (06) \$1,958; expenditures/Street (09) \$431,944; expenditures/General Gov't (14) \$3,052,673; expenditures/Neighborhood Svcs (15) \$5,180; expenditures/I.T. (16) \$100,166; expenditures/Swimming Pools (19) \$1,716; expenditures/Engineering & Const Svcs (24) \$10,824; expenditures/Senior Center (55) \$160,087. Street & Alley Fund, expenditures/Street (09) \$386,473. Technology Fund, expenditures/General Gov't (14) \$60,846. Reimbursed Projects Fund, expenditures/Street (09) \$4,495; expenditures/Engineering & Const Svcs (24) \$54,306. Police Capitalization Fund, expenditures/Police Department (62) \$791,906. Fire Capitalization Fund, expenditures/Fire Department (64) \$64,516. MWC Welcome Center Fund, expenditures/Tourism (74) \$90,000. Dedicated Tax 2012 Fund, expenditures/Park & Rec (06) \$379,002; expenditures/Parks (23) \$450,367; expenditures/Streets (66) \$75,000; expenditures/Economic (87) \$73,452. Emergency Oper Fund, expenditures/Emergency Oper Fund (21) \$170,803. Public Works Fund, expenditures/Public Works (30) \$281,003. Fleet Fund, expenditures/Fleet (25) \$456,919. Surplus Property Fund, expenditures/Surplus Property (26) \$3,375. Activity Fund, expenditures/Recreation (78) \$30,000. Park & Recreation Fund, expenditures/Park & Rec (06) \$185,404; expenditures/Communications (20) \$50; expenditures/MWC Parks (23) \$200,000. Capital Improvements Fund, expenditures/Capital Improvements (57) \$1,384,081. Downtown Redevelopment Fund, expenditures/29th Street (92) \$277,008. Animals Best Friend Fund, expenditures/Animal Welfare (10) \$7,634. 2002 G.O. Street Bond Fund, expenditures/Street Bond (69) \$671. 2018 Election GO Bonds Fund, expenditures/Park & Rec (06) \$22,402; expenditures/Street (09) \$40,163; expenditures/Animal Welfare (10) \$1,124; expenditures/General Gov't (14) \$1,472,734; expenditures/Fire (64) \$12,170; expenditures/29th Street (92) \$372. 2018 Election GO Bonds – Proprietary Fund, expenditures/JC Regional Golf (47) \$1,632. 2022 Issue G.O. Bond Fund, expenditures/MWC Fire Department (64) \$836,577. Grant Fund, expenditures/Emergency Oper Fund (21) \$8,936; expenditures/Transfer Out (42) \$1,300,000; expenditures/Capital Improvements (57) \$132,150.

The first through twenty-first supplements are needed to roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. The twenty-second supplement is needed to roll

forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year and Transfer Out to Fund 191 Water for Water Master Plan \$300,000 & Northside Water Improv \$1,000,000.

Tiatia Cromar

Tiatia Cromar
Finance Director

SUPPLEMENTS
August 27, 2024

Fund GENERAL GOV'T SALES TAX (009)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
Dept Number	Department Name	Estimated Revenue		Budget Appropriations	
		Increase	Decrease	Increase	Decrease
01	City Manager			155,474	
03	Personnel			6,974	
05	Community Development			57,594	
06	Park & Rec			1,958	
09	Street			431,944	
14	General Gov't			3,052,673	
15	Neighborhood Svcs			5,180	
16	I.T.			100,166	
19	Swimming Pools			1,716	
24	Engineering & Const Svcs			10,824	
55	Senior Center			160,087	
		<u>0</u>	<u>0</u>	<u>3,984,590</u>	<u>0</u>

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund STREET & ALLEY (013)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
Dept Number	Department Name	Estimated Revenue		Budget Appropriations	
		Increase	Decrease	Increase	Decrease
09	Street			386,473	
		<u>0</u>	<u>0</u>	<u>386,473</u>	<u>0</u>

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund TECHNOLOGY (014)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
Dept Number	Department Name	Estimated Revenue		Budget Appropriations	
		Increase	Decrease	Increase	Decrease
14	General Gov't			60,846	
		<u>0</u>	<u>0</u>	<u>60,846</u>	<u>0</u>

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund REIMBURSED PROJECTS (016)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
Dept Number	Department Name	Estimated Revenue		Budget Appropriations	
		Increase	Decrease	Increase	Decrease
09	Street Department			4,495	
24	Engineering & Const Svcs			54,306	
		<u>0</u>	<u>0</u>	<u>58,801</u>	<u>0</u>

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

SUPPLEMENTS
August 27, 2024

Fund POLICE CAPITALIZATION (021)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
<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>
62	Police Department			791,906	
		0	0	791,906	0

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund FIRE CAPITALIZATION (041)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
<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>
64	Fire Department			64,516	
		0	0	64,516	0

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund MWC WELCOME CENTER (045)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
<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>
74	Tourism			90,000	
		0	0	90,000	0

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund DEDICATED TAX 2012 (065)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
<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>
06	Park & Recreation			379,002	
23	MWC Parks			450,367	
66	Streets			75,000	
87	Economic			73,452	
		0	0	977,821	0

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

SUPPLEMENTS
August 27, 2024

Fund EMERGENCY OPER FUND (070)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
<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>
21	Emergency Oper Fund			170,803	
		0	0	170,803	0

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund PUBLIC WORKS (075)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
<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>
30	Public Works			281,003	
		0	0	281,003	0

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund FLEET (080)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
<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>
25	Fleet			456,919	
		0	0	456,919	0

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund SURPLUS PROPERTY (081)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
<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>
26	Surplus Property			3,375	
		0	0	3,375	0

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

SUPPLEMENTS
August 27, 2024

Fund ACTIVITY (115)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
<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>
78	Recreation			30,000	
		<u>0</u>	<u>0</u>	<u>30,000</u>	<u>0</u>
Explanation: To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.					

Fund PARK & RECREATION (123)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
<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>
06	Park & Recreation			185,404	
20	Communications			50	
23	MWC Parks			200,000	
		<u>0</u>	<u>0</u>	<u>385,454</u>	<u>0</u>
Explanation: To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.					

SUPPLEMENTS
August 27, 2024

Fund CAPITAL IMPROVEMENTS (157)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
57	Capital Improvements			1,384,081	
		0	0	1,384,081	0

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund DOWNTOWN REDEVELOPMENT (194)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
92	29th Street			277,008	
		0	0	277,008	0

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund ANIMALS BEST FRIEND (220)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
10	Animal Welfare			7,634	
		0	0	7,634	0

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund 2002 G.O. STREET BOND (269)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
69	Street Bond			671	
		0	0	671	0

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

SUPPLEMENTS
August 27, 2024

Fund 2018 ELECTION GO BONDS (270)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
Dept Number	Department Name	Estimated Revenue		Budget Appropriations	
		Increase	Decrease	Increase	Decrease
06	Park & Recreation			22,402	
09	Street Department			40,163	
10	Animal Welfare			1,124	
14	General Government			1,472,734	
64	MWC Fire Department			12,170	
92	29th Street			372	
		0	0	1,548,965	0

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund 2018 ELECTION GO BONDS - PROPRIETARY (271)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
Dept Number	Department Name	Estimated Revenue		Budget Appropriations	
		Increase	Decrease	Increase	Decrease
47	John Conrad Regional Golf			1,632	
		0	0	1,632	0

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund 2022 ISSUE G.O. BOND (272)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
Dept Number	Department Name	Estimated Revenue		Budget Appropriations	
		Increase	Decrease	Increase	Decrease
64	MWC Fire Department			836,577	
		0	0	836,577	0

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund GRANT FUNDS (143)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
Dept Number	Department Name	Estimated Revenue		Budget Appropriations	
		Increase	Decrease	Increase	Decrease
21	Emergency Oper Fund			8,936	
42	Transfer Out			1,300,000	
57	Capital Improvements			132,150	
		0	0	1,441,086	0

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year and Transfer Out to Fund 191 Water for Water Master Plan (4224A1) \$300,000 & Northside Water Improv (4224A2) \$1,000,000. Funding to come from fund balance.



Finance Department
100 N. Midwest Boulevard
Midwest City, OK 73110
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Office: 405-739-1245
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TO: Honorable Mayor and City Council

FROM: Tiatia Cromar, Finance Director

DATE: August 27, 2024

SUBJECT: Discussion, consideration and possible action of approving supplemental budget adjustments to the following funds for FY 2024-2025, increase: Grants/Housing Activities Fund, revenue/Intergovernmental (37) \$155,000; expenditures/Housing (37) \$142,500. Fire Fund, expenditures/Transfers Out (64) \$24,500. Fire Capitalization Fund, revenue/Transfers In (00) \$24,500; expenditures/Fire (64) \$13,454. Reimbursed Projects Fund, revenue/Intergovernmental (39) \$763,038; expenditures/Community Development (05) \$3,273; expenditures/Park & Recreation (06) \$12,287; expenditures/Animal Welfare (10) \$15,000; expenditures/Neighborhood Services (15) \$638; expenditures/Housing (37) \$35,000; expenditures/Transfers Out (39) \$7,660; expenditures/Grants Management (39) \$125,991; expenditures/Fire (64) \$1,720; expenditures/Recreation (78) \$5,000; expenditures/Economic (87) \$49,443. CDBG Fund, revenue/Transfers In (00) \$7,660. Grants Fund, revenue/Intergovernmental (06) \$254,000; expenditures/Transfers Out (06) \$254,000; revenue/Intergovernmental (09) \$51,810; expenditures/Transfers Out (09) \$51,810; revenue/Intergovernmental (21) \$10,000; expenditures/Transfers Out (21) \$10,000; revenue/Intergovernmental (24) \$117,820; expenditures/Transfers Out (24) \$117,820; revenue/Intergovernmental (42) \$1,300,000; expenditures/Transfers Out (42) \$1,300,000; revenue/Intergovernmental (43) \$343,694; expenditures/Transfers Out (43) \$343,694; revenue/Intergovernmental (57) \$1,097,150; expenditures/Transfers Out (57) \$790,000; revenue/Intergovernmental (61) \$325,000; expenditures/Transfers Out (61) \$325,000; revenue/Intergovernmental (62) \$68,868; expenditures/Police (62) \$41,445. Street Tax Fund, revenue/Transfers In (00) \$254,000. Reimbursed Projects Fund, revenue/Transfers In (09) \$51,810. Emergency Operations Fund, revenue/Transfers In (21) \$10,000. General Gov't Sales Tax Fund, revenue/Transfers In (24) \$117,820. Capital Improvements Fund, revenue/Transfers In (00) \$790,000. Police Impound Fees Fund, expenditures/Transfers Out (62) \$2,797. Reimbursed Projects Fund, expenditures/Municipal Golf (48) \$9,706. Grants Fund, revenue/Intergovernmental (62) \$12,326; expenditures/Police (62) \$12,326. CDBG Fund, expenditures/Grants Management (39) \$92,259.

The first supplement is needed to roll forward remaining budget in Homebuyer Assistance Grant from fiscal year 2023-2024 to current fiscal year. The second and third supplements are needed to budget transfer of Phillips 66 donation revenue from Fire Fund to Fire Capitalization Fund to be used to purchase Paratech equipment. The fourth supplement is needed to roll forward remaining budget in Reimbursed Projects Fund from fiscal year 2023-2024 to current fiscal year.

The fifth supplement is needed to budget transfer in from Reimbursed Projects Fund related to roll forward of ODOC CDBG-V2 grant budget. The sixth supplement is needed to roll forward remaining fiscal year 2023-2024 budget in Grants Fund to current fiscal year. The seventh through eleventh supplements are needed to roll forward remaining budget for transfers in from Grants Fund from fiscal year 2023-2024 to current fiscal year in Street Tax, Reimbursed Projects, Emergency Operations, General Government Sales Tax and Capital Improvements Funds. The twelfth supplement is needed to roll forward remaining budget for transfer out of Police Impound Fees Fund to Grants Funds from fiscal year 2023-2024 to current fiscal year. The thirteenth supplement is needed to budget replacement of A/C unit at credit union building. The fourteenth supplement is needed to budget 2023 Police JAG Grant from U.S. Department of Justice. The fifteenth supplement is needed to roll forward remaining budget in CDBG Fund from fiscal year 2023-2024 to current fiscal year and increase budget for current year CDBG Grant to actual amount of award over original estimate.

Tiatia Cromar

Tiatia Cromar
Finance Director

SUPPLEMENTS

August 27, 2024

Fund GRANTS/HOUSING ACTIVITIES (142)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
37	Intergovernmental	155,000			
37	Housing			142,500	
		<u>155,000</u>	<u>0</u>	<u>142,500</u>	<u>0</u>

Explanation:
To roll forward remaining budget in Homebuyer Assistance Grant from fiscal year 2023-2024 to current fiscal year.

Fund FIRE (040)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
64	Transfers Out			24,500	
		<u>0</u>	<u>0</u>	<u>24,500</u>	<u>0</u>

Explanation:
To transfer Phillips 66 donations revenue to Fire Capitalization Fund. Funding to come from fund balance.

Fund FIRE CAPITALIZATION (041)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
0	Transfers In	24,500			
64	Fire			13,454	
		<u>24,500</u>	<u>0</u>	<u>13,454</u>	<u>0</u>

Explanation:
To transfer in Phillips 66 donations revenue from Fire Fund and budget Paratech equipment to be purchased with donation proceeds.

SUPPLEMENTS

August 27, 2024

Fund REIMBURSED PROJECTS (016)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
5	Community Development			3,273	
6	Park & Recreation			12,287	
10	Animal Welfare			15,000	
15	Neighborhood Services			638	
37	Housing			35,000	
39	Transfers Out			7,660	
39	Intergovernmental	763,038			
39	Grants Mgmt.			125,991	
64	Fire			1,720	
78	Recreation			5,000	
87	Economic			49,443	
		<u>763,038</u>	<u>0</u>	<u>256,012</u>	<u>0</u>

Explanation:
To roll forward remaining budget in Reimbursed Projects Fund from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund CDBG (141)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
0	Transfers In	7,660			
		<u>7,660</u>	<u>0</u>	<u>0</u>	<u>0</u>

Explanation:
To budget transfer in from Reimbursed Projects Fund related to roll forward of remaining budget of ODOC CDBG-V2 Grant.

SUPPLEMENTS
August 27, 2024

Fund GRANTS (143)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
Dept Number	Department Name	Estimated Revenue		Budget Appropriations	
		Increase	Decrease	Increase	Decrease
6	Intergovernmental	254,000			
6	Transfers Out			254,000	
9	Intergovernmental	51,810			
9	Transfers Out			51,810	
21	Intergovernmental	10,000			
21	Transfers Out			10,000	
24	Intergovernmental	117,820			
24	Transfers Out			117,820	
42	Intergovernmental	1,300,000			
42	Transfers Out			1,300,000	
43	Intergovernmental	343,694			
43	Transfers Out			343,694	
57	Intergovernmental	1,097,150			
57	Transfers Out			790,000	
61	Intergovernmental	325,000			
61	Transfers Out			325,000	
62	Intergovernmental	68,868			
62	Police			41,445	
		<u>3,568,342</u>	<u>0</u>	<u>3,233,769</u>	<u>0</u>

Explanation:
To roll forward remaining fiscal year 2023-2024 budget in Grants Fund to current fiscal year.

Fund STREET TAX (065)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
Dept Number	Department Name	Estimated Revenue		Budget Appropriations	
		Increase	Decrease	Increase	Decrease
0	Transfers In	254,000			
		<u>254,000</u>	<u>0</u>	<u>0</u>	<u>0</u>

Explanation:
To roll forward budget for transfer in from Grants Fund from fiscal year 2023-2024 to current fiscal year.

Fund REIMBURSED PROJECTS (016)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
Dept Number	Department Name	Estimated Revenue		Budget Appropriations	
		Increase	Decrease	Increase	Decrease
9	Transfers In	51,810			
		<u>51,810</u>	<u>0</u>	<u>0</u>	<u>0</u>

Explanation:
To roll forward budget for transfer in from Grants Fund from fiscal year 2023-2024 to current fiscal year.

SUPPLEMENTS
August 27, 2024

Fund EMERGENCY OPERATIONS (070)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
21	Transfers In	10,000			
		<u>10,000</u>	<u>0</u>	<u>0</u>	<u>0</u>

Explanation:
To roll forward budget for transfer in from Grants Fund from fiscal year 2023-2024 to current fiscal year.

Fund GENERAL GOV'T SALES TAX (009)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
24	Transfers In	117,820			
		<u>117,820</u>	<u>0</u>	<u>0</u>	<u>0</u>

Explanation:
To roll forward budget for transfer in from Grants Fund from fiscal year 2023-2024 to current fiscal year.

Fund CAPITAL IMPROVEMENTS (157)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
0	Transfers In	790,000			
		<u>790,000</u>	<u>0</u>	<u>0</u>	<u>0</u>

Explanation:
To roll forward budget for transfer in from Grants Fund from fiscal year 2023-2024 to current fiscal year.

SUPPLEMENTS
August 27, 2024

Fund POLICE IMPOUND FEES (037)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
62	Transfers Out			2,797	
		<u>0</u>	<u>0</u>	<u>2,797</u>	<u>0</u>

Explanation:
To roll forward budget for transfer out to Grants Fund from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund REIMBURSED PROJECTS (016)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
48	Municipal Golf			9,706	
		<u>0</u>	<u>0</u>	<u>9,706</u>	<u>0</u>

Explanation:
To budget replacement of A/C unit at credit union building. Funding to come from fund balance.

Fund GRANTS (143)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
62	Intergovernmental	12,326			
62	Police			12,326	
		<u>12,326</u>	<u>0</u>	<u>12,326</u>	<u>0</u>

Explanation:
To budget 2023 Police JAG Grant from US Department of Justice.

Fund CDBG (141)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
39	Grants Management			92,259	
		<u>0</u>	<u>0</u>	<u>92,259</u>	<u>0</u>

Explanation:
To roll forward remaining budget in CDBG Fund from fiscal year 2023-2024 to current fiscal year and increase budget for current year CDBG Grant to actual amount of award over original estimate. Funding to come from fund balance.



Economic Development Department

100 N. Midwest Boulevard

Midwest City, OK 73110

www.midwestcityok.org

(405) 739-1218

rcoleman@MidwestCityOK.org

TO: Honorable Mayor and City Council
FROM: Economic Development Director Robert Coleman
DATE: August 27, 2024
SUBJECT: Discussion, consideration and possible action to accept and approve the Annual Report for City of Midwest Tax Increment Finance Districts for FY 2023 - 2024.

State law requires every city, town or county with an active tax increment finance (“TIF”) district to file of an annual report with the Oklahoma Department of Commerce providing specific information concerning the district(s) performance. The same report must also be forwarded to those taxing entities that depend on ad valorem tax revenues from any area covered by a TIF district that has been in effect for at least nine months prior to the end of the fiscal year.

The Sooner Rose Tax Increment Finance District (TIF#2) report is attached. Reporting is not required for the North Side Improvement District (TIF#3) as it was not operational in the nine months preceding June 30, 2024, and no revenues from incremental gains within the district were received. Midwest City has no other active districts.

Please contact my office with any question.

Respectfully,

Robert Coleman
Director of Economic Development

Attachment: Tax Increment Finance District Report for FY 2023 - 2024

PUBLIC NOTICE

The following is a summary of relevant financial information for Increment District Number Two, City of Midwest City for the reporting period ending June, 30, 2024.



Tiatia Cromar, City Treasurer/Finance Director

ASSESSED VALUE TIF #2 AS OF JUNE 30, 2024

Assessed Property Tax Base and Increment Applicable to Reporting Period:

Base Assessed Value	\$ 1,563,003
Increment Assessed Value	\$ 5,731,787
Total Assessed Base and Increment	\$ 7,294,790

NOTE: Amounts are unaudited and subject to adjustment and/or reclassification

TIF #2 FINANCIAL REPORT AS OF JUNE 30, 2024

TIF Related Revenues	FY 23/24 Revenues	Prior Period Revenues	Total Revenues
Ad Valorem Increments	\$ 848,644	\$ 1,932,562	\$ 2,781,206
Sales Tax Increments	\$ 521,436	\$ 1,398,797	\$ 1,920,233
Use Tax Increments	\$ 10,617	\$ 335,658	\$ 346,275
Interest Earned	\$ 67,436	\$ 192,821	\$ 260,256
Reimbursements	\$ -	\$ 5,654	\$ 5,654
Transfer In Hospital Authority	\$ 584,273	\$ 1,396,344	\$ 1,980,617
Total Revenues Collected	\$ 2,032,406	\$ 5,261,835	\$ 7,294,241

INDEBTENESS AS OF JUNE 30, 2024

Principal Balance	Bond Issuance Amount	Payments Applied to Principal in FY 23/24	Prior Period Payments Applied to Principal	Total Payments Applied to Principal	Principal Outstanding at 6/30/24
	\$ 19,250,000	\$ 855,000	\$ 3,020,000	\$ 3,875,000	\$ 15,375,000

TIF #2 PROJECT BUDGET EXPENDITURES AS OF JUNE 30, 2024

	Budget TIF #2	FY 23/24 Expenditures	Prior Period Expenditures	Total Expenditures
Sooner Investment Group Development Financing Assistance	\$1,845,700		\$1,848,803	\$1,848,803
Public Improvements	\$1,943,953		\$1,881,698	\$1,881,698
Warren Theatres Development Financing Assistance (Land)	\$6,256,997		\$6,332,572	\$6,332,572
Warren Theatres Development Financing Assistance (Cash)	\$5,024,000		\$5,021,281	\$5,021,281
Financing Costs	\$13,646,016	\$736,853	\$4,501,725	\$5,238,577
Cost of Issuance	\$200,000		\$806,153	\$806,153
Organizational and Direct Administrative Costs	\$260,000		\$0	\$0
	\$29,176,666	\$736,853	\$12,402,978	\$21,129,085

OTHER INFORMATION

Increment District #2 Creation Date July 1, 2017
Increment District #2 Expiration Date June 30, 2037

Plan Implementation District #2 - Midwest City Memorial Hospital Authority (MCMHA), Tim Lyon,
General Manager/Administrator

CC: Mid-Del Public Schools
Rose State College
Oklahoma County Assessor's Office
Oklahoma City-County Health Dept.

Metropolitan Library System
City of Midwest City Finance Dept.
Oklahoma County Commissioners



City Attorney, Donald D. Maisch

100 N. Midwest Boulevard
Midwest City, OK 73110
DMaisch@midwestcityok.org
Office: 405.739.1203
www.midwestcityok.org

MEMORANDUM

To: Mayor and Members of the City Council

From: Robert Coleman, Economic Development Director

Date: August 27, 2024

RE: Discussion, consideration, and possible action of approving a Memorandum of Understanding (MOU) between the City of Midwest City, the Midwest City Economic Development Authority and the Midwest City Utilities Authority for the engineering, design and construction of a rail spur for the Soldier Creek Industrial Park (SCIP). (R. Coleman – Economic Development Director).

The MOU between the City of Midwest City, the Midwest City Economic Development Authority and the Midwest City Utilities Authority specifies the duties, responsibilities and relationship between the parties for the engineering, design and construction of a rail spur for the SCIP. The rail spur will serve American Glass and other future occupants of SCIP.

The MOU acknowledges ownership of SCIP, ownership of the location of the rail spur, which entity will pay for the engineering of the rail spur and which entity will be working with a contracted consultant to obtain a federal grant to cover the construction of the rail spur.

Approval is at the discretion of the City Council.

MEMORANDUM OF AGREEMENT
Between
CITY OF MIDWEST CITY
And
THE MIDWEST CITY ECONOMIC DEVELOPMENT AUTHORITY
AND
THE MIDWEST CITY UTILITIES AUTHORITY

This Memorandum of Agreement (“MOU”) is made and entered into by and between the City of Midwest City (“City”), a municipal corporation organized pursuant to the laws of the State of Oklahoma, the Midwest City Economic Development Authority (“EDA”), a public trust for the benefit of the Citizens of Midwest City, organized pursuant to the laws of the State of Oklahoma, and Midwest City Utilities Authority (“UA”), a public trust for the benefit of the Citizens of Midwest City, organized pursuant to the laws of the State of Oklahoma, all three (3) together hereinafter referred to as “Parties”.

WHEREAS, the UA owns property in the Soldier Creek Industrial Park (“SCIP”); and

WHEREAS, in 2023, the UA sold a portion of the property it owns in SCIP to American Glass, Inc. (“AGI”) for the construction of an industrial facility; and

WHEREAS, pursuant to the AGI Economic Development Agreement, the EDA agreed to have a rail spur constructed for use by the AGI facility; and

WHEREAS, in 2024, the EDA entered into an agreement with Garver Engineering for the engineering and design of the rail switch and industry track; and

WHEREAS, in 2024, the City and Garver Engineering negotiated an agreement for Garver Engineering to assist the City in the administration of a United States Railroad Administration Consolidated Rail Infrastructure and Safety Improvement (“CRISI”) grant (“FRA Grant”) for the construction of the rail rail switch and industry track; and

WHEREAS, the proposed site for the industry track is on property the UA owns within SCIP; and

NOW, THEREFORE, in consideration of the mutual benefit to the Parties the following terms and conditions are hereby agreed upon:

That the UA hereby agrees that the industry track may be constructed within the railroad right-of-way on property owned by the UA within SCIP; and

That the City hereby agrees to own and maintain the industry track for the benefit of any and all owners or lessees within SCIP, including the railroad right-of-way adjacent to AGI; and

MEMORANDUM OF AGREEMENT
Between
CITY OF MIDWEST CITY
And
THE MIDWEST CITY ECONOMIC DEVELOPMENT AUTHORITY
AND
THE MIDWEST CITY UTILITIES AUTHORITY

That the EDA hereby agrees to enter into a contract with an engineering firm and to finance the engineering and design of the rail spur; and

That City hereby agrees to enter into an agreement with a firm to assist in the administration of a federal grant for the construction of the rail spur; and

That City hereby agrees to use any and all federal funding received for the construction of a rail spur to be located within SCIP; and

The City shall operate, maintain and when necessary inspect and repair the industry track, as needed for the life of the industry track.

The effective date of this MOU shall be September 1, 2024.

This MOU may not be amended except by express written agreement of all parties hereto.

Should it be determined that any provision or the application of any provision of this MOU to any party is prohibited by law such prohibition shall not affect the validity of the remaining provisions of this Agreement or its effectiveness against the remaining parties.

This MOU is hereby approved by the City of Midwest City and signed by the Mayor for the City of Midwest City this ____ day of _____, 2024.

MATTHEW D. DUKES, II
MAYOR

Sara Hancock, City Clerk

Approved as to form and legality:

Donald D. Maisch, City Attorney

MEMORANDUM OF AGREEMENT
Between
CITY OF MIDWEST CITY
And
THE MIDWEST CITY ECONOMIC DEVELOPMENT AUTHORITY
AND
THE MIDWEST CITY UTILITIES AUTHORITY

This MOU is hereby approved by the Midwest City Economic Development Authority and signed by the Chair for the Development Authority this ____ day of _____, 2024.

MATTHEW D. DUKES, II
CHAIR

Sara Hancock, Secretary

Approved as to form and legality:

Donald D. Maisch, Authority Attorney

This MOU is hereby approved by the Midwest City Utilities Authority and signed by the Chair for the Utilities Authority this ____ day of _____, 2024.

MATTHEW D. DUKES, II
CHAIR

Sara Hancock, Secretary

Approved as to form and legality:

Donald D. Maisch, Authority Attorney



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

To: Honorable Vice Mayor and Council

From: Patrick Menefee, P.E., City Engineer

Date: August 27th, 2024

Subject: Discussion, consideration, and possible action of making a matter of record Permit No. SL000055240427 from the State Department of Environmental Quality for the Sooner Rose Sanitary Sewer Improvements, Midwest City, Oklahoma.

Enclosed is Permit No. SL000055240427 for the construction of 732 linear feet of eight (8) inch, 1278 linear feet of twelve (12) inch, and 1952 linear feet of fifteen (15) inch PVC sanitary sewer line to serve the Sooner Rose Commercial Addition, Midwest City, Oklahoma.

Patrick Menefee, P.E.,
City Engineer
Attachment

July 22, 2024

Mr. Tim Lyon, City Manager
City of Midwest City
100 North Midwest Boulevard
Midwest City, Oklahoma 73110

Re: Permit No. SL000055240427
Sooner Rose Sanitary Sewer Improvements
Facility No. S-20541

Dear Mr. Lyon:

Enclosed is Permit No. SL000055240427 for the construction of 732 linear feet of eight (8) inch PVC sanitary sewer line, 1,278 linear feet of twelve (12) inch PVC sanitary sewer line, 1,952 linear feet of fifteen (15) inch PVC sanitary sewer line, and all appurtenances to serve the Sooner Rose Sanitary Sewer Improvements, Oklahoma County, Oklahoma.

The project authorized by this permit should be constructed in accordance with the plans approved by this Department on July 22, 2024. Any deviations from the approved plans and specifications affecting capacity, flow or operation of units must be approved, in writing, by the Department before changes are made.

Receipt of this permit should be noted in the minutes of the next regular meeting of the City of Midwest City, after which it should be made a matter of permanent record.

We are returning one (1) set of the approved plans to you, one (1) set to your engineer and retaining one (1) set for our files.

Respectfully,



D. Adam Divine, P.E.
Construction Permit Section
Water Quality Division

AD/RC/md

Enclosure

c: Zachary McIntosh, Regional Manager, DEQ
OKLAHOMA CITY DEQ OFFICE
Mohammad Reza Khakpour, P.E., LMRK Engineering

PERMIT No. SL000055240427

SEWER LINES

FACILITY No. S-20541

PERMIT TO CONSTRUCT

July 22, 2024

Pursuant to O.S. 27A 2-6-304, the City of Midwest City is hereby granted this Tier I Permit to construct 732 linear feet of eight (8) inch PVC sanitary sewer line, 1,278 linear feet of twelve (12) inch PVC sanitary sewer line, 1,952 linear feet of fifteen (15) inch PVC sanitary sewer line, and all appurtenances to serve the Sooner Rose Sanitary Sewer Improvements, located in Section 4 & 9, T-11-N, R-2-W, Oklahoma County, Oklahoma, in accordance with the plans approved July 22, 2024.

By acceptance of this permit, the permittee agrees to operate and maintain the facilities in accordance with the "Oklahoma Pollutant Discharge Elimination System Standards - OPDES" (OAC 252:606) rules and to comply with the state certification laws, Title 59, Section 1101-1116 O.S. and the rules and regulations adopted thereunder regarding the requirements for certified operators.

This permit is issued subject to the following provisions and conditions.

- 1) That the recipient of the permit is responsible that the project receives supervision and inspection by competent and qualified personnel.
- 2) That construction of all phases of the project will be started within one year of the date of approval or the phases not under construction will be resubmitted for approval as a new project.
- 3) That no significant information necessary for a proper evaluation of the project has been omitted or no invalid information has been presented in applying for the permit.
- 4) That wherever water and sewer lines are constructed with spacing of 10 feet or less, sanitary protection will be provided in accordance with OAC 252:656-5-4(c)(3) of the standards for Water Pollution Control Facility Construction.
- 5) That tests will be conducted as necessary to ensure that the construction of the sewer lines will prevent excessive infiltration and that the leakage will not exceed 10 gallons per inch of pipe diameter per mile per day.
- 6) That the Oklahoma Department of Environmental Quality shall be kept informed of occurrences which may affect the eventual performance of the works or that will unduly delay the progress of the project.
- 7) That the permittee will take steps to assure that the connection of house services to the sewers is done in such a manner that the functioning of the sewers will not be impaired and that earth and ground water will be excluded from the sewers when the connection is completed.
- 8) That any deviations from approved plans or specifications affecting capacity, flow or operation of units must be approved by the Department before any such deviations are made in the construction of this project.

PERMIT No. SL000055240427

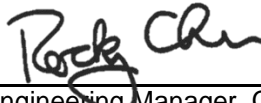
SEWER LINES

FACILITY No. S-20541

PERMIT TO CONSTRUCT

- 9) That any notations or changes recorded on the official set of plans and specifications in the Oklahoma Department of Environmental Quality files shall be part of the plans as approved.
- 10) That the recipient of the permit is responsible for the continued operation and maintenance of these facilities in accordance with rules and regulations adopted by the Environmental Quality Board, and that this Department will be notified in writing of any sale or transfer of ownership of these facilities.
- 11) The issuance of this permit does not relieve the responsible parties of any obligations or liabilities which the permittee may be under pursuant to prior enforcement action taken by the Department.
- 12) That the permittee is required to inform the developer/builder that a DEQ Storm Water Construction Permit is required for a construction site that will disturb one (1) acre or more in accordance with OPDES, 27A O.S. 2-6-201 *et. seq.* For information or a copy of the GENERAL PERMIT (OKR10) FOR STORM WATER DISCHARGES FROM CONSTRUCTION ACTIVITIES, Notice of Intent (NOI) form, Notice of Termination (NOT) form, or guidance on preparation of a Pollution Prevention Plan, contact the Storm Water Unit of the Water Quality Division at P.O. Box 1677, Oklahoma City, OK 73101-1677 or by phone at (405) 702-8100.
- 13) That all manholes shall be constructed in accordance with the standards for Water Pollution Control Facility Construction (OAC 252:656-5-3), as adopted by the Oklahoma Department of Environmental Quality.
- 14) That when it is impossible to obtain proper horizontal and vertical separation as stipulated in Water Pollution Control Facility Construction OAC 252:656-5-4(c)(1) and OAC 252:656-5-4(c)(2), respectively, the sewer shall be designed and constructed equal to water pipe, and shall be pressure tested using the ASTM air test procedure with no detectable leakage prior to backfilling, in accordance with the standards for Water Pollution Control Facility Construction OAC 252:656-5-4(c)(3).

Failure to appeal the conditions of this permit in writing within 30 days from the date of issue will constitute acceptance of the permit and all conditions and provisions.



Rocky Chen, P.E., Engineering Manager, Construction Permit Section
Water Quality Division

AD



Economic Development Department
100 N. Midwest Boulevard
Midwest City, OK 73110
Office: (405) 739-1218
rcoleman@MidwestCityOK.org

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: Robert Coleman, Director of Economic Development

DATE: August 27, 2024

SUBJECT: Discussion, consideration and possible action to approve an Operating Agreement with the Arkansas – Oklahoma Railroad Company for railroad track within the Soldier Creek Industrial Park.

Railroad service was planned as part of the Soldier Creek Industrial Park (“SCIP”) from its inception in 2012. We have held off making any improvements until we were under contract with a user who needed rail service. Our agreement with American Glass, Inc., requires us to proceed with this work.

Earlier this year, we began working with the U.S. Federal Railroad Administration to meet the requirements that would allow our participation in its Consolidated Rail Infrastructure and Safety Improvements (CRISI) grant program. Part of the documentation necessary includes proof of an approved operating agreement (“Agreement”) to inspect, maintain and repair any new rail improvements.

The City is the eligible grant recipient, and the original Agreement approved in August 2017, between the Midwest City Utilities Authority and the Arkansas – Oklahoma Railroad Company (“A-OK”) must be amended to reflect the City as the responsible party. The Agreement also increases minimum insurance coverage required of both parties and, just as before, it outlines our obligations as follows:

- Permitting, construction and operation of switch and industry track.
- Maintaining clear space between the tracks and any potential obstructions.
- Notifying A-OK any potential conditions that may interfere or endanger its operations.
- Indemnification of A-OK under circumstances as allowed by law.

If approved, the agreement is valid for one year and automatically renews; however, the City or AOK can opt out with sixty (60) days advance notice.

Staff recommends approval.

Robert B. Coleman
Director of Economic Development

Attachment: Agreement

ARKANSAS – OKLAHOMA RAILROAD COMPANY
OPERATING AGREEMENT

THIS AGREEMENT (“Agreement”) made as of this **27th** day of **August 2024, (Effective Date”)** by and between the **ARKANSAS – OKLAHOMA RAILROAD COMPANY**, an Oklahoma corporation (“AOK”) and the **City of Midwest City, an Oklahoma Municipal Corporation (“City”)**.

WHEREAS, the CITY and AOK agree to enter into an Operating Agreement in which AOK will serve and operate over a portion of railroad track located in city of Midwest City, county of Oklahoma, state of Oklahoma, to serve the Soldier Creek Industrial Park (“Park”), located at 7450 NE 23rd Street Midwest City, Oklahoma 73141 operated by the City . AOK agrees to provide such service, subject to the terms of this Agreement; and

WHEREAS, the City has entered into a Memorandum of Understanding with its Economic Development Authority and its Utilities Authority, both Oklahoma Title 60 Public Trusts, to develop, operate and maintain a rail switch and industry track to service the Park;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. **MAINTENANCE AND OPERATION**. AOK shall, at its own expense, operate, maintain, and otherwise manage the track located outside the boundaries of the Park (herein “AOK TRACK”), in accordance with the lease agreement between AOK and Union Pacific Railroad, the owner of the track, located outside the boundaries of the Park. The City shall at its sole expense, own, manage, maintain or enable the maintenance, including all changes, repairs, or alterations of all track within the boundaries of the Park (herein “Industry Track”).
 - (a) In the event of new track being constructed within the Park, The City shall be responsible for obtaining, without expense to AOK, all necessary real property rights, including applicable permits, for the maintenance and operation of the track inside the Park. The City shall strictly comply with all laws, statutes, regulations, ordinances, orders, covenants, restrictions or decisions of any court of competent jurisdiction, including, without limitation, those pertaining to environmental matters (collectively, “Legal Requirements”) and other AOK requirements relating to the use of the Track, Facilities or Equipment. Prior to entering AOK Track, the City shall and shall cause its contractor(s) to comply with all of AOK’s applicable safety rules and regulations. In the event the City, having jurisdiction there over orders the separation of grade of the Industry Track and any street, road, highway, other rail line or the like, the City hereby consents to the removal and/or relocation of the Industry Track at its sole expense.
 - (b) AOK will perform a joint inspection with a representative of the City and furnish to the City a quarterly inspection report of all track and infrastructure issues located within the boundaries of the Park. Any necessary repairs revealed by those inspections will be accompanied with a comprehensive scope of materials, equipment and labor required to facilitate such repairs along with an itemized written cost estimate. The City has forty-five (45) days to review the list of repairs and respond by email that it acknowledges or disputes the work order. If disputed, the City and AOK will follow up with a second on-site inspection to determine what repairs are necessary for the safe movement of AOK’s trains. The second on-site inspection will occur within ten (10) days of the City’s notice to AOK. If the two parties cannot agree on repairs, the City will be required to hire a contractor to make repairs acceptable to AOK, service to customers may be halted until repairs are made. Any derailments that

occur during this time period are the sole financial responsibility of the City and the City agrees to pay AOK's invoice within 30 days.

- (c) Emergency repairs are considered any track or roadbed defect found to halt the immediate switching of an Industrial Park customer and must be repaired within 48 hours. The City will be notified at the time of discovery and a representative will have the opportunity to meet an AOK representative to discuss the repair(s) and cost(s). If the event is found to be catastrophic and non-repairable, AOK will be forced to embargo the customer until such repair(s) are made. Emergency repairs will be invoiced upon completing of repair(s) and payable within forty-five (45) days of receipt.
 - (d) The City shall not place, permit to be placed, or allow to remain, any permanent or temporary material, structure, pole, container, storage vessel, above-ground or underground tank or other obstruction within eight and one-half (8½) feet laterally from the center (nine and one-half [9½] feet on either side of the centerline of a curve in the Industry Track) or within twenty-three (23) feet vertically from the top of the rail of said Industry Track ("Minimal Clearances"), provided that if any Legal Requirement requires greater clearances from those provided for in this Section 1(b), then the City shall strictly comply with such Legal Requirement. The City shall not place or allow to be placed any freight car within two hundred fifty (250) feet of either side of any at-grade crossings on the Industry Track.
2. **TERM.** Unless earlier terminated as provided herein, this Agreement will be in force for the term of ONE (1) YEAR from its date and will automatically continue thereafter until terminated by either party giving the other sixty (60) days written notice.
3. **INDEMNITY.**
- (a) **INDEMNITIES ACKNOWLEDGE THAT THE CITY'S POWERS TO CARRY OUT THE TERMS OF SECTION 3 ARE LIMITED BY OKLAHOMA LAW.**
 - (b) **PURSUANT TO 3(a), FOR PURPOSES OF THIS AGREEMENT: (I) "INDEMNITIES" MEANS AOK AND AOK'S AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, CONSULTANTS, CONTRACTORS AND AGENTS; (II) "LIABILITIES" MEANS ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGEMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS, ATTORNEY'S FEES AND COSTS OF INVESTIGATION, REMOVAL AND REMEDIATION AND GOVERNMENTAL OVERSIGHT COSTS) ENVIRONMENTAL OR OTHERWISE; AND (III) "CITY PARTNERS" MEANS THE CITY, OR THE CITY'S OFFICERS, AGENTS, INVITEES, LICENSEES, EMPLOYEES OR CONTRACTORS, OR ANY PARTY DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANY PARTY THEY CONTROL OR EXERCISE CONTROL OVER.**
 - (c) **PURSUANT TO 3(a), THE CITY SHALL RELEASE, INDEMNIFY, DEFEND AND HOLD THE INDEMNITEES HARMLESS FROM AND AGAINST ANY LIABILITIES ARISING OUT OF OR RELATED TO (IN WHOLE OR IN PART) ANY CLAIM THAT BY VIRTUE OF THE USE OF THE INDUSTRY TRACK CONTEMPLATED IN THIS AGREEMENT, UNDER THE U.S. COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT ("CERCLA") OR OTHER ENVIRONMENTAL LAWS; AOK IS (I) AN "OWNER," "OPERATOR," "ARRANGER" OR "TRANSPORTER" OF THE CITY'S INDUSTRY TRACK OR PARK; (II) OTHER THAN A COMMON CARRIER WITH RESPECT TO THE INDUSTRY TRACK REGARDLESS OF ANY NEGLIGENCE OR STRICT LIABILITY OF ANY INDEMNITEE.**

(d) PURSUANT TO 3(A), IF ANY EMPLOYEE OF ANY CITY PARTNER IS AN EMPLOYEE OF ANY INDEMNITEE, THE CITY SHALL INDEMNIFY AND HOLD THE INDEMNITEES HARMLESS FROM AND AGAINST ANY LIABILITIES ARISING OUT OF OR RELATED TO (IN WHOLE OR IN PART) ANY SUCH CLAIM INCLUDING, BUT NOT LIMITED TO, CLAIMS RELATED TO PROCEEDINGS UNDER OR RELATED TO THE FEDERAL EMPLOYERS' LIABILITY ACT, THE SAFETY APPLIANCE ACT, THE BOILER INSPECTION ACT, THE OCCUPATIONAL HEALTH AND SAFETY ACT, THE RESOURCE CONSERVATION AND RECOVERY ACT AND ANY SIMILAR STATE OR FEDERAL STATUTE.

(e) PURSUANT TO 3(A), UPON WRITTEN NOTICE FROM AOK, THE CITY AGREES TO ASSUME THE DEFENSE OF ANY LAWSUIT OR OTHER PROCEEDING BROUGHT AGAINST ANY INDEMNITEE BY ANY ENTITY, RELATING TO ANY MATTER COVERED BY THIS AGREEMENT FOR WHICH THE CITY HAS AN OBLIGATION TO ASSUME LIABILITY FOR AND/OR SAVE AND HOLD HARMLESS ANY INDEMNITEE. THE CITY SHALL PAY ALL COSTS INCIDENTAL TO SUCH DEFENSE, INCLUDING, BUT NOT LIMITED TO, ATTORNEY'S FEES, INVESTIGATORS' FEES, LITIGATION AND APPEAL EXPENSES, SETTLEMENT PAYMENTS AND AMOUNTS PAID IN SATISFACTION OF JUDGMENTS.

4. **INSURANCE.**

- a. For the duration of the Agreement, the City shall maintain its self-insured liability coverage of \$2,000,000.00 with a stop loss of \$4,000,000.00 aggregate limit including Bodily Injury and Property Damage.
- b. For the duration of the Agreement, AOK and its contractors shall maintain general liability coverage in the amount at a minimum of \$2,000,000 with a stop loss of \$4,000,000 and name the City as insured.

5. **DEFAULT AND TERMINATION.** The following events shall constitute defaults hereunder: (a) creating or allowing to remain any condition, including without limitation, any condition to the physical track or surrounding environment that interferes with or endangers the operations of AOK. Upon discovery of said condition, AOK will notify the City in writing of the specific defect(s), after which the City will then have sixty (60) days to make the necessary repair(s) to restore safe service conditions to the area(s) in question.

6. **SURVIVAL.** Neither termination nor expiration will release either party from any liability or obligation under this Agreement as allowed by law.

7. **AMENDMENTS.** Any amendment to this Agreement shall be in writing and approved by both parties.

8. **CHOICE OF LAW.** The laws of the State of Oklahoma shall be used to interpret this Agreement. Any legal action arising from this Agreement shall be filed in the proper State or Federal Court located in Oklahoma County.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate the day and year herein first under above written.

CITY OF MIDWEST CITY, OKLAHOMA

ARKANSAS – OKLAHOMA RAILROAD COMPANY

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

CITY OF MIDWEST CITY, OKLAHOMA
100 N. MIDWEST BLVD.
MIDWEST CITY, OK 73110

ARKANSAS – OKLAHOMA RAILROAD COMPANY
116 WEST MAIN STREET
WILBURTON, OK 74578



Information Technology
100 N. Midwest Boulevard
Midwest City, OK 73110
Office 405.739.1374
Fax 405.869.8602

MEMORANDUM

TO: Honorable Mayor and Council

FROM: Allen Stephenson, Information Technology Director

DATE: August 27, 2024

SUBJECT: Discussion, consideration, and possible action of renewing the subscription of Microsoft licensing with Softchoice Corporation, which holds the Oklahoma Statewide Contract for Microsoft Software Products/Services # SW1079, in the amount of \$137,100.15.

Discussion, consideration, and possible action of renewing the subscription of Microsoft licensing with Softchoice Corporation, which holds the Oklahoma Statewide Contract for Microsoft Software Products/Services # SW1079, in the amount of \$137,100.159.

Over the past year, our organization has significantly benefited from the transition to Microsoft's suite of products. This shift has addressed many of the reliability issues we previously faced, including limited support, increased downtime, and unforeseen disruptions with our prior email solution. The comprehensive nature of Microsoft's services has enhanced our operational efficiency and provided a stable and reliable email infrastructure.

Specifically, the Microsoft 365 G3 subscription allows for access to Word, Excel, PowerPoint, Publisher, OneDrive, Exchange, Teams, OneNote, eDiscovery, Legal Hold, Multifactor Authentication, and Active Directory integration. These products offer us advanced security, device management, and sophisticated compliance capabilities, ensuring that our organization maintains the highest levels of data protection.

Sincerely,

Allen Stephenson, Information Technology Director



Softchoice Corporation
 314 W Superior St #400
 Chicago, IL 60654

Sales/Order desk
 Phone: (800) 268-7638
 Fax: (800) 268-7639

Quote	Q-2017473
Date	24-Jul-2024

Quote

Ship To :
 Matthew Schratwieser
 City of Midwest City
 100 N MIDWEST BLVD
 MIDWEST CITY, OK 73110

Quote Prepared For	Matthew Schratwieser City of Midwest City Phone: 4057391240 Email: mschratwieser@midwestcityok.org
Quote Sent By	Jaspreet Monga jaspreet.monga@softchoice.com Phone: Fax:
Anniversary Date	24-Aug-2024
Authorization Number	81353143
Agreement End Date	31-Aug-2026
Comments	

SLG EA - Year 2 Scheduled Billing - Enr: 81353143

Item #	Mfg SKU #	Description	Qty	Billing Frequency	Start Date	End Date	Usage Country	License Type	Unit Price	Extended Price
2000410715	AAA-11894	O365GCCE3 ShrdSvr ALNG SubsVL MVL PerUsr	450	Upfront	01-Sep-2024	31-Aug-2025	United States	Subscription	\$246.72	\$111,024.00
2000575346	MQM-00001	AzureActiveDrctryPremP1GCC ShrdSvr ALNG	450	Upfront	01-Sep-2024	31-Aug-2025	United States	Subscription	\$56.04	\$25,218.00

2000674814	NYH-00001	AUDIO CONFERENCING SELECT DIAL OUT GCC SUB ADD-ON	450	Upfront	01-Sep-2024	31-Aug-2025	United States	Subscription	\$0.00	\$0.00
2000410262	T2N-00005	O365GCCE5 ShrdSvr ALNG SU MVL O365GCCE3	5	Upfront	01-Sep-2024	31-Aug-2025		Subscription	\$171.63	\$858.15
GROUP TOTAL										\$137,100.15

SUBTOTAL										\$137,100.15
DELIVERY: Ground - 3 to 5 days										\$0.00
State Tax										\$0.00
Local Tax										\$0.00
All currency in this quote is in (USD).										
TOTAL										\$137,100.15

Estimated Monthly Lease Payment \$4,329.62 per month*

*Please note that the estimated monthly payment shown above is an option based on a 36 month term with a USD\$1.00 buyout at the end of the term. Fair market value buyout and monthly payments may vary depending on your creditworthiness as determined by Softchoice. 1 and 2 year Service Agreements, Subscriptions, License and Support contracts are not eligible for 36 month payment plans; 12 or 24 month payment options may be available upon request. Shipping and applicable taxes are not included in the above estimate. Payment options in the United States of America are in US Dollars and not billable in other currencies. All monthly lease payment options are subject to credit approval and execution of a lease contract.

Payment options are only available in listed currency and not billable in other currencies. Pricing, availability, and special offers are subject to change at any time. This document and the transaction(s) to which it pertains are governed by Softchoice's online terms of sale, unless a separate purchase agreement was signed by both your company and Softchoice, in which case, that separate agreement will govern. Softchoice's terms of sale can be found <http://www.softchoice.com/softchoice-terms-and-conditions-for-products>

As noted in the Microsoft Enterprise Agreement, any online subscription services within this quote will automatically renew annually unless Softchoice is notified in writing at least 30 days prior to your anniversary. If you are within the final year of your agreement the previous statement does not apply; new products and quantities will be reviewed in your renewal process.

Signature :

Name :

Title :

Date :

PO# : {{(PO_es :signer1)}}

US - Oklahoma Statewide OMES Microsoft -

Please note all products priced in accordance to Oklahoma Statewide Microsoft Contract SW1079.

Cage Code: 3DH15

DUNs: 929022028

TIN: 13-3827773

Enterprise Update Statement

Enterprise Agreement Number 9065182

Enrollment Number 81353143

Company Name City of Midwest City

In accordance with the terms of entity's Enterprise Agreement and Enrollment, a true-up order must be submitted for each Enrollment's anniversary (including at Enrollment expiration and prior to any renewal) to account for License quantity increases for:

- a. Qualified Desktops/Devices or Qualified Users
- b. Online Services (where permitted)
- c. Previously ordered Additional Products
- d. Products included in the Server and Cloud Enrollment or Enrollment for Core Infrastructure
- e. Products included in the Enrollment for Application Platform. Products selected with the three year true-up option must place the true-up order only upon enrollment expiration and prior to renewal.

If entity has ordered any additional quantities since its last Enrollment anniversary, this annual true-up order is still required. Entity must submit an Enterprise Update Statement for each anniversary when there has been no increase in required License quantities as described above.

- In checking this box, entity confirms that under the above referenced Enrollment, there has been no increase in the number of required Licenses not already ordered in a prior placed True Up Orders. Entity understands that it is the responsibility of the entity to ensure that all licenses installed are used according to the Enterprise Agreement and Enrollment referenced above.

Select applicable year for this Update statement: Year 1

Customer/Government Partner (as applicable)
Name of Entity* City of Midwest City
Signature*
Printed Name*
Printed Title*
Signature Date*

* indicates required fields



Planning & Zoning Department

Matt Summers, Director of Planning & Zoning
Tami Anderson, Administrative Assistant
Emily Richey, Current Planning Manager
Cameron Veal, Associate Current Planner

To: Honorable Mayor and Council
From: Matt Summers, Director of Planning & Zoning
Date: August 27, 2024
Subject: Discussion, consideration, and possible action of approving a programming resolution for possible inclusion into the Transportation Alternatives Program for a project to construct approximately half a mile of sidewalk along Crosby Blvd., and three-tenths of a mile of multi-use trail along Crosby Blvd and SE 15th Street.

The Crutch Creek Connector Trail is planned to ultimately connect Quinlan Park to SE 29th Street. The phase of construction proposed with this application would connect Quinlan Park to the intersection of SE 15th St. and Johnson Blvd. At Quinlan Park, the trail would begin on Crosby Blvd as a combination of sidewalks (for pedestrian traffic) and a shared roadway for bicycles. Approximately the southern half of this proposed phase would be a shared use trail. This phase of the trail is proposed to mostly follow Crosby Blvd south, ending at the signalized intersection of SE 15th St and Johnson Blvd.

The Crutch Creek Connector Trail was planned as part of the Midwest City Trails Master Plan and has a total planned length of about 2.3 miles. This trail will provide needed north-south connectivity for the city's trail system and will connect Bomber Trail to the planned 29th Street Trail. This phase would connect Quinlan Park, the single-family neighborhood around it, and the Sooner Rose shopping area along SE 15th Street. The southern terminus of this phase is at a signalized intersection providing access to Rose State College.

The accompanying programming resolution is required in order to have the referenced project considered for the Transportation Alternatives Program. All projects that apply for this funding must be programmed in this manner. Programming a project does not guarantee the project will be funded since it competes with projects submitted by other entities across the metropolitan area. A minimum of 20% in local match is required under this program.

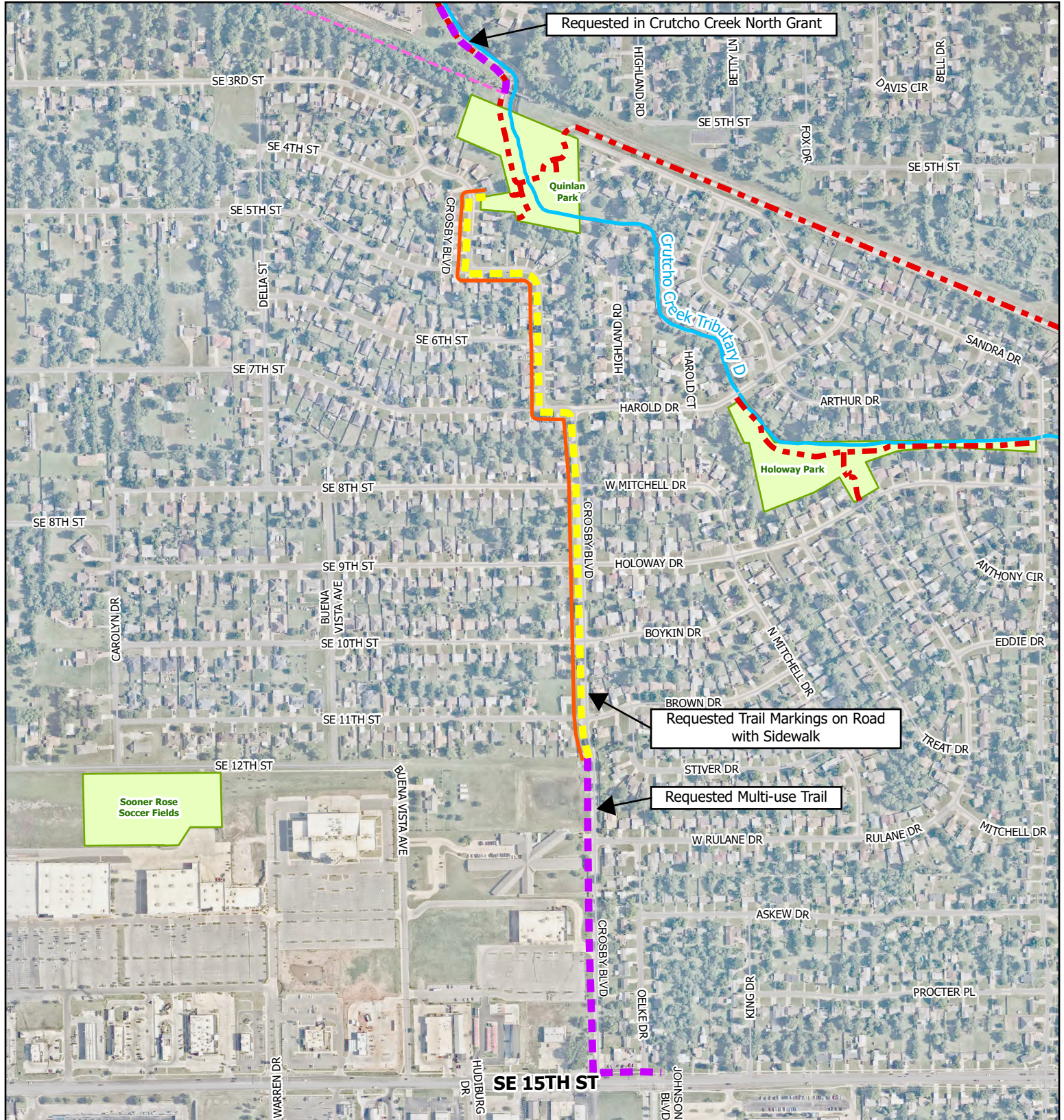
- Federal Funds: \$728,000.00
- Local Match: \$182,000.00
- Estimated Total Cost: \$910,000.00

No City funds are obligated at this time. However, if the project is funded, the City will be obligated to fund the local match and hire a design consultant. Project selection is scheduled for the fall of 2024.

A handwritten signature in black ink, appearing to read "Matt Summers". The signature is written in a cursive, flowing style.

Matt Summers, AICP
Director of Planning & Zoning

Transportation Alternatives Program - 2024

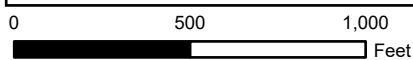


City of Midwest City Locator Map

	A-0						
A-1	A-2	A-3	A-4				
B-1	B-2	B-3	B-4	B-5			
C-1	C-2	C-3	C-4	C-5	C-6	C-7	
D-1	D-2	D-3	D-4	D-5	D-6		
E-1	E-2	E-3	E-4	E-5	E-6	E-7	
F-2	F-3						

Midwest City Crutcho Creek Trail South

- Trail Status**
- Existing
 - Future Proposed
 - Requested
 - Requested Trail Markings on Road
- Sidewalk Status**
- Requested Sidewalk



**GIS Division
Information Technology
(405) 739-1219**

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**RESOLUTION
TRANSPORTATION ALTERNATIVES PROGRAM PROJECT**

WHEREAS, Transportation Alternatives Program (TAP) funds for urbanized areas have been made available for transportation improvements within the Oklahoma City Urbanized Area, and

WHEREAS, The City of Midwest City has selected a project described as follows: Crutchko Connector South, and

WHEREAS, the preliminary estimate of cost is \$910,000.00, and Federal participation under the terms of *Infrastructure Investment and Jobs Act (IIJA)* relating to Transportation Alternatives Program funds is hereby requested for funding 80% of the project cost, which is estimated at \$728,000.00, and

WHEREAS, The City proposes to use the Capital Improvements Project Fund as the source of funds for the local match, which is estimated at \$182,000.00, and

WHEREAS, no City funds are committed by this action, and

WHEREAS, The City has the required matching funds available and further agrees to deposit matching funds by separate agreement with the Oklahoma Department of Transportation (ODOT) prior to advertising of the project for bid by ODOT, and

WHEREAS, The City agrees to provide for satisfactory maintenance after completion, and to furnish the necessary right-of-way clear and unobstructed, and

WHEREAS, The City agrees, as a condition to receiving any Federal financial assistance from the Department of Transportation, that it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42. U.S.C. 2000d et seq., and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination of Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964", and

WHEREAS, The City assures that no qualified person with a disability shall, solely by reasons of their disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity administered by the City/Town/County, and

WHEREAS, The City further understands that acceptance of this resolution by the Association of Central Oklahoma Governments (ACOG) and the Oklahoma Department of Transportation is not a commitment to Federal funding, but only registers the City of Midwest City's interest and intent in participating in the program application process.

NOW, THEREFORE, BE IT RESOLVED:

That ACOG is hereby requested to consider the selection of this project as a candidate for Federal funding, and to submit same to the Oklahoma Transportation Commission for its approval;

That the Oklahoma Transportation Commission is hereby requested to concur in the selection of this project and to submit same to the Federal Highway Administration for its approval.

ADOPTED by the City Council of Midwest City and **SIGNED** by the Mayor this _____ day of August, 2024.

ATTEST:

City Clerk

Mayor

Approved as to form and legality

City Attorney



Planning & Zoning Department

Matt Summers, Director of Planning & Zoning
Tami Anderson, Administrative Assistant
Emily Richey, Current Planning Manager
Cameron Veal, Associate Current Planner

To: Honorable Mayor and Council
From: Matt Summers, Director of Planning & Zoning
Date: August 27, 2024
Subject: Discussion, consideration, and possible action of approving a programming resolution for possible inclusion into the Transportation Alternatives Program for a project to construct Crutch Creek Trail Phase 1.

This proposed project would construct the first phase of the Crutch Creek Trail connecting the Bomber Trail, Quinlan Park, the YMCA, and Meadowood Neighborhood. This project would result in a multi-use trail with a length of just over one (1) mile.

The project would rehab the existing sidewalk from Bomber Trail to E. Reno Avenue and bring the trail across E. Reno Ave. at the signalized intersection near the YMCA. From there, the trail would run north along the channel to N. Glenoaks Drive. This would represent the first phase of the Crutch Creek Trail identified in the Midwest City Trails Master Plan.

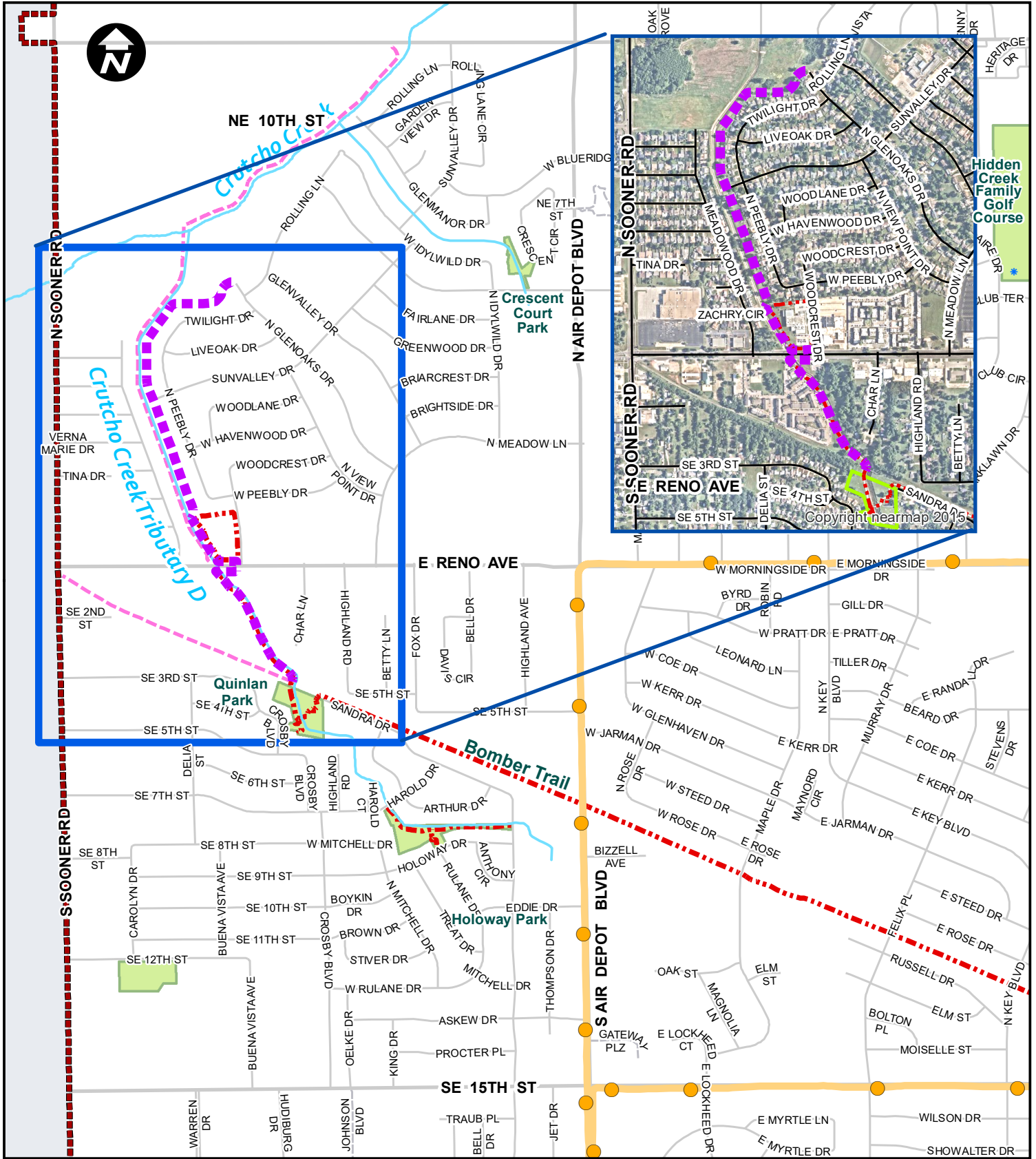
The accompanying programming resolution is required in order to have the referenced project considered for the Transportation Alternatives Program. All projects that apply for this funding must be programmed in this manner. Programming a project does not guarantee the project will be funded since it competes with projects submitted by other entities across the metropolitan area. A minimum of 20% in local match is required under this program.

- Federal Funds: \$ 960,000.00
- Local Match: \$ 240,000.00
- Estimated Total Cost: \$1,200,000.00

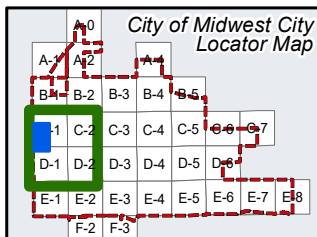
No City funds are obligated at this time. However, if the project is funded, the City will be obligated to fund the local match and hire a design consultant. Project selection is scheduled for this winter.

Matt Summers, AICP
Director of Planning & Zoning

Transportation Alternatives Program 2024



12/2023 NearMap image



Midwest City Inset of Planned Crutcho Creek Trail

- | Trail Status | | Bus Stops | |
|--------------|-----------|-----------|------------|
| | Existing | | Bus Stops |
| | Proposed | | Bus Routes |
| | Requested | | |

0 1,000 2,000 Feet

GIS Division
Information Technology
(405) 739-1219

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**RESOLUTION
TRANSPORTATION ALTERNATIVES PROGRAM PROJECT**

WHEREAS, Transportation Alternatives Program (TAP) funds for urbanized areas have been made available for transportation improvements within the Oklahoma City Urbanized Area, and

WHEREAS, The City of Midwest City has selected a project described as follows: Crutch Creek Trail Phase 1, and

WHEREAS, the preliminary estimate of cost is \$1,200,000.00 and Federal participation under the terms of *Infrastructure Investment and Jobs Act (IIJA)* relating to Transportation Alternatives Program funds is hereby requested for funding 80% of the project cost, which is estimated at \$960,000.00, and

WHEREAS, The City proposes to use the Capital Improvements Project Fund as the source(s) of funds for the local match, which is estimated at \$240,000.00, and

WHEREAS, no City funds are committed by this action, and

WHEREAS, The City has the required matching funds available and further agrees to deposit matching funds by separate agreement with the Oklahoma Department of Transportation (ODOT) prior to advertising of the project for bid by ODOT, and

WHEREAS, The City agrees to provide for satisfactory maintenance after completion, and to furnish the necessary right-of-way clear and unobstructed, and

WHEREAS, The City agrees, as a condition to receiving any Federal financial assistance from the Department of Transportation, that it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42. U.S.C. 2000d et seq., and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination of Federally-Assisted Programs of the Department of Transportation- Effectuation of Title VI of the Civil Rights Act of 1964", and

WHEREAS, The City assures that no qualified person with a disability shall, solely by reasons of their disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity administered by the City/Town/County, and

WHEREAS, The City further understands that acceptance of this resolution by the Association of Central Oklahoma Governments (ACOG) and the Oklahoma Department of Transportation is not a commitment to Federal funding, but only registers the City of Midwest City's interest and intent in participating in the program application process.

NOW, THEREFORE, BE IT RESOLVED:

That ACOG is hereby requested to consider the selection of this project as a candidate for Federal funding, and to submit same to the Oklahoma Transportation Commission for its approval;

That the Oklahoma Transportation Commission is hereby requested to concur in the selection of this project and to submit same to the Federal Highway Administration for its approval.

ADOPTED by the City Council of Midwest City and **SIGNED** by the Mayor this _____ day of August, 2024.

ATTEST:

City Clerk

Mayor

Approved as to form and legality

City Attorney



Planning & Zoning Department

Matt Summers, Director of Planning & Zoning
Tami Anderson, Administrative Assistant
Emily Richey, Current Planning Manager
Cameron Veal, Associate Current Planner

To: Honorable Mayor and Council
From: Matt Summers, Director of Planning & Zoning
Date: August 27, 2024
Subject: Discussion, consideration, and possible action of approving a programming resolution for possible inclusion into the Transportation Alternatives Program for a project to construct approximately half a mile of multi-use trail along the east side of Soldier Creek.

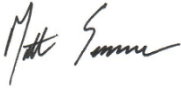
For the Palmer Loop Trail, this phase of the project would construct a multi-use trail along the east side of Soldier Creek from SE 15th Street southward, eventually extending eastward to intersect with S. Douglas Blvd at the signalized intersection with Orchard Blvd.

The Palmer Loop Trail was planned as part of the Midwest City Trails Master Plan. Several phases of this trail have already been constructed along the northern, western, and southern sides of this mile section. This trail, and this phase in particular, provide critical north-south and east-west connections between many of the trails in the Master Plan. This phase would connect a park on the northern terminus to offices, apartments, and retail along the trail's eastern side. Connecting this trail to the signalized intersection at Orchard Blvd. provides connectivity to the single- and multi-family developments on Orchard Blvd.

The accompanying programming resolution is required in order to have the referenced project considered for the Transportation Alternatives Program. All projects that apply for this funding must be programmed in this manner. Programming a project does not guarantee the project will be funded since it competes with projects submitted by other entities across the metropolitan area. A minimum of 20% in local match is required under this program.

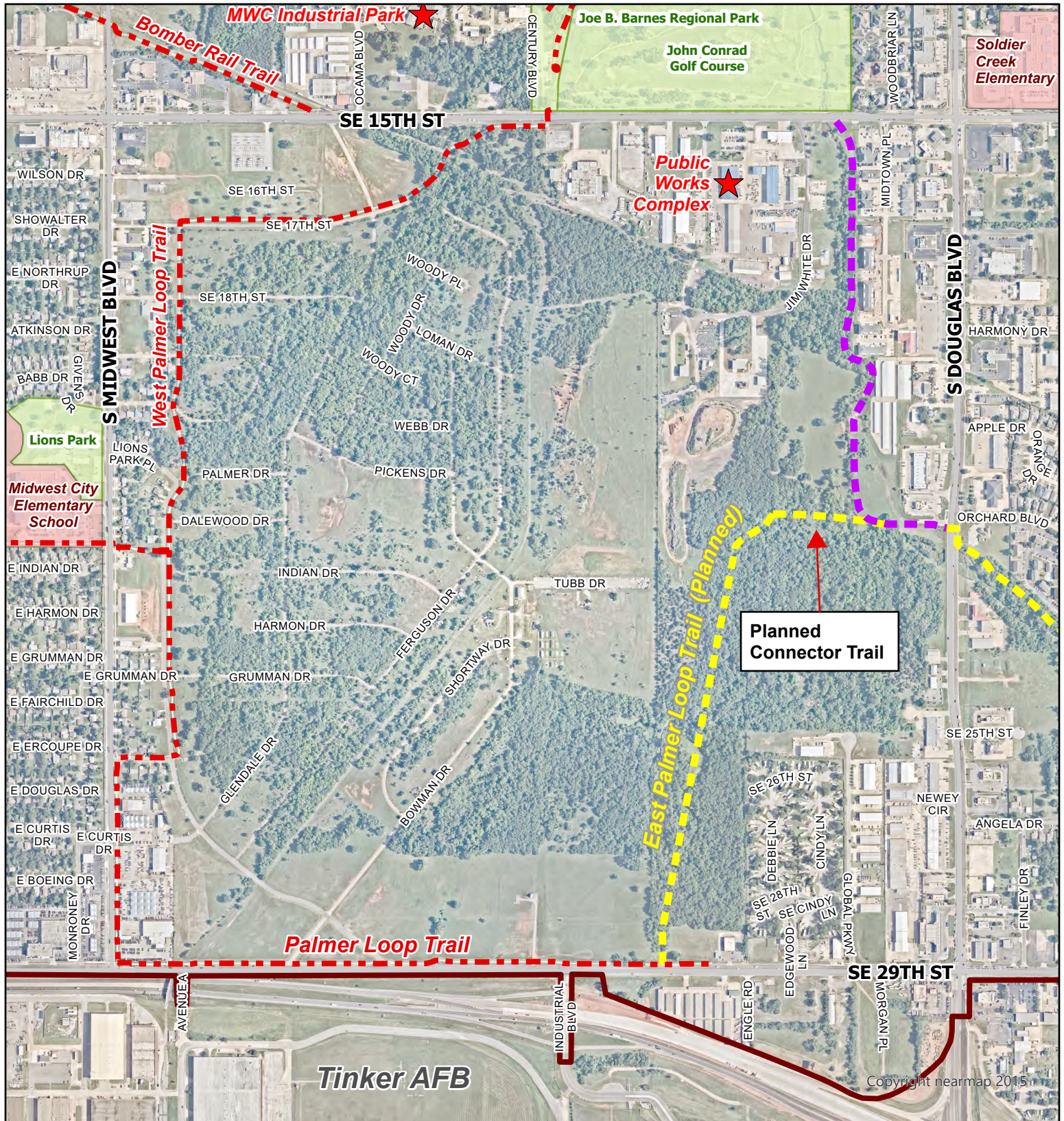
- Federal Funds: \$1,376,000.00
- Local Match: \$ 344,000.00
- Estimated Total Cost: \$1,720,000.00

No City funds are obligated at this time. However, if the project is funded, the City will be obligated to fund the local match and hire a design consultant. Project selection is scheduled for the fall of 2024.



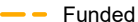





A handwritten signature in black ink, appearing to read "Matt Summers". The signature is written in a cursive, flowing style.

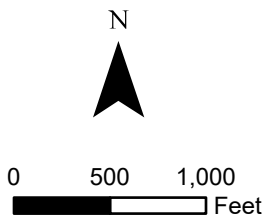
Matt Summers, AICP
Director of Planning & Zoning

Transportation Alternatives Program - 2024



Midwest City Proposed East Palmer Trail

Legend			
	Existing		Activity Center
	Funded		School Property
	Proposed		Parks
	Planned		MWC City Limits



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**RESOLUTION
TRANSPORTATION ALTERNATIVES PROGRAM PROJECT**

WHEREAS, Transportation Alternatives Program (TAP) funds for urbanized areas have been made available for transportation improvements within the Oklahoma City Urbanized Area, and

WHEREAS, The City of Midwest City has selected a project described as follows: East Palmer Loop Trail, and

WHEREAS, the preliminary estimate of cost is \$1,720,000.00, and Federal participation under the terms of *Infrastructure Investment and Jobs Act (IIJA)* relating to Transportation Alternatives Program funds is hereby requested for funding 80% of the project cost, which is estimated at \$1,376,000.00, and

WHEREAS, The City proposes to use the Capital Improvement Project Fund as the source of funds for the local match, which is estimated at \$344,000.00, and

WHEREAS, no City funds are committed by this action, and

WHEREAS, The City has the required matching funds available and further agrees to deposit matching funds by separate agreement with the Oklahoma Department of Transportation (ODOT) prior to advertising of the project for bid by ODOT, and

WHEREAS, The City agrees to provide for satisfactory maintenance after completion, and to furnish the necessary right-of-way clear and unobstructed, and

WHEREAS, The City agrees, as a condition to receiving any Federal financial assistance from the Department of Transportation, that it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42. U.S.C. 2000d et seq., and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination of Federally-Assisted Programs of the Department of Transportation- Effectuation of Title VI of the Civil Rights Act of 1964", and

WHEREAS, The City assures that no qualified person with a disability shall, solely by reasons of their disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity administered by the City/Town/County, and

WHEREAS, The City further understands that acceptance of this resolution by the Association of Central Oklahoma Governments (ACOG) and the Oklahoma Department of Transportation is not a commitment to Federal funding, but only registers the City of Midwest City's interest and intent in participating in the program application process.

NOW, THEREFORE, BE IT RESOLVED:

That ACOG is hereby requested to consider the selection of this project as a candidate for Federal funding, and to submit same to the Oklahoma Transportation Commission for its approval;

That the Oklahoma Transportation Commission is hereby requested to concur in the selection of this project and to submit same to the Federal Highway Administration for its approval.

ADOPTED by the City Council of Midwest City and **SIGNED** by the Mayor this _____ day of August, 2024.

ATTEST:

City Clerk

Mayor

Approved as to form and legality

City Attorney



Planning & Zoning Department

Matt Summers, Director of Planning & Zoning
Tami Anderson, Administrative Assistant
Emily Richey, Current Planning Manager
Cameron Veal, Associate Current Planner

To: Honorable Mayor and Council
From: Matt Summers, Director of Planning & Zoning
Date: August 27, 2024
Subject: Discussion, consideration, and possible action of approving a programming resolution for possible inclusion into the Transportation Alternatives Program for a project to construct approximately a quarter (1/4) of a mile of the Tributary 4 trail.

This proposed project would replace the outdated bridge in Tom Poore Park over Soldier Creek. The new bridge would be longer and wider to accommodate pedestrians, bicycles, and maintenance vehicles. The proposed project would also construct the first phase of the Tributary 4 (Trib 4) trail connecting Soldier Creek and Pecan Grove trails in Tom Poore Park to Woodside Drive to the east.

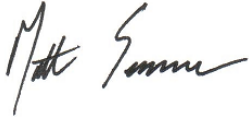
The bridge replacement in Tom Poore Park has long been requested by citizens, Public Works, and Police to improve the functionally obsolete bridge. The existing bridge is too short and low to the creek making it susceptible to frequent flooding. Additionally, the bridge is only 4 ft. wide and expanded metal construction which is not ADA compliant. The new bridge would be designed to discourage motor vehicle access but still allow for maintenance and other light vehicles.

The Tributary 4 trail is planned in the Midwest City Trails Master Plan and will eventually be approximately 2.3 miles long connecting the following trails: Soldier Creek, Pecan Grove, Silver Meadows, and Silver Creek. This trail will provide much needed, east-west connectivity in the trail system for Midwest City.

The accompanying programming resolution is required in order to have the referenced project considered for the Transportation Alternatives Program. All projects that apply for this funding must be programmed in this manner. Programming a project does not guarantee the project will be funded since it competes with projects submitted by other entities across the metropolitan area. A minimum of 20% in local match is required under this program.

- Federal Funds: \$1,304,000.00
- Local Match: \$ 326,000.00
- Estimated Total Cost: \$1,630,000.00

No City funds are obligated at this time. However, if the project is funded, the City will be obligated to fund the local match and hire a design consultant. Project selection is scheduled for this winter.

A handwritten signature in black ink, appearing to read "Matt Summers". The signature is written in a cursive, flowing style.

Matt Summers, AICP
Director of Planning & Zoning

**RESOLUTION
TRANSPORTATION ALTERNATIVES PROGRAM PROJECT**

WHEREAS, Transportation Alternatives Program (TAP) funds for urbanized areas have been made available for transportation improvements within the Oklahoma City Urbanized Area, and

WHEREAS, The City of Midwest City has selected a project described as follows: Tributary 4 Connector and Tom Poore Bridge, and

WHEREAS, the preliminary estimate of cost is \$1,630,000.00, and Federal participation under the terms of *Infrastructure Investment and Jobs Act (IIJA)* relating to Transportation Alternatives Program funds is hereby requested for funding 80% of the project cost, which is estimated at \$1,304,000.00, and

WHEREAS, The City proposes to use the Capital Improvement Project Fund as the source of funds for the local match, which is estimated at \$326,000.00, and

WHEREAS, no City funds are committed by this action, and

WHEREAS, The City has the required matching funds available and further agrees to deposit matching funds by separate agreement with the Oklahoma Department of Transportation (ODOT) prior to advertising of the project for bid by ODOT, and

WHEREAS, The City agrees to provide for satisfactory maintenance after completion, and to furnish the necessary right-of-way clear and unobstructed, and

WHEREAS, The City agrees, as a condition to receiving any Federal financial assistance from the Department of Transportation, that it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42. U.S.C. 2000d et seq., and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination of Federally-Assisted Programs of the Department of Transportation- Effectuation of Title VI of the Civil Rights Act of 1964", and

WHEREAS, The City assures that no qualified person with a disability shall, solely by reasons of their disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity administered by the City/Town/County, and

WHEREAS, The City further understands that acceptance of this resolution by the Association of Central Oklahoma Governments (ACOG) and the Oklahoma Department of Transportation is not a commitment to Federal funding, but only registers the City of Midwest City's interest and intent in participating in the program application process.

NOW, THEREFORE, BE IT RESOLVED:

That ACOG is hereby requested to consider the selection of this project as a candidate for Federal funding, and to submit same to the Oklahoma Transportation Commission for its approval;

That the Oklahoma Transportation Commission is hereby requested to concur in the selection of this project and to submit same to the Federal Highway Administration for its approval.

ADOPTED by the City Council of Midwest City and **SIGNED** by the Mayor this _____ day of August, 2024.

ATTEST:

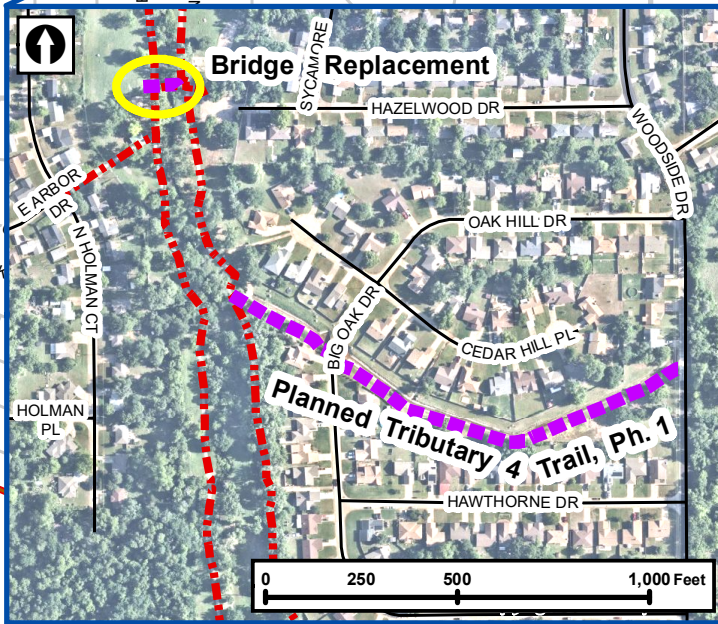
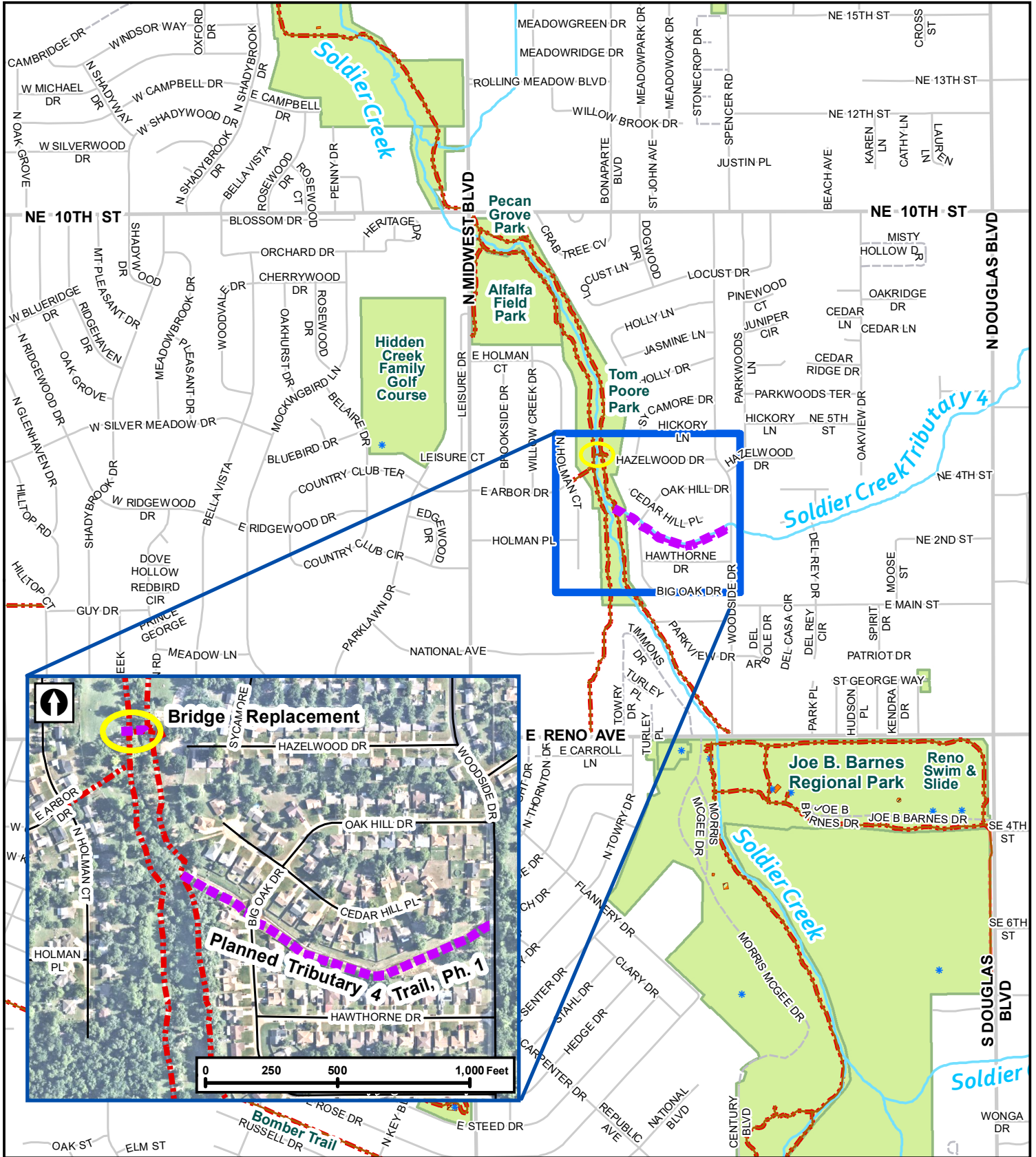
City Clerk

Mayor

Approved as to form and legality

City Attorney

Transportation Alternatives Program - 2024



12/2023 NearMap image

Midwest City Inset of Tributary 4 Trail, Phase 1

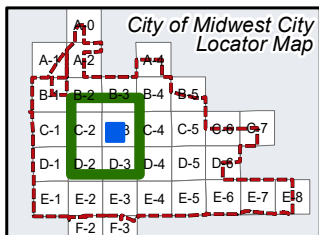
- Trail Status**
- Existing
 - Funded
 - Proposed



0 1,000 2,000 Feet

GIS Division
Information Technology
(405) 739-1219

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**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 : August 27, 2024

SUBJECT : Discussion, consideration, and possible action of approving an initial federal aid programming resolution to make eligible an application for inclusion into the Transportation Improvement Plan for a project to resurface Air Depot Blvd from SE 29th St to SE 15th St.

This project resolution covers a smaller footprint than the other Air Depot Blvd programming resolution. The reason being is the segment portion of the Air Depot Blvd scores higher in the criteria and by applying with a segment and a combined project, it raises the odds of at least the segment portion being selected.

This will include sidewalk throughout the project as well as access management efforts (raised medians and consolidated drives) as recommended by the Air Depot Corridor Plan, accepted by the City Council on December 6, 2022. Many of the recommendations are also in the City's adopted Comprehensive Plan.

The project will support a revitalization of the Air Depot corridor through these efforts. The access management will reduce congestion and increase safety by eliminating vehicle conflicts.

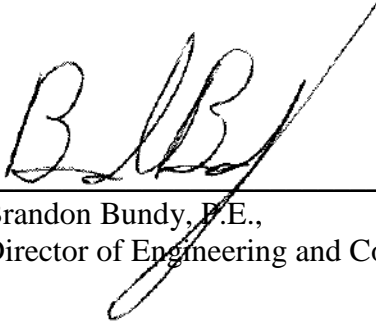
The accompanying programming resolution is required in order to have the referenced project considered in the Association of Central Oklahoma Governments update of the four year Transportation Improvement Plan (TIP). All projects that apply for federal aid funding must be programmed in this manner. Programming a project does not guarantee the project will be funded since it competes with projects submitted by other entities across the metropolitan area.

- 80% Federal Funds: \$4,680,000
- 20% Local Match: \$1,170,000
- Estimated total cost - \$5,850,000

No City funds are obligated at this time. However, if the project is funded, the City will be obligated to fund the local match, acquire right of way, and do necessary utility relocations. Engineering is eligible for federal funding which would follow the same 80/20 ratio and is included in the estimate. The right of way and utility relocations efforts for this project are expected to be substantial.

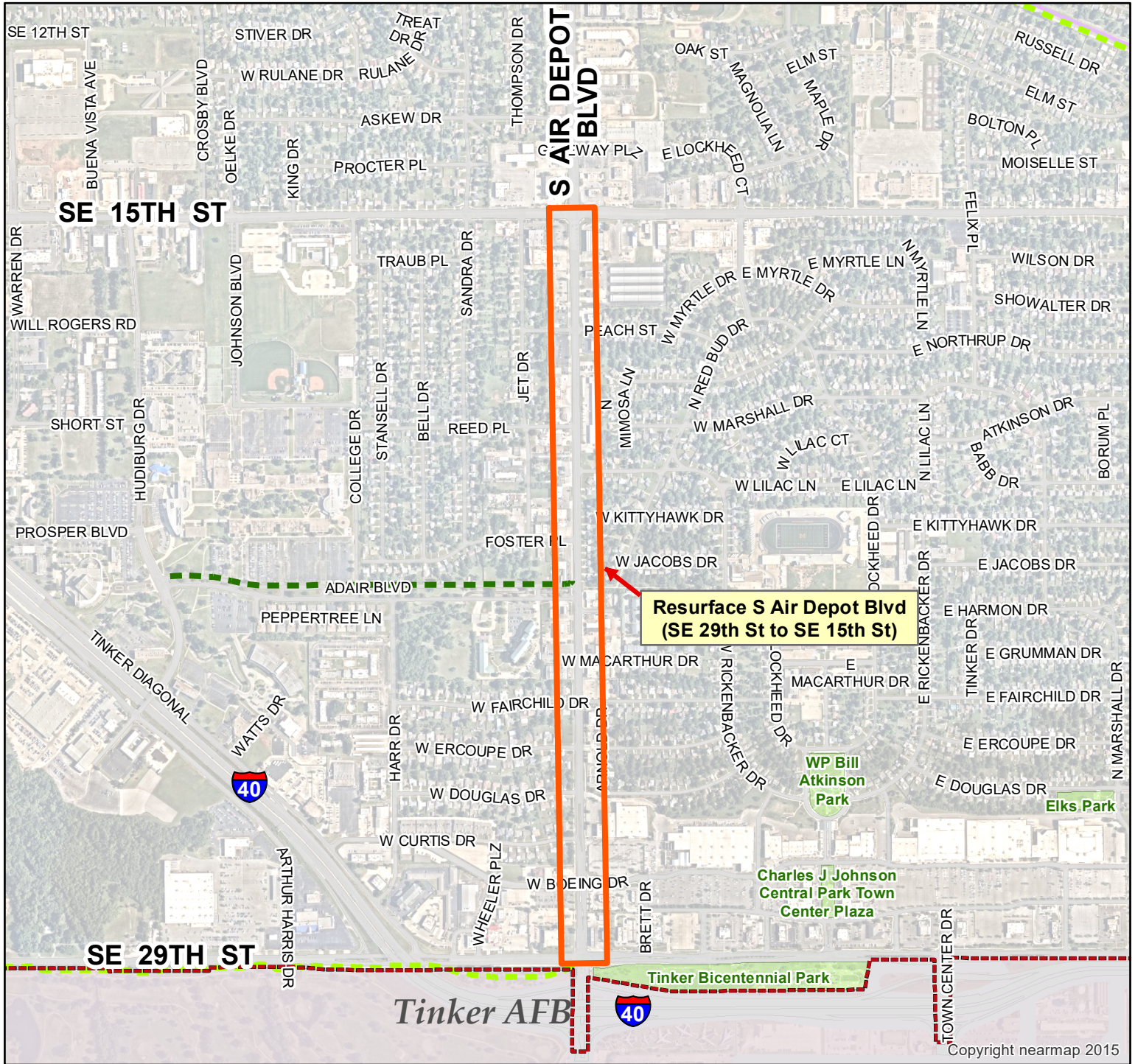
Project selection is slated for Winter 2025.

Staff recommends acceptance as this is consistent with past policy

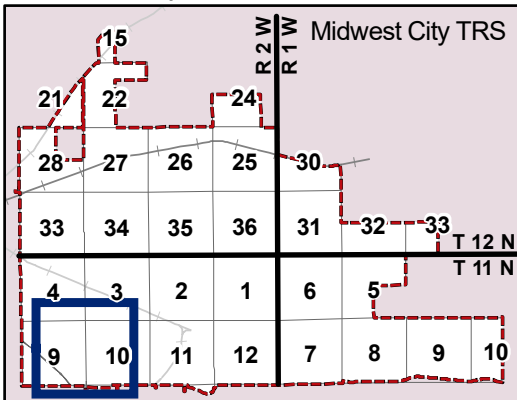
A handwritten signature in black ink, consisting of the letters 'B' and 'B' followed by a long, sweeping diagonal stroke.

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

Attachment



Locator Map

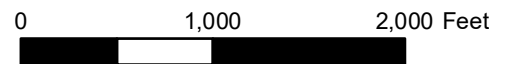


S AIR DEPOT BLVD Improvements (SE 29th St to SE 15th St) 5/2024 Nearmap Aerial Image

Legend

- Walking Trail
- Multi-Purpose Trail
- Dedicated Bike Lane
- Active Railroad
- Inactive / Closed RR
- City Park

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**RESOLUTION
PROGRAMMING SURFACE TRANSPORTATION BLOCK GRANT - URBANIZED
AREA (STBG-UZA) PROJECT**

WHEREAS, Surface Transportation Block Grant Program funds for urbanized areas have been made available for transportation improvements within the Oklahoma City Urban Area, and

WHEREAS, The City of Midwest City has selected a project described as follows:
Resurfacing of Air Depot Blvd from SE 29th St to SE 15th St, and

WHEREAS, the engineer's preliminary estimate of cost is \$5,850,000, and Federal participation under the terms of the *Infrastructure Investment and Jobs Act (IIJA)* relating to Surface Transportation Block Grant Program - Urbanized Area (STBG-UZA) funds is hereby requested for funding 80% of the project cost, which is estimated at **\$4,680,000**, and

WHEREAS, the City proposes to use its Capital Improvements Project Fund as the source(s) of funds for the local match, which is estimated at **-\$1,170,000**, and

WHEREAS, no City funds are committed by this action, and

WHEREAS, the City has the required matching funds available and further agrees to deposit matching funds by separate agreement with the Oklahoma Department of Transportation (ODOT) prior to advertising of the project for bid by ODOT, and

WHEREAS, the City will select a design consultant qualified and licensed in the State of Oklahoma to furnish engineering services in the preparation of detailed plans, specifications and estimates, and

WHEREAS, the City agrees to provide for satisfactory maintenance after completion, and to furnish the necessary right-of-way clear and unobstructed, and

WHEREAS, the City agrees, as a condition to receiving any Federal financial assistance from the Department of Transportation, that it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42. U.S.C. 2000d et seq., and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination of Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964", and

WHEREAS, The City assures that no qualified person with a disability shall, solely by reasons of their disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity administered by the City/Town/County, and

WHEREAS, the City further understands that acceptance of this resolution by the Association of Central Oklahoma Governments (ACOG) and the Oklahoma Department of Transportation is not a commitment to Federal funding, but only registers the City/Town/County's interest and intent in participating in the program application process.

NOW, THEREFORE, BE IT RESOLVED:

That ACOG is hereby requested to consider this project as a candidate for Federal funding, and to submit same to the Oklahoma Department of Transportation for its approval;

ADOPTED by the City Council of Midwest City and **SIGNED** by the Mayor/Chairman this 27th day of August, 2024.

ATTEST:

City Clerk

Mayor

Approved as to form and legality

City Attorney



TO : Honorable Mayor and Council

FROM : Brandon Bundy, P.E., Director

DATE : August 27, 2024

SUBJECT : Discussion, consideration, and possible action of approving an additional federal aid programming resolution to make eligible an application for inclusion into the Transportation Improvement Plan for a project to resurface Air Depot Blvd from SE 29th St to SE 15th St and reconstruct the intersection of Air Depot Blvd and SE 15th St.

The proposed project is to:

- Resurface and improve Air Depot Blvd from SE 29th St to SE 15th St
- Reconstruct the intersection of Air Depot Blvd and SE 15th St.

This will include sidewalk throughout the project as well as access management efforts (raised medians and consolidated drives) as recommended by the Air Depot Corridor Plan, accepted by the City Council on December 6, 2022. Many of the recommendations are also in the City's adopted Comprehensive Plan.

The project will support a revitalization of the Air Depot corridor through these efforts. The access management will reduce congestion and increase safety by eliminating vehicle conflicts.

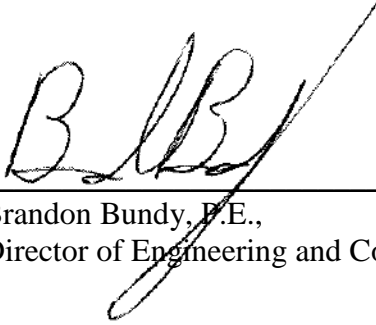
The accompanying programming resolution is required in order to have the referenced project considered in the Association of Central Oklahoma Governments update of the four year Transportation Improvement Plan (TIP). All projects that apply for federal aid funding must be programmed in this manner. Programming a project does not guarantee the project will be funded since it competes with projects submitted by other entities across the metropolitan area.

- 80% Federal Funds: \$7,288,000
- 20% Local Match: \$1,822,000
- Estimated total cost - \$9,110,000

No City funds are obligated at this time. However, if the project is funded, the City will be obligated to fund the local match, acquire right of way, and do necessary utility relocations. Engineering is eligible for federal funding which would follow the same 80/20 ratio and is included in the estimate. The right of way and utility relocations efforts for this project are expected to be substantial.

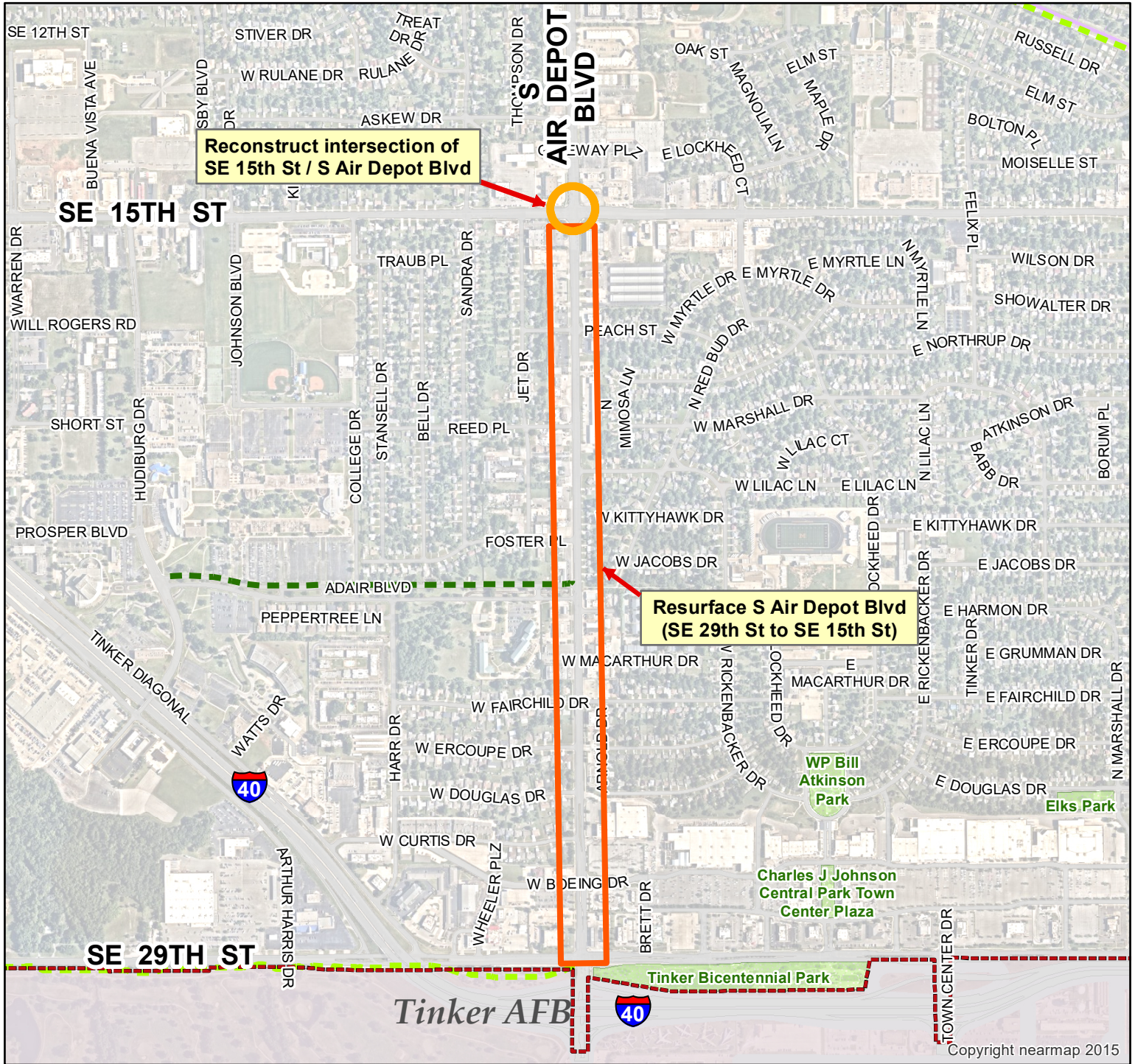
Project selection is slated for Winter 2025.

Staff recommends acceptance as this is consistent with past policy

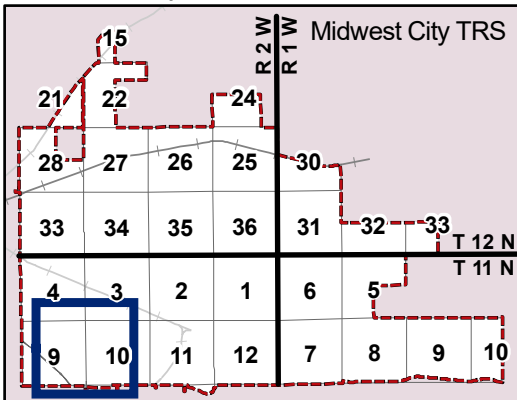
A handwritten signature in black ink, appearing to read 'B. Bundy', is written over a horizontal line. The signature is stylized and extends above and below the line.

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

Attachment



Locator Map

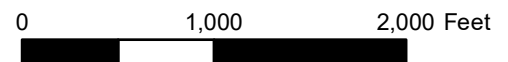


S AIR DEPOT BLVD Improvements (SE 29th St to SE 15th St) 5/2024 Nearmap Aerial Image

Legend

- Walking Trail
- Multi-Purpose Trail
- Dedicated Bike Lane
- Active Railroad
- Inactive / Closed RR
- City Park

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**RESOLUTION
PROGRAMMING SURFACE TRANSPORTATION BLOCK GRANT - URBANIZED
AREA (STBG-UZA) PROJECT**

WHEREAS, Surface Transportation Block Grant Program funds for urbanized areas have been made available for transportation improvements within the Oklahoma City Urban Area, and

WHEREAS, The City of Midwest City has selected a project described as follows:
Resurfacing of Air Depot Blvd from SE 29th St to SE 15th St and reconstruct the intersection of Air Depot Blvd and SE 15th St, and

WHEREAS, the engineer's preliminary estimate of cost is \$9,110,000, and Federal participation under the terms of the *Infrastructure Investment and Jobs Act (IIJA)* relating to Surface Transportation Block Grant Program - Urbanized Area (STBG-UZA) funds is hereby requested for funding 80% of the project cost, which is estimated at **\$7,288,000**, and

WHEREAS, the City proposes to use its Capital Improvements Project Fund as the source(s) of funds for the local match, which is estimated at **-\$1,822,000**, and

WHEREAS, no City funds are committed by this action, and

WHEREAS, the City has the required matching funds available and further agrees to deposit matching funds by separate agreement with the Oklahoma Department of Transportation (ODOT) prior to advertising of the project for bid by ODOT, and

WHEREAS, the City will select a design consultant qualified and licensed in the State of Oklahoma to furnish engineering services in the preparation of detailed plans, specifications and estimates, and

WHEREAS, the City agrees to provide for satisfactory maintenance after completion, and to furnish the necessary right-of-way clear and unobstructed, and

WHEREAS, the City agrees, as a condition to receiving any Federal financial assistance from the Department of Transportation, that it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42. U.S.C. 2000d et seq., and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination of Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964", and

WHEREAS, The City assures that no qualified person with a disability shall, solely by reasons of their disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity administered by the City/Town/County, and

WHEREAS, the City further understands that acceptance of this resolution by the Association of Central Oklahoma Governments (ACOG) and the Oklahoma Department of Transportation is not a commitment to Federal funding, but only registers the City/Town/County's interest and intent in participating in the program application process.

NOW, THEREFORE, BE IT RESOLVED:

That ACOG is hereby requested to consider this project as a candidate for Federal funding, and to submit same to the Oklahoma Department of Transportation for its approval;

ADOPTED by the City Council of Midwest City and **SIGNED** by the Mayor/Chairman
this 27th day of August, 2024.

ATTEST:

City Clerk

Mayor

Approved as to form and legality

City Attorney



City Manager

100 N. Midwest Boulevard
Midwest City, OK 73110
tlyon@midwestcityok.org
Office: 405.739.1201
www.midwestcityok.org

TO: Honorable Mayor and Council

FROM: Tim Lyon, City Manager

DATE: August 27, 2024

SUBJECT: Discussion, consideration, and possible action approving a resolution amending the 1983 Amended Agreement Creating the Association of Central Oklahoma Governments. (City Manager – Lyons)

The Agreement with recommended amendments were approved by the ACOG Board of Directors on May 30, 2024. The amendments, alteration, or modification must be approved by a majority of the member governments and approved by the Attorney General prior to it becoming effective.

Staff recommends approval.

Regards,

Tim Lyon
City Manager

RESOLUTION _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF MIDWEST CITY

FOR APPROVAL OF MAY 30, 2024, AMENDMENTS TO THE 1983
AMENDED AGREEMENT CREATING THE ASSOCIATION OF
CENTRAL OKLAHOMA GOVERNMENTS

WHEREAS, The 1983 AMENDED AGREEMENT CREATING THE ASSOCIATION OF
CENTRAL OKLAHOMA GOVERNMENTS (hereinafter called "Agreement") may be altered, amended, or
otherwise modified upon a vote representing more than 50 percent of the total weighted vote of a
quorum of the Board of Directors representing a minimum of six (6) entities or more present, at any
meeting, provided that such amendment, alteration, or modification shall have to be ratified by a majority
of the member governments, and approved by the Attorney General prior to it becoming effective.

WHEREAS, The Agreement with Recommended Amendments, as detailed in the attachment, were
approved by the ACOG Board of Directors on May 30, 2024.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Midwest City that it does
hereby approve this 27th day of August, 2024, the Agreement, with said Recommended Amendments
being approved by the ACOG Board of Directors on May 30, 2024.

ATTEST:

Matthew D. Dukes, II, Mayor

Sara Hancock, City Clerk

ATTACHMENT TO RESOLUTION

1983 AMENDED AGREEMENT CREATING THE
ASSOCIATION OF CENTRAL OKLAHOMA GOVERNMENTS
WITH RECOMMENDED AMENDMENTS

REVISED DRAFT

**ASSOCIATION OF
CENTRAL OKLAHOMA GOVERNMENTS
(ACOG)
AGREEMENT**

AMENDED - _____, 2024

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~~AMENDMENT~~

~~SECTION I—Duration of Agreement~~

~~(A) The duration of this agreement shall be extended five (5) years from March 31, 1983, as adopted by the Board of Directors on that date.~~

~~Amendment adopted March 31, 1983.~~

**AMENDED AGREEMENT CREATING THE
ASSOCIATION OF CENTRAL OKLAHOMA GOVERNMENTS**

PREAMBLE

WHEREAS the 30th Oklahoma Legislature enacted Title 74, O.S. (1971) § 1001 - 1008a permitting public agencies to enter into agreements with one another for joint or cooperative action pursuant to the provisions of said act; and

WHEREAS, pursuant thereto, it is the purpose and desire of the undersigned public agencies to create a Council of Governments to enable said public agencies to more efficiently use their powers by cooperating with each other on a basis of mutual advantage and thereby provide services and facilities in a manner and pursuant to a form that will accord best with geographic, economic, population, and other factors influencing the needs and development of said public agencies.

NOW, THEREFORE, the Association of Central Oklahoma Governments is hereby created by agreement of the parties hereto, under the authority of Title 74, O.S. (1971) § 1001 - 1008a, in accordance with the following provisions:

The Agreement ~~For The Organization~~ for the organization of Association of Central Oklahoma Governments, dated June 26, 1966, is hereby amended in its entirety to read as hereinafter provided.

SECTION I

Duration of ~~the~~ Agreement and Organization ~~Created Thereby~~

- (A) The duration of ~~this~~ the Agreement ~~shall be~~ and organization per a 1973 amendment was set for five (5) years from the effective date of approval by the appropriate ~~approving officials.~~ governing body making a recommendation of either continuing or ceasing the created organization. In 1983 the Board of Directors amended the Agreement to extend it and the organization another five (5) years from March 31, 1983. Hereafter, as amended, the term of the organization shall be from year to year without the necessity of a formal renewal by the Board of Directors, thereby making the duration of the amended Agreement perpetual.
- (B) The Board of Directors created pursuant to this Agreement shall review the Agreement and the ~~entity~~ organization created ~~annually and make recommendations therefor. The same procedure concerning annual review by the Board of Directors shall be applied to the entity created at the end of the entity's fifth (5th) year of existence and recommend continuing or ceasing.~~ at its own discretion and recommend amendments to the membership for ratification, when deemed necessary.
- (C) There is hereby created a third entity (~~organization~~) which shall be separate and apart from the signatory members hereto and shall owe its legal existence to this Agreement. Said entity shall be known as "Association of Central Oklahoma Governments," herein referred to as ACOG, and shall be a separate legal entity for the purposes that are set forth in this Agreement.
- (D) ACOG is a voluntary association with membership open to all units of general local government within the delineated Sub-State Planning Region 8, as established pursuant to Governor's Executive Order of May 21, 1971. ~~Local governments outside of the Sub-State Planning Region 8 that share a mutual boundary with the region may become members of ACOG with the approval of the Board of Directors (refer to membership process below).~~
- (E) ACOG Membership:
- (a) Units of local government may join ACOG by passage of an ordinance, resolution or otherwise, pursuant to law of the governing body of the unit of local government seeking membership and signing of this Agreement. Units of local Government joining ACOG shall be designated as "members."

The various attributes of membership concerning voting, dues and the like are detailed in Sections I and IV of this Agreement. Each respective local unit of government in the ACOG region and adjacent thereto, if approved by the Board, shall select its voting member to the association. They shall select ~~not more than two (2) alternate members~~ at least one (1) alternate member by the same process. ~~Either of~~The alternate members may serve in the absence of the regular selected representative and have all the voting privileges and rights of the regular selected representative and such representative shall be a member of the governing Board of Directors.

Such appointment shall be in writing and shall specify the power or powers delegated thereto and shall be filed with the ACOG Board of Directors, duly signed by the appointing authority. Provided, however, such alternates shall be elected officials from the appropriate local unit of government or public agency.

(b) Board of Directors of ACOG, Creation and Selection:

There is hereby created a Board of Directors of ACOG which shall serve as the governing body of ACOG. Each ~~individual~~member on the Board of Directors shall be designated as a "Director" and as such, shall have all the attributes of a Director as so stated in Article IV of this agreement.

The Board of Directors shall be selected as follows:

- (1) The Governing Board of each county that is a member of ACOG shall select one (1) member from the Board of County Commissioners who shall be designated as a Director.
- (2) The Governing Board of each member unit of local Government shall select one (1) member from ~~such~~the respective Governing Board who shall be designated as a Director.

(c) Associate Membership:

All other entities that fall outside of the category of units of local government but are within the definition of Public Agency as defined by the Interlocal Cooperation Act, Title 74 O.S. (1971) § 1001 - 1008a, shall be eligible for "Associate Membership" status in ACOG.

Those entities seeking membership in the Associate Member category shall pay a nominal membership fee, as established by the Board of Directors of ACOG, prior to being allotted membership in ACOG, Annual assessments shall be provided for as determined by the Board of Directors.

(d) Weighted Vote of Board of Directors:

Each Director representing a county member shall have two {2} votes for purposes of weighted voting.

Except as provided above, each Director shall have a weighted vote in accordance with the following schedule:

(1) Each Director representing a total population of less than 75,000 shall have one (1) vote for each 2,500 population or fraction thereof.

(2) Each Director representing a total population of more than 75,000 shall have the votes as provided in (1) above for the first 75,000 population and one (1) additional vote for each additional 7,000 population therein or fraction thereof.

SECTION II

Functions and Purposes of ACOG

- (A) The Association of Central Oklahoma Governments is organized as a forum for full and open discussion, study, and resolution of area wide problems of mutual interest and concern to its participating members.
- (B) The paramount function of the Association of Central Oklahoma Governments is to promote and enhance the cooperative identification of common issues, differences, and problems ~~in the physical,~~ of the member governments, while targeting economic, social, and fiscal well-being of the region, its citizens, and business enterprises, and the coordinated resolution and implementation of policy matters and programs of action for the mutual interest of all.
- (C) To the maximum extent feasible, in carrying out the functions of ACOG, utilization of member staff resources is encouraged ~~in order~~ to minimize the duplication of effort, minimize costs, and draw upon the experience and expertise of members ~~in order~~ to promote and strengthen local capability to develop area wide cooperation and continuity.

- (D) The identification and determination of locally perceived issues, problems, and priorities requiring concerted coordinated action of a multi-jurisdictional nature.
- (E) The development and implementation of area wide goals, policies, and programs which provide for and enhance the individual and collective planning and development programs of member entities and the ACOG area.
- (F) To assist member entities with direct professional and technical services when requested and authorized, when such activities are compatible with ACOG's adopted work program and adequate resources are available.
- (G) To function as an Area Wide Coordinating Organization and as a regional clearinghouse for Federal or State Funds or Projects that are required by State or Federal Law or regulations to proceed through some formal review by an organization like ACOG and by virtue of initial certification and maintenance of a continuing, viable program of necessary area wide coordinating activities.
- (H) To perform any such other functions as the Board of Directors shall deem appropriate for ACOG. This shall include action by the Board of Directors on behalf of all or part of the membership to negotiate and consummate contractual agreements of mutual interest to concerned federal, state, and local governments.
- (I) To permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities.
- (J) To provide a practical and organized means by which the public agencies within the ACOG area may cooperate and coordinate their activities as set forth herein to achieve maximum benefits and results.
- (K) To provide means and services for coordinating the individual and intergovernmental activities of and within the public agencies for the betterment of the ACOG area.

- (L) As approved by the Board of Directors, ~~and in coordination with the Oklahoma State Planning Agency,~~ to prepare and develop an overall area wide comprehensive development program, and revisions and updating thereof, for long range growth, which programs include, but are not limited to, adequate land use, housing, open space, public utilities, transportation, and economic planning, and contain a specific programs for district cooperation, self-help initiatives, and the strategic investment of public resources, both financial and human.
- (M) To coordinate a program for planning and development in-order to improve the physical, economic, social, and environmental conditions in the region.
- (N) To carry out such research, planning, and advisory functions as are required by the Board of Directors.
- (O) To render such non-financial assistance to its member governmental units as is within the scope and range of its activities and purposes.
- (P) To facilitate cooperation and coordination of activities with Federal and State Agencies, as well as Regional Partners, having responsibility for planning and developing natural, human, and physical resources of the region, as well as planning, legislative, or executive authorities of neighboring states, regions, counties, or municipalities.

SECTION III Board of Directors

The Board of Directors shall be the governing board of ACOG. A quorum as per Section IV (D) of the Board of Directors shall be solely responsible for the specific policies of ACOG, and for the administration of all its funds. It shall have the power to administer all funds and property of ACOG as it deems necessary or appropriate. The Board of Directors of ACOG shall have the power to promulgate and adopt any such Bylaws as deemed appropriate. It shall have the sole power to employ the Executive Director. The Board shall have the authority to rent office space and/or purchase real property for ACOG staff operations, and purchase such services, equipment and/or supplies as may be deemed necessary to conduct the business of ACOG in accordance with the organization's adopted Procurement Policy.

SECTION IV
Financing of the ~~Entity Created~~ Organization

The financing of the joint undertaking contemplated by this Agreement and the organization created thereby shall be accomplished in the following manner:

- (A) The financing of the ACOG basic assessment shall be in direct proportion to the total weighted vote of each Director on the Board of Directors, in accordance with Section I. Assessments for other activities shall be determined by the Board of Directors.
- (B) All financing shall be as follows: The budget shall include the required amount of funds needed to operate ACOG for one (1) fiscal year. This amount shall be financed as provided above.
- (C) ~~In April of~~ each year prior to budget and assessment schedule recommendations ~~in May~~, the ACOG staff will submit to the Board of Directors for its adoption, an estimate of population of Sub-State Planning Region 8 and the members of ACOG therein ~~and members adjacent to the region~~, which shall serve, when adopted, as the determination of population for representation and assessment purposes. The ~~larger-most recent~~ numerical population ~~reflected by either the Oklahoma Employment Security Commission's most recent final population projects, or the estimates provided by the U.S. Bureau of the Census Special Count population statistics for each ACOG member shall be used by the ACOG staff in submitting population estimates for adoption. Any change in the weighted vote provisions of Section I (E) (d) hereof necessitated by the above provisions pertaining to population counts shall become effective on the immediately following July 1 of the ~~then~~-current year.~~
- (D) Directors representing ~~in excess of 50%~~ a majority (more than 50 percent) of the total weighted vote of the Board of Directors shall constitute a ~~meeting of the Board of Directors requiring compliance with the Oklahoma Open Meeting Act. Directors representing a majority of the total weighted votes of the Board of Directors and representing a minimum of six (6) member entities present shall constitute a quorum necessary for the~~ transaction of business. ~~A quorum shall consist of twelve (12) entities present.~~
- (E) In transacting the business of the Board of Directors, all questions must receive a minimum vote ~~in excess of 50%~~ of more than 50 percent of the total weighted vote representing six (6) entities or more of the Board of Directors to pass.

- (F) All official votes cast in the conduct of the business of the Board of Directors shall be subject to roll call vote on ~~the~~ request of any Director.
- (G) The Board of Directors shall elect a ~~Chairman, Vice-Chairman and Secretary-Treasurer~~ ~~Secretary/Treasurer~~. The officers of the Board of Directors shall be elected at the regular May meeting of each year. Such officers shall hold office for one-year terms, or until their successors shall be elected and qualified. No officer may succeed himself/herself in more than one consecutive term.
- (H) The Board ~~of Directors may hold its meetings and keep the books of the Board at such place as it may from time to time determine.~~ shall delegate to ACOG the responsibility of keeping correct and complete books and records of accounts, and meeting minutes of the Board of Directors at the principal office of the organization.
- (I) The Board of Directors shall ~~appoint, fix salary of and remove the~~ employ an Executive Director to direct report to the Board of Directors, who shall serve at the pleasure of the Board. The Executive Director's compensation shall be approved by the Board of Directors.
- (J) The Board of Directors shall ~~have sole authority to initiate and review all planning activities, grants and contracts, and shall adopt or approve any study or plans.~~ be responsible for the review, approval, and adoption of regional plans, programs, and initiatives, and of all ACOG policy documents, including but not limited to an annual budget and work plan, strategic/implementation plans, annual work programs, annual independent audit, and personnel policies.
- (K) The Board may establish standing and ad hoc policy and administrative, management, and technical advisory committees as it deems necessary and helpful to the exercise of its responsibilities under this Agreement. ~~These committees shall include but are not limited to the Executive Committee, Nomination Committee, Budget Committee, Building Review Committee, and the Agreement & Bylaws Committee.~~
- (L) The Board may ~~also create and~~ appoint ~~sub-committees from the~~ Directors to ~~sub-committees.~~
- (M) Should a vacancy occur in the members of the Board of Directors, a successor shall be selected by the original appointing authority or authorities.

- (N) All Directors of the Board of Directors shall serve without compensation, but may be reimbursed for actual expenses incurred in the performance of their official duties upon the approval of such expenses by the Board of Directors.
- (O) The Board of Directors, solely, is through ACOG empowered to receive and expend all grants, gifts, and bequests, specifically including Federal and State funds and other funds available for the purposes for which this organization exists, and to contract with the United States, State of Oklahoma, and all other legal entities with respect thereto.
- (P) Dues are assessed and payable July 1 each year. Voting privileges are forfeited upon non-payment of dues within 120 days of July 1.

SECTION V

Meetings of the Board of Directors

- (A) The Board of Directors shall meet monthly, except for the month of July. Written notice of ~~such meetings and the business to be transacted thereat shall be served upon or mailed to each member of the Board at least seven (7) days prior to the meeting.~~ all regular monthly meetings shall be in compliance with the requirements of the Oklahoma Open Meeting Act and provided to each voting member. An agenda shall be required for such meetings. All meetings of the Board of Directors shall be held at the principal ACOG office or at other locations, if deemed necessary, within the ACOG region.
- (B) Special meetings of the Board may be called by the Chair~~man~~person ~~upon three (3) days notice to each Board member, either by special delivery mail or by telegram.~~ with notice in compliance with the requirements of the Oklahoma Open Meeting Act and delivered as written notice to all voting members. Special meetings shall be called by the Chair~~man~~person ~~in a like manner and on like notice upon the written request upon~~ written demand of five (5) Board members. ~~The notice of all special meetings of the Board shall include a written statement of the purposes of the special meeting and business of such meeting shall be restricted thereto.~~ Only the specific item(s) of business specified in the notice for special meetings shall be conducted at such meeting. Such meetings shall be held at the principal ACOG office or at other locations, if deemed necessary, within the ACOG region.

- (C) All meetings of the Board of Directors of ACOG ~~will be held under the guidance of and pursuant to the public meeting laws of the State of Oklahoma.~~ shall be conducted in compliance with applicable State Law.

SECTION VI

Notices

Whenever any notice is required to be given under the provisions of the Agreement to any member, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

SECTION VII

Executive Director

The Executive Director shall be the Chief Administrative Officer of ACOG. The powers and duties of the Executive ~~Officer~~ Director are:

- (A) To appoint, supervise, and remove all employees of ACOG.
- (B) Annually to prepare and present a proposed budget and work plan to the Board of Directors and to administer an approved budget and work plan, subject to dictates and powers of the Board of Directors thereof.
- (C) Authorized to sign and execute contracts on behalf of ACOG in accordance with the adopted Procurement Policy.
- (D) Acts for and represents the Board of Directors in all ACOG public engagements and media requests, and shall direct day-to-day operations for the agency.
- (E) To perform such other additional duties as the Board of Directors may require.

SECTION VIII

Amendment of Agreement

This Agreement may be altered, amended, or otherwise modified ~~pursuant to a majority-~~ upon a vote representing more than 50 percent of the total weighted vote of a quorum of the Board of Directors representing a minimum of six (6) entities or more present, at any meeting, provided that such amendment, alteration, or modification shall have to be ratified by a majority of the members' governments, and approved by the Attorney General prior to it becoming effective.

SECTION IX

Dissolution

- (A) Dissolution of ~~the~~ ACOG shall be affected upon a vote representing ~~in excess of 50%~~ more than 50 percent of the total weighted vote of a quorum of the Board of Directors representing a minimum of six (6) entities or more present, provided that such action shall be ratified by a majority of the member governments and approved by the Attorney General prior to becoming effective.
- (B) Upon dissolution or final liquidation of the ACOG, after discharge or satisfaction of all outstanding obligations and liabilities, the remaining assets, if any, of ACOG shall be distributed to the members in the same proportion to which each member contributed to in the form of dues, assessments to the overall cost of the operations of the ACOG during the fiscal year of such dissolution or final liquidation.

SECTION X

Withdrawal of Membership

Any member may withdraw from the Association by passage of a resolution of its elected governing body terminating its membership under the interlocal agreement establishing ACOG.

SECTION XI

Effective Date

This Agreement shall become effective and final upon approval of the Attorney General of Oklahoma, and other appropriate officials with statutory or constitutional powers over this Agreement, and shall remain in full force and effect until the organization is dissolved under the provisions of Section IX or terminated as herein provided.

SECTION XII

Execution

This Agreement may be executed in multiple counterparts by each unit of local government party hereto, and each such copy shall be executed by the chief elected executive officer of each such member unit of local government, attested and sealed by the clerk thereof, pursuant to the proper adoption and execution of a Resolution of the governing board of the respective units of local government, to which a copy of this Agreement is affixed and of

which it forms a part, and all such multiple counterparts shall together be considered as one and the same Agreement.



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 : August 27, 2024

SUBJECT : Discussion, consideration, and possible action of approving a federal aid programming resolution to make eligible an application for inclusion into the Transportation Improvement Plan for a project to upgrade traffic signals at various locations throughout the City for the purposes of improving pedestrian access and safety, known as Signal Upgrade Project 9.

The following intersections are part of this proposed project.

- Sooner Rd / Will Rogers Rd
- Reno Ave / Bell Dr
- SE 15th St / Douglas Blvd
- SE 15th St / Westminster Rd
- SE 15th St / Anderson Rd

The accompanying programming resolution is required in order to have the referenced project considered in the Association of Central Oklahoma Governments update of the four year Transportation Improvement Plan (TIP). All projects that apply for federal aid funding must be programmed in this manner. Programming a project does not guarantee the project will be funded since it competes with projects submitted by other entities across the metropolitan area.

This project qualifies as a safety project which provides 100% federal funding for construction, estimated as **\$1,230,000.**

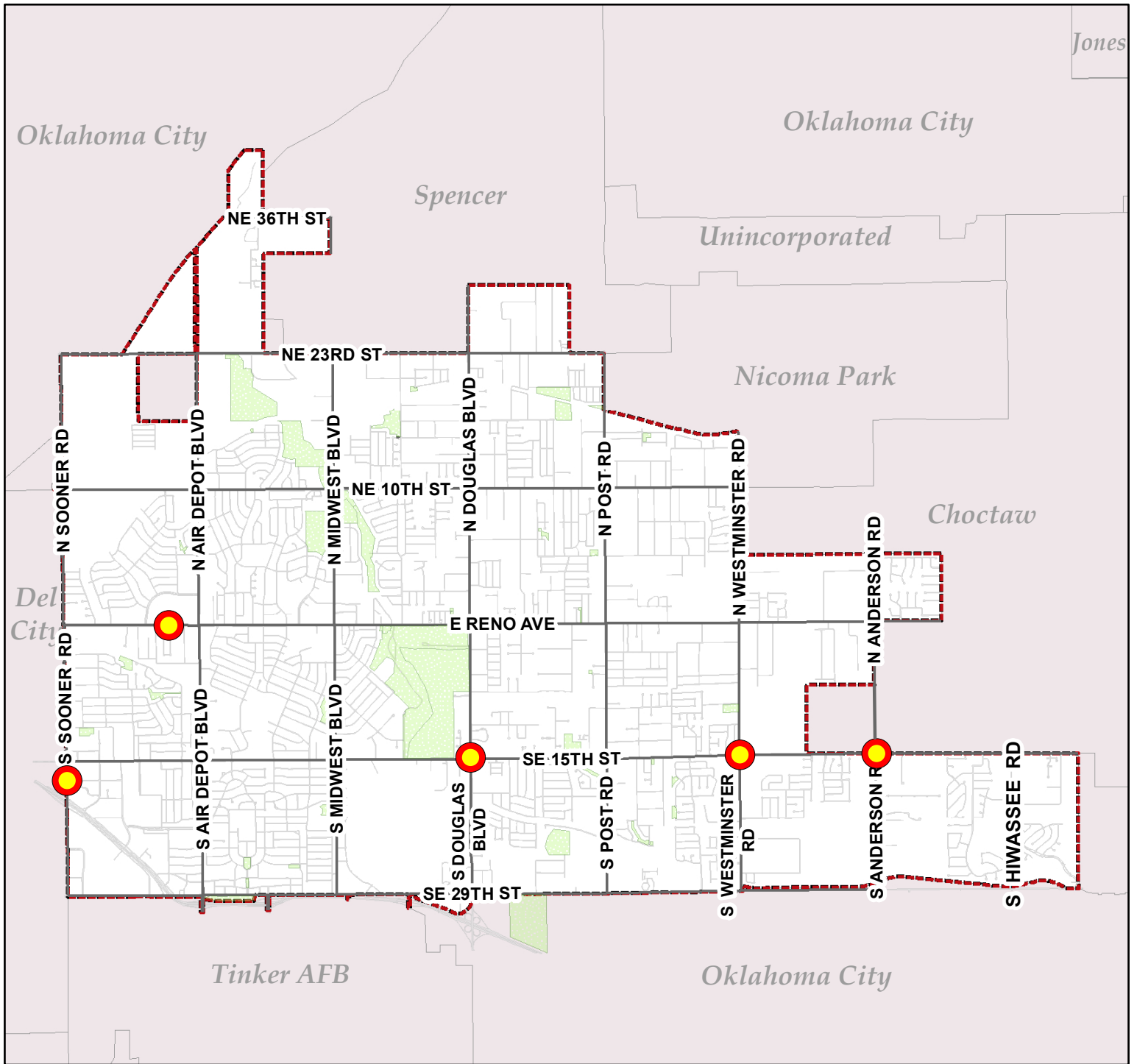
No City funds are obligated at this time. However, if the project is funded, the City will be obligated to acquire right of way and do necessary utility relocations. Engineering is eligible for federal funding and is included in the estimate.

Project selection is slated for Winter 2025.

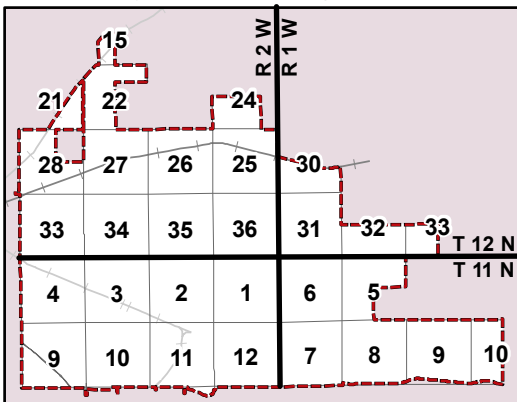
Staff recommends acceptance as this is consistent with past policy

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

Attachment








Midwest City Township-Range-Section

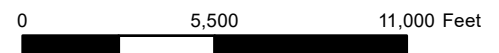


TRAFFIC SIGNAL UPGRADE LOCATIONS CITY OF MIDWEST CITY - 2024

Traffic Signal Legend

-  Signal Location
-  Streets
-  MWC City Limits
-  City Parks
-  Surrounding City Limits

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**RESOLUTION
PROGRAMMING SURFACE TRANSPORTATION BLOCK GRANT - URBANIZED
AREA (STBG-UZA) PROJECT**

WHEREAS, Surface Transportation Block Grant Program funds for urbanized areas have been made available for transportation improvements within the Oklahoma City Urban Area, and

WHEREAS, The City of Midwest City has selected a project described as follows:
Signal Upgrade Project 9, and

WHEREAS, the engineer's preliminary estimate of cost is \$1,230,00, and Federal participation under the terms of the *Infrastructure Investment and Jobs Act (IIJA)* relating to Surface Transportation Block Grant Program - Urbanized Area (STBG-UZA) funds is hereby requested for funding **100%** of the project cost, which is estimated at **\$1,230,000**, and

WHEREAS, no City funds are committed by this action, and

WHEREAS, the City has the required matching funds available and further agrees to deposit matching funds by separate agreement with the Oklahoma Department of Transportation (ODOT) prior to advertising of the project for bid by ODOT, and

WHEREAS, the City will select a design consultant qualified and licensed in the State of Oklahoma to furnish engineering services in the preparation of detailed plans, specifications and estimates, and

WHEREAS, the City agrees to provide for satisfactory maintenance after completion, and to furnish the necessary right-of-way clear and unobstructed, and

WHEREAS, the City agrees, as a condition to receiving any Federal financial assistance from the Department of Transportation, that it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42. U.S.C. 2000d et seq., and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination of Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964", and

WHEREAS, The City assures that no qualified person with a disability shall, solely by reasons of their disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity administered by the City/Town/County, and

WHEREAS, the City further understands that acceptance of this resolution by the Association of Central Oklahoma Governments (ACOG) and the Oklahoma Department of Transportation is not a commitment to Federal funding, but only registers the City/Town/County's interest and intent in participating in the program application process.

NOW, THEREFORE, BE IT RESOLVED:

That ACOG is hereby requested to consider this project as a candidate for Federal funding, and to submit same to the Oklahoma Department of Transportation for its approval;

ADOPTED by the City Council of Midwest City and **SIGNED** by the Mayor/Chairman this 27th day of August, 2024.

ATTEST:

City Clerk

Vice-Mayor

Approved as to form and legality

City Attorney



**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 : August 27, 2024

SUBJECT : Discussion, consideration, and possible action of approving a federal aid programming resolution for inclusion into the Transportation Improvement Plan for a project to resurface Post Road from Reno Avenue to NE 10th Street.

This project would be to resurface Post Road from Reno Avenue to NE 10th Street. It is an existing two lane roadway in need of a simple resurfacing. This is meant to be a simple project to streamline the federal-aid process.

The accompanying programming resolution is required in order to have the referenced project considered in the Association of Central Oklahoma Governments update of the four year Transportation Improvement Plan (TIP). All projects that apply for federal aid funding must be programmed in this manner. Programming a project does not guarantee the project will be funded since it competes with projects submitted by other entities across the metropolitan area.

- 80% Federal Funds: \$688,000
- 20% Local Match: \$172,000
- Estimated total cost - \$860,000

No City funds are obligated at this time. However, if the project is funded, the City will be obligated to fund the local match and hire a design consultant. Although engineering is an eligible expense, this project will be a minor project which would benefit more by hiring our own consultant.

Project selection is slated for Winter 2025.

Staff recommends acceptance as this is consistent with past policy



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

Attachment

**RESOLUTION
PROGRAMMING SURFACE TRANSPORTATION BLOCK GRANT - URBANIZED
AREA (STBG-UZA) PROJECT**

WHEREAS, Surface Transportation Block Grant Program funds for urbanized areas have been made available for transportation improvements within the Oklahoma City Urban Area, and

WHEREAS, The City of Midwest City has selected a project described as follows:
Resurfacing of Post Rd; Reno Ave to NE 10th St, and

WHEREAS, the engineer's preliminary estimate of cost is \$860,000, and Federal participation under the terms of the *Infrastructure Investment and Jobs Act (IIJA)* relating to Surface Transportation Block Grant Program - Urbanized Area (STBG-UZA) funds is hereby requested for funding 80% of the project cost, which is estimated at **\$688,000**, and

WHEREAS, the City proposes to use its Capital Improvements Project Fund as the source(s) of funds for the local match, which is estimated at **-\$172,000**, and

WHEREAS, no City funds are committed by this action, and

WHEREAS, the City has the required matching funds available and further agrees to deposit matching funds by separate agreement with the Oklahoma Department of Transportation (ODOT) prior to advertising of the project for bid by ODOT, and

WHEREAS, the City will select a design consultant qualified and licensed in the State of Oklahoma to furnish engineering services in the preparation of detailed plans, specifications and estimates, and

WHEREAS, the City agrees to provide for satisfactory maintenance after completion, and to furnish the necessary right-of-way clear and unobstructed, and

WHEREAS, the City agrees, as a condition to receiving any Federal financial assistance from the Department of Transportation, that it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42. U.S.C. 2000d et seq., and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination of Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964", and

WHEREAS, The City assures that no qualified person with a disability shall, solely by reasons of their disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity administered by the City/Town/County, and

WHEREAS, the City further understands that acceptance of this resolution by the Association of Central Oklahoma Governments (ACOG) and the Oklahoma Department of Transportation is not a commitment to Federal funding, but only registers the City/Town/County's interest and intent in participating in the program application process.

NOW, THEREFORE, BE IT RESOLVED:

That ACOG is hereby requested to consider this project as a candidate for Federal funding, and to submit same to the Oklahoma Department of Transportation for its approval;

ADOPTED by the City Council of Midwest City and **SIGNED** by the Mayor/Chairman this 27th day of August, 2024.

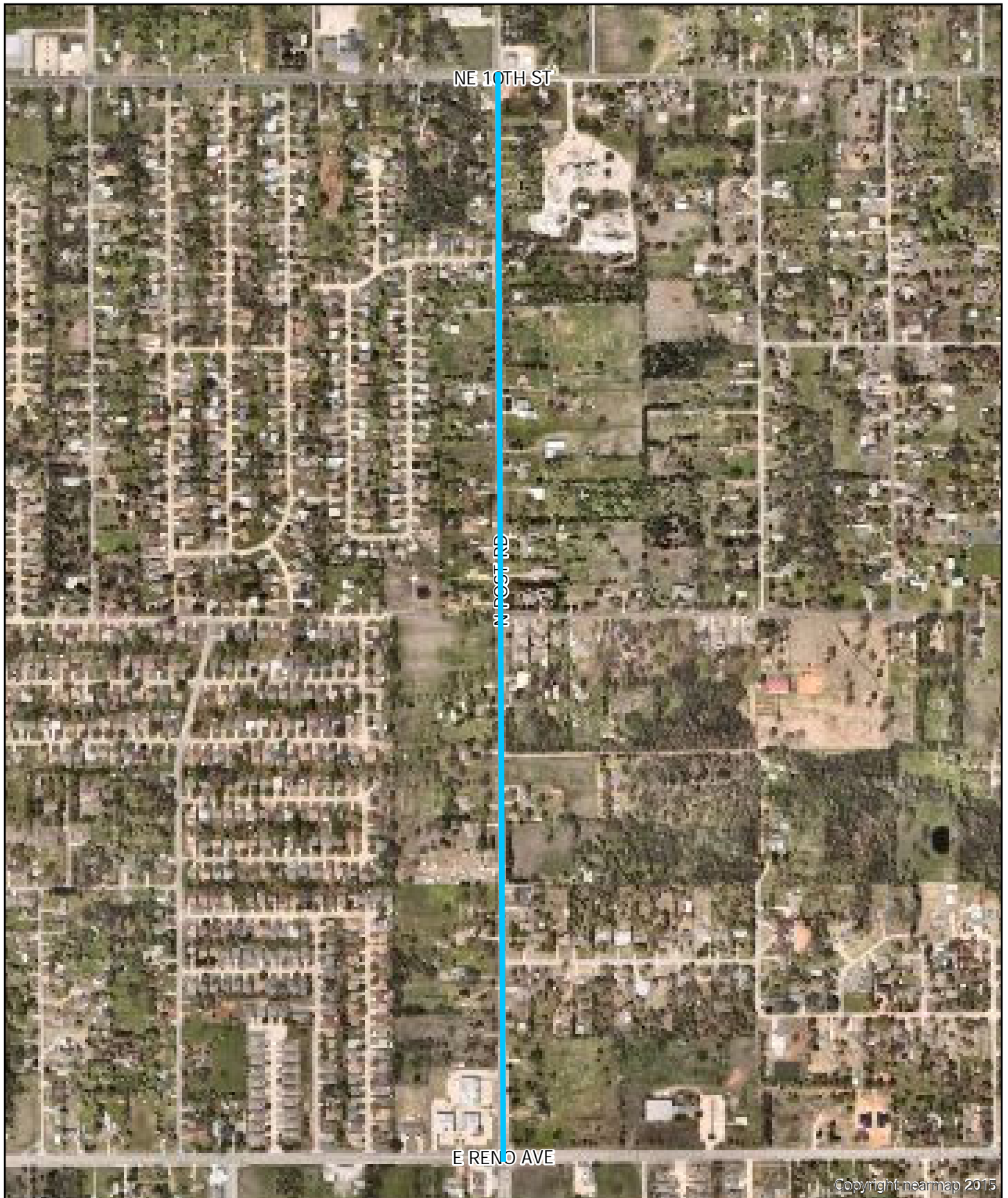
ATTEST:

City Clerk

Vice-Mayor

Approved as to form and legality

City Attorney



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1 in = 650 ft
when printed actual size
on 8-1/2"x11" paper



**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 : August 27, 2024

SUBJECT : Discussion, consideration, and possible action of approving a federal aid programming resolution to make eligible an application for inclusion into the Transportation Improvement Plan for a project to repave SE 15th St from Midwest Blvd to Douglas Blvd including trail, sidewalk, and improvements to the Soldier Creek Bridge.

In the proposed project; SE 15th St between Midwest Blvd and Douglas Blvd would be resurfaced including:

- Improvement to the Soldier Creek crossing
- Conversion of the sidewalk along golf course to trail width
- Trail and sidewalk along the south side of SE 15th St
- Improvements to the Ocama and Century signals
- Driveway improvements to the entrance of Public Works and Fire Station #6.

The accompanying programming resolution is required in order to have the referenced project considered in the Association of Central Oklahoma Governments update of the four year Transportation Improvement Plan (TIP). All projects that apply for federal aid funding must be programmed in this manner. Programming a project does not guarantee the project will be funded since it competes with projects submitted by other entities across the metropolitan area.

- 80% Federal Funds: \$4,896,000
- 20% Local Match: \$1,224,000
- Estimated total cost - \$6,120,000

No City funds are obligated at this time. However, if the project is funded, the City will be obligated to fund the local match, acquire right of way, and do necessary utility relocations. Engineering is eligible for federal funding which would follow the same 80/20 ratio and is included in the estimate.

Project selection is slated for Winter 2025.

Staff recommends acceptance as this is consistent with past policy

A handwritten signature in black ink, appearing to read 'B. Bundy', written over a horizontal line.

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

Attachment

**RESOLUTION
PROGRAMMING SURFACE TRANSPORTATION BLOCK GRANT - URBANIZED
AREA (STBG-UZA) PROJECT**

WHEREAS, Surface Transportation Block Grant Program funds for urbanized areas have been made available for transportation improvements within the Oklahoma City Urban Area, and

WHEREAS, The City of Midwest City has selected a project described as follows: Repaving of SE 15th St from Midwest Blvd to Douglas Blvd including trail, sidewalk, and improvements to the Soldier Creek crossing, and

WHEREAS, the engineer's preliminary estimate of cost is \$6,120,000, and Federal participation under the terms of the *Infrastructure Investment and Jobs Act (IIJA)* relating to Surface Transportation Block Grant Program - Urbanized Area (STBG-UZA) funds is hereby requested for funding 80% of the project cost, which is estimated at **\$4,896,000**, and

WHEREAS, the City proposes to use its Capital Improvements Project Fund as the source(s) of funds for the local match, which is estimated at **-\$1,224,000**, and

WHEREAS, no City funds are committed by this action, and

WHEREAS, the City has the required matching funds available and further agrees to deposit matching funds by separate agreement with the Oklahoma Department of Transportation (ODOT) prior to advertising of the project for bid by ODOT, and

WHEREAS, the City will select a design consultant qualified and licensed in the State of Oklahoma to furnish engineering services in the preparation of detailed plans, specifications and estimates, and

WHEREAS, the City agrees to provide for satisfactory maintenance after completion, and to furnish the necessary right-of-way clear and unobstructed, and

WHEREAS, the City agrees, as a condition to receiving any Federal financial assistance from the Department of Transportation, that it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42. U.S.C. 2000d et seq., and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination of Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964", and

WHEREAS, The City assures that no qualified person with a disability shall, solely by reasons of their disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity administered by the City/Town/County, and

WHEREAS, the City further understands that acceptance of this resolution by the Association of Central Oklahoma Governments (ACOG) and the Oklahoma Department of Transportation is not a commitment to Federal funding, but only registers the City/Town/County's interest and intent in participating in the program application process.

NOW, THEREFORE, BE IT RESOLVED:

That ACOG is hereby requested to consider this project as a candidate for Federal funding, and to submit same to the Oklahoma Department of Transportation for its approval;

ADOPTED by the City Council of Midwest City and **SIGNED** by the Mayor/Chairman this 27th day of August, 2024.

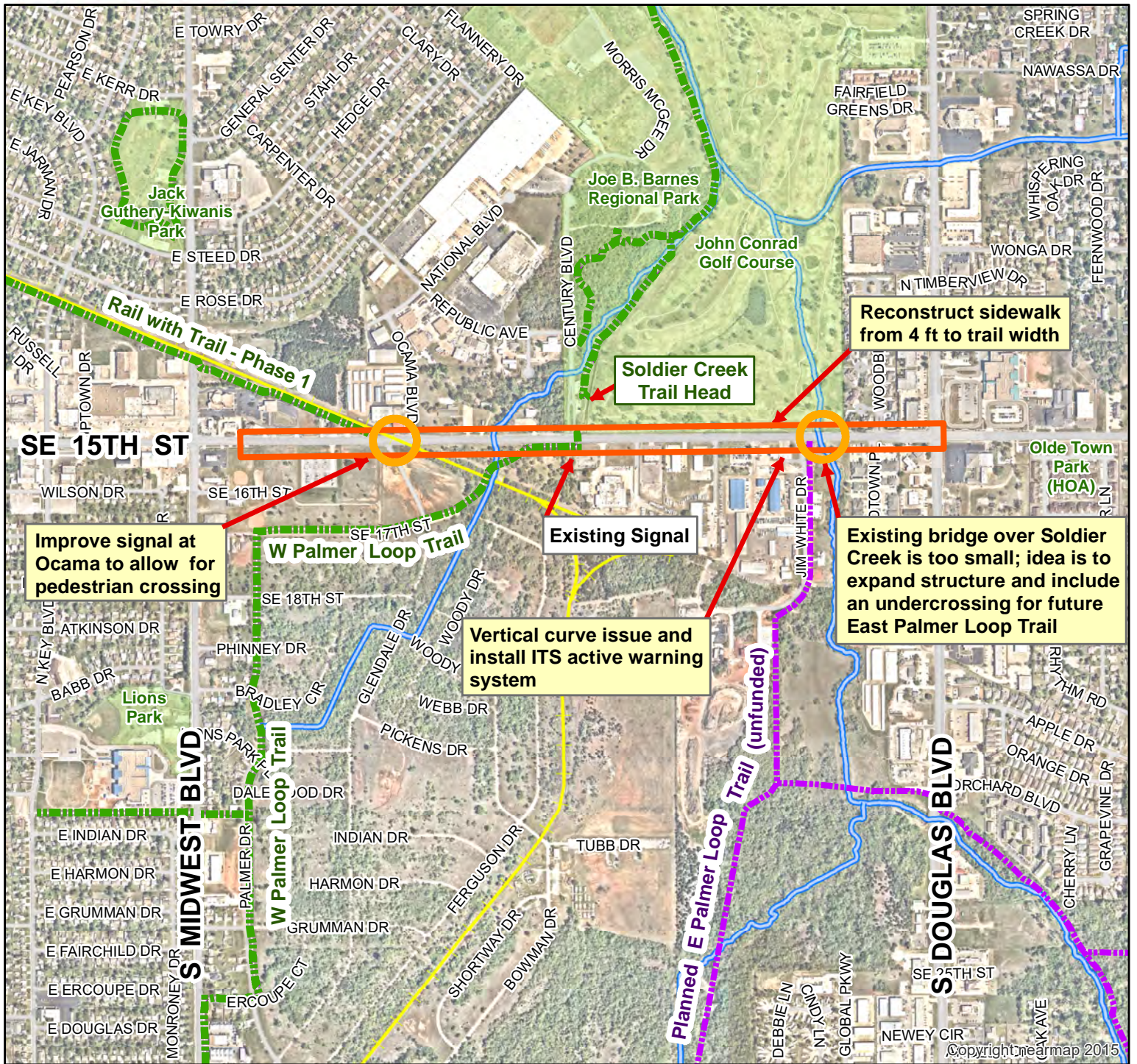
ATTEST:

City Clerk

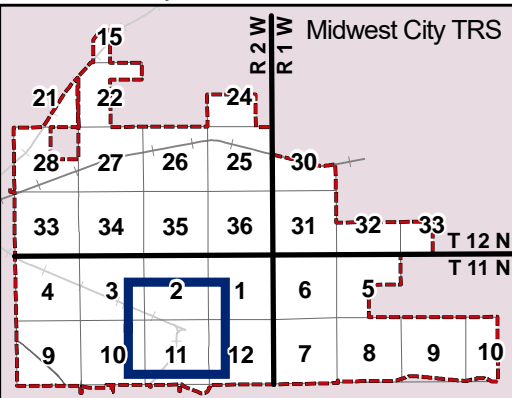
Mayor

Approved as to form and legality

City Attorney



Locator Map



SE 15TH ST Improvements (S Midwest Blvd to S Douglas Blvd) 4/2023 Nearmap Aerial Image

Legend

- City Park
- Trail
- Planned Trail
- Active Railroad
- Inactive / Closed RR

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0 1,000 2,000 Feet



1 inch = 1,000 feet



**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 : August 27, 2024

SUBJECT : Discussion, consideration, and possible action of approving a federal aid programming resolution to make eligible an application for inclusion into the Transportation Improvement Plan for a project to construct sidewalk in six (6) locations in the City.

Six locations were identified to include into a package to submit for a competitive program to secure federal funding. The potential for federal funding will allow the City to fund needed sidewalk projects where local funding has been difficult. The six locations include:

- Constructing a sidewalk on north side of NE 23rd St from Douglas Blvd to Outpost Dr.
- Constructing a sidewalk on south side of SE 15th St from ~6000 SE 15th St to Johnson Dr.
- Constructing a sidewalk on east side of Post Rd from SE 15th St to SE 10th St.
- Constructing a sidewalk on west side of Douglas Blvd from Harmony Dr to SE 15th St.
- Widen the sidewalk to a trail standard along S Douglas Boulevard. The area in question would widen the sidewalk to SE 15th St.
- Constructing a sidewalk along the south side of NE 10th St from Spencer Rd to Douglas Blvd.

The accompanying programming resolution is required in order to have the referenced project considered in the Association of Central Oklahoma Governments update of the four year Transportation Improvement Plan (TIP). All projects that apply for federal aid funding must be programmed in this manner. Programming a project does not guarantee the project will be funded since it competes with projects submitted by other entities across the metropolitan area.

- 80% Federal Funds: \$2,464,000
- 20% Local Match: \$616,000
- Estimated total cost - \$3,080,000

No City funds are obligated at this time. However, if the project is funded, the City will be obligated to fund the local match, acquire right of way, and do necessary utility relocations. Engineering is eligible for federal funding which would follow the same 80/20 ratio and is included in the estimate.

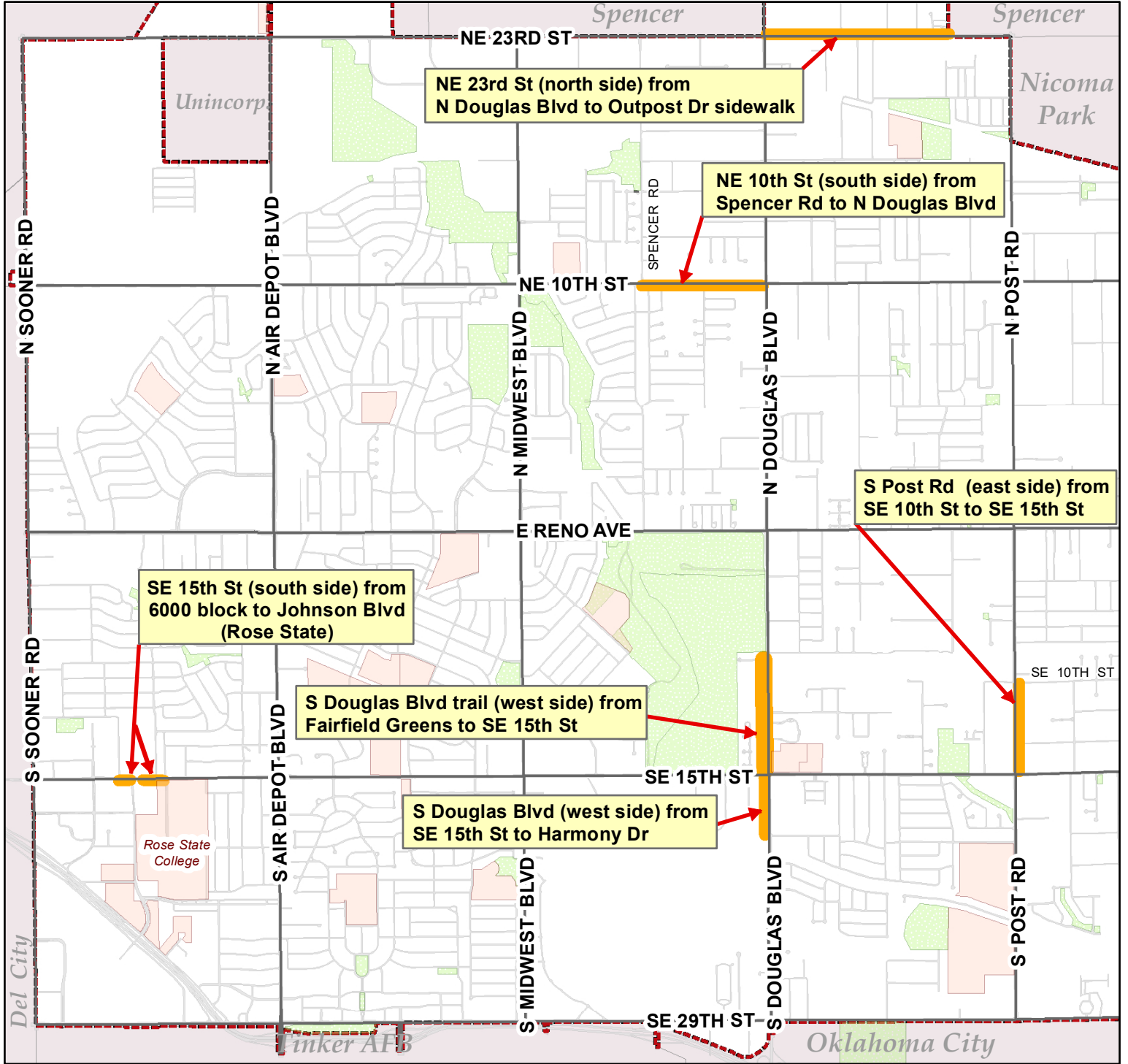
Project selection is slated for Winter 2025.

Staff recommends acceptance as this is consistent with past policy

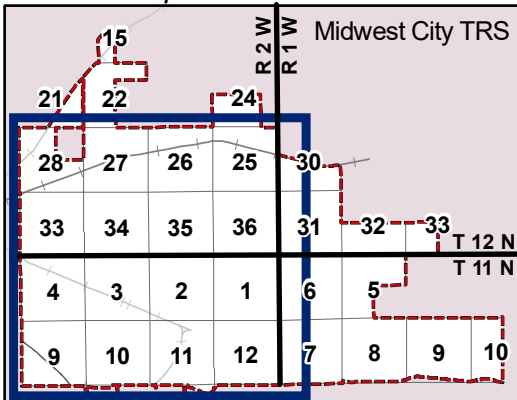
A handwritten signature in black ink, appearing to read 'B. Bundy', written over a horizontal line.

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

Attachment



Locator Map

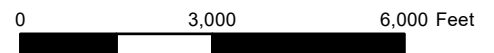


SIDEWALK UPGRADE LOCATIONS CITY OF MIDWEST CITY - 2024

Sidewalk Legend

- Streets
- ▭ MWC City Limits
- ▭ School Property
- ▭ City Parks
- ▭ Surrounding City Limits

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**RESOLUTION
PROGRAMMING SURFACE TRANSPORTATION BLOCK GRANT - URBANIZED
AREA (STBG-UZA) PROJECT**

WHEREAS, Surface Transportation Block Grant Program funds for urbanized areas have been made available for transportation improvements within the Oklahoma City Urban Area, and

WHEREAS, The City of Midwest City has selected a project described as follows:
Construct sidewalk in six locations at various locations within Midwest City, and

WHEREAS, the engineer's preliminary estimate of cost is \$3,080,000, and Federal participation under the terms of the *Infrastructure Investment and Jobs Act (IIJA)* relating to Surface Transportation Block Grant Program - Urbanized Area (STBG-UZA) funds is hereby requested for funding 80% of the project cost, which is estimated at **\$2,464,000**, and

WHEREAS, the City proposes to use its Capital Improvements Project Fund as the source(s) of funds for the local match, which is estimated at **-\$616,000**, and

WHEREAS, no City funds are committed by this action, and

WHEREAS, the City has the required matching funds available and further agrees to deposit matching funds by separate agreement with the Oklahoma Department of Transportation (ODOT) prior to advertising of the project for bid by ODOT, and

WHEREAS, the City will select a design consultant qualified and licensed in the State of Oklahoma to furnish engineering services in the preparation of detailed plans, specifications and estimates, and

WHEREAS, the City agrees to provide for satisfactory maintenance after completion, and to furnish the necessary right-of-way clear and unobstructed, and

WHEREAS, the City agrees, as a condition to receiving any Federal financial assistance from the Department of Transportation, that it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42. U.S.C. 2000d et seq., and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination of Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964", and

WHEREAS, The City assures that no qualified person with a disability shall, solely by reasons of their disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity administered by the City/Town/County, and

WHEREAS, the City further understands that acceptance of this resolution by the Association of Central Oklahoma Governments (ACOG) and the Oklahoma Department of Transportation is not a commitment to Federal funding, but only registers the City/Town/County's interest and intent in participating in the program application process.

NOW, THEREFORE, BE IT RESOLVED:

That ACOG is hereby requested to consider this project as a candidate for Federal funding, and to submit same to the Oklahoma Department of Transportation for its approval;

ADOPTED by the City Council of Midwest City and **SIGNED** by the Mayor/Chairman this 27th day of August, 2024.

ATTEST:

City Clerk

Mayor

Approved as to form and legality

City Attorney



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 : August 27, 2024

SUBJECT : Discussion, consideration, and possible action of approving a federal aid programming resolution to make eligible an application for inclusion into the Transportation Improvement Plan for a project to restripe various locations throughout the City, known as Stripe Project 8.

The accompanying programming resolution is required in order to have the referenced project considered in the Association of Central Oklahoma Governments update of the four year Transportation Improvement Plan (TIP). All projects that apply for federal aid funding must be programmed in this manner. Programming a project does not guarantee the project will be funded since it competes with projects submitted by other entities across the metropolitan area.

This project qualifies as a safety project which provides 100% federal funding for construction, estimated as **\$370,000.**

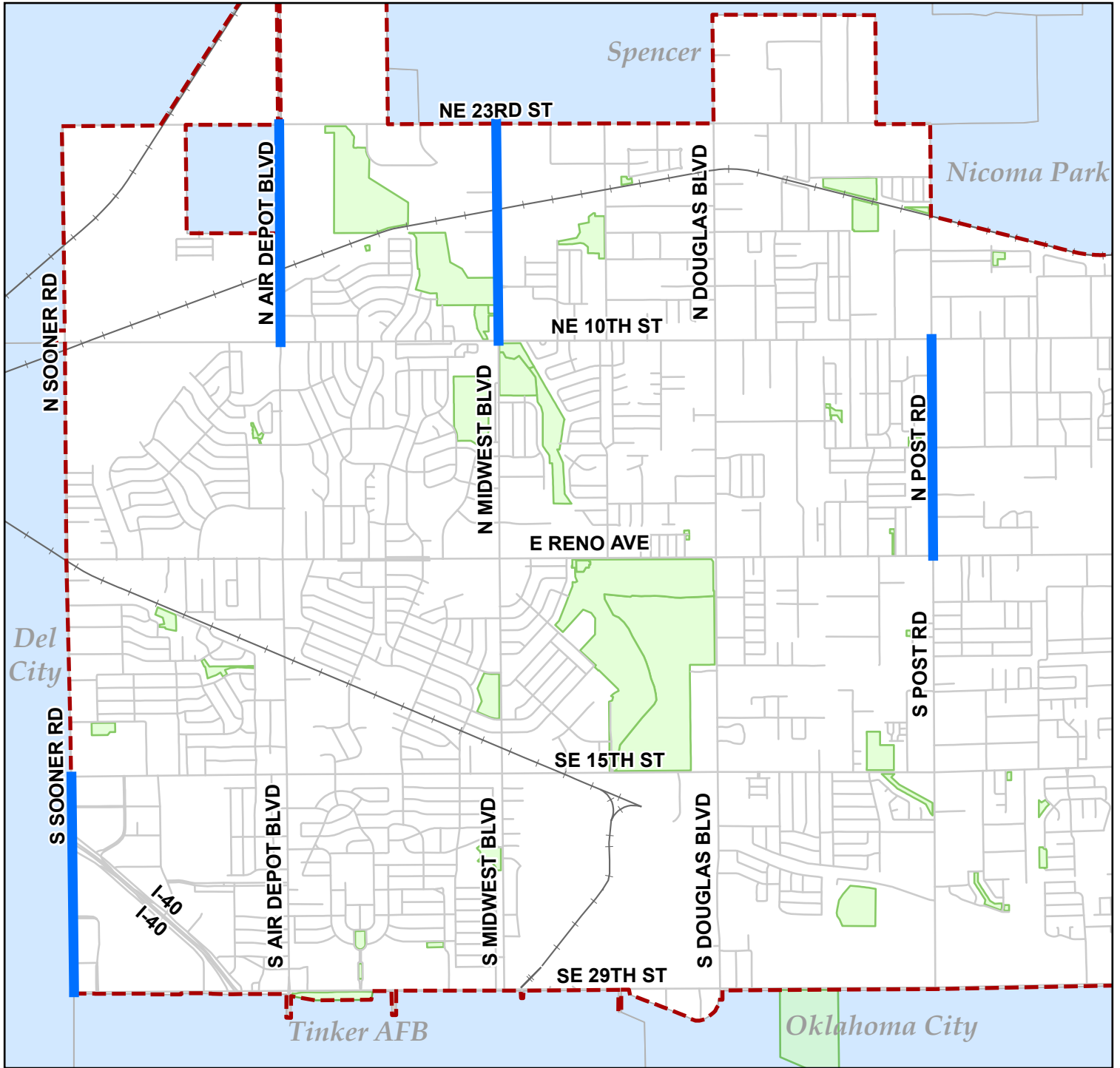
No City funds are obligated at this time. Engineering is eligible for federal funding and is included in the estimate.

Project selection is slated for Winter 2025.

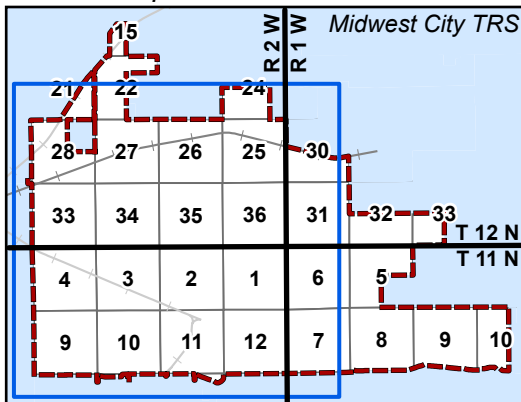
Staff recommends acceptance as this is consistent with past policy

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

Attachment



Locator Map

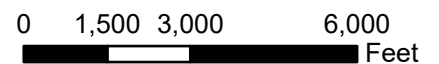


STREET STRIPING LOCATIONS CITY OF MIDWEST CITY - 2024

Legend

- Stripe Location
- Streets
- MWC City Limits
- City Parks
- Surrounding City Limits

THIS MAP IS A GENERAL INFORMATION PUBLIC RESOURCE. THE CITY OF MIDWEST CITY MAKES NO WARRANTY, REPRESENTATION OR GUARANTEE AS TO THE CONTENT, ACCURACY, TIMELINESS OR COMPLETENESS OF ANY OF THE INFORMATION PROVIDED ON THIS MAP. ANY PARTY'S USE OR RELIANCE ON THIS MAP OR ANY INFORMATION ON IT IS AT THAT PARTY'S OWN RISK AND WITHOUT LIABILITY TO THE CITY OF MIDWEST CITY, ITS OFFICIALS OR ITS EMPLOYEES FOR ANY DISCREPANCIES, ERRORS OR VARIANCES THAT MAY EXIST.



**RESOLUTION
PROGRAMMING SURFACE TRANSPORTATION BLOCK GRANT - URBANIZED
AREA (STBG-UZA) PROJECT**

WHEREAS, Surface Transportation Block Grant Program funds for urbanized areas have been made available for transportation improvements within the Oklahoma City Urban Area, and

WHEREAS, The City of Midwest City has selected a project described as follows:
Stripe Project 8, various locations, and

WHEREAS, the engineer's preliminary estimate of cost is \$370,000, and Federal participation under the terms of the *Infrastructure Investment and Jobs Act (IIJA)* relating to Surface Transportation Block Grant Program - Urbanized Area (STBG-UZA) funds is hereby requested for funding **100%** of the project cost, which is estimated at **\$370,000**, and

WHEREAS, no City funds are committed by this action, and

WHEREAS, the City has the required matching funds available and further agrees to deposit matching funds by separate agreement with the Oklahoma Department of Transportation (ODOT) prior to advertising of the project for bid by ODOT, and

WHEREAS, the City will select a design consultant qualified and licensed in the State of Oklahoma to furnish engineering services in the preparation of detailed plans, specifications and estimates, and

WHEREAS, the City agrees to provide for satisfactory maintenance after completion, and to furnish the necessary right-of-way clear and unobstructed, and

WHEREAS, the City agrees, as a condition to receiving any Federal financial assistance from the Department of Transportation, that it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42. U.S.C. 2000d et seq., and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination of Federally-Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964", and

WHEREAS, The City assures that no qualified person with a disability shall, solely by reasons of their disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity administered by the City/Town/County, and

WHEREAS, the City further understands that acceptance of this resolution by the Association of Central Oklahoma Governments (ACOG) and the Oklahoma Department of Transportation is not a commitment to Federal funding, but only registers the City/Town/County's interest and intent in participating in the program application process.

NOW, THEREFORE, BE IT RESOLVED:

That ACOG is hereby requested to consider this project as a candidate for Federal funding, and to submit same to the Oklahoma Department of Transportation for its approval;

ADOPTED by the City Council of Midwest City and **SIGNED** by the Mayor/Chairman this 27th day of August, 2024.

ATTEST:

City Clerk

Mayor

Approved as to form and legality

City Attorney



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

To: Honorable Mayor and Council

From: Patrick Menefee, P.E., City Engineer

Date: August 27th, 2024

Subject: Discussion, consideration, and possible action of accepting three (3) grants of Permanent Easement from various grantors, across certain parcels of land located within the corporate boundaries of Midwest City in Section 27, Township 12 North, Range 2 West of the Indian Meridian, Oklahoma County, Oklahoma.

The Easements are needed in connection with the SCIP Sanitary Sewer extension to Midwest Boulevard project. The project will increase sanitary sewer availability in the area to help further development. The easements are located on three separate parcels.

Permanent Easements

Grantor

WJA Lakes, LLC
TFW Properties, I, LLC, D/B/A TFW Properties, LLC
Midwest City Utilities Authority

Patrick Menefee, P.E.,
City Engineer
Attachments

GRANT OF PERMANENT EASEMENT

KNOW ALL BY THESE PRESENTS:

That **WJA Lake, LLC, and Oklahoma limited liability company**, of Oklahoma County, (grantor) for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto the City of Midwest City, a municipal corporation, a permanent public easement across, over and under the following described lots, tracts or parcels of land situated in Oklahoma County, State of Oklahoma, to-wit:

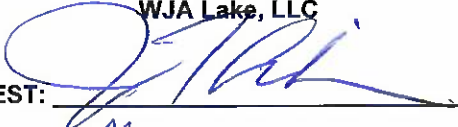
See EXHIBIT "A" attached hereto and made a part hereof.

This easement is granted for the purpose of enabling the City of Midwest City, its officers, agents, contractors and employees to go upon, layout, construct, change, and or build sanitary sewer improvements upon the above-described lots, parcels or tracts of land and includes the permanent right of ingress and egress for employees, tools and equipment of the City of Midwest City, its officers, agents, contractors and employees.

The consideration herein covers all kinds and character of damages or injury that may be sustained directly or indirectly to any lands owned by the Grantor by reason of the construction and maintenance of such improvements.

Grantor hereby covenants and warrants that at the time of the delivery of this easement that the above-described real estate and premises are free of all liens and claims whatsoever, except – none- and that they will, so long as this easement is in full force and effect, defend the same unto the City of Midwest City against all claiming to the contrary.

WITNESS the hands of the parties this 6th day of AUGUST, 2024

WJA Lake, LLC
ATTEST: 
TITLE: Manager

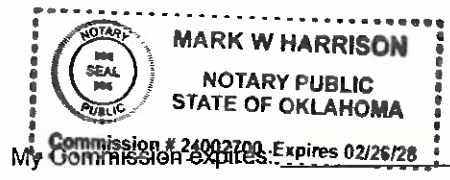
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ACKNOWLEDGEMENT ON FOLLOWING PAGE**

STATE OF OKLAHOMA)
COUNTY OF OKLAHOMA)

) ss.

Before me, the undersigned Notary Public in and for the state and county aforesaid, on this 6th day of AUGUST, 2024 personally appeared as JAMES ATKINSON of TFW PROPERTIES, I, LLC, D/B/A TFW PROPERTIES, LLC, to me known to be the identical person(s) who subscribed the name of the maker thereof to the foregoing instrument 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 said company the uses and purposes therein set forth.

WITNESS, my hand and seal this 6th day of Aug, 2024



[Signature]

NOTARY PUBLIC

Approved by City Attorney _____ Date: _____

Approved by City Council _____ Date: _____

RETURN TO: City Clerk 100 N Midwest Boulevard Midwest City OK 73110

LEGAL DESCRIPTION

MWC Sewer Project #1296B
Tract 4 – WJA Lake, LLC
Sewer Easement

June 27, 2024

A strip of land being a part of the Northeast Quarter (NE/4) of Section Twenty-Seven (27), Township Twelve (12) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma, being more particularly described as follows:

COMMENCING at the Northeast (NE) Corner of said Northeast Quarter (NE/4);

THENCE South 00°28'30" East, along and with the east line of said Northeast Quarter (NE/4), a distance of 295.50 feet to the easterly northeast corner of a tract of land as described in Book 8535, Page 374 (Lake Tract);

THENCE South 89°42'13" West, a distance of 33.00 feet to a point on the west statutory right of way of N. Midwest Blvd., said point also being the POINT OF BEGINNING;

THENCE South 00°28'30" East, along and with said west statutory right of way, a distance of 393.10 feet;

THENCE South 89°31'30" West, departing said west statutory right of way, a distance of 385.34 feet;

THENCE South 69°39'54" West, a distance of 229.66 feet;

THENCE South 30°41'02" West, a distance of 34.65 feet, to a point on the south line of said Lake Tract;

THENCE South 72°48'53" West, along and with the south line of said Lake Tract, a distance of 14.53 feet;

THENCE South 68°12'53" West, continuing along and with the south line of said Lake Tract, a distance of 16.83 feet;

THENCE North 30°41'02" East, departing the south line of said Lake Tract, a distance of 65.85 feet;

THENCE North 69°39'54" East, a distance of 240.24 feet;

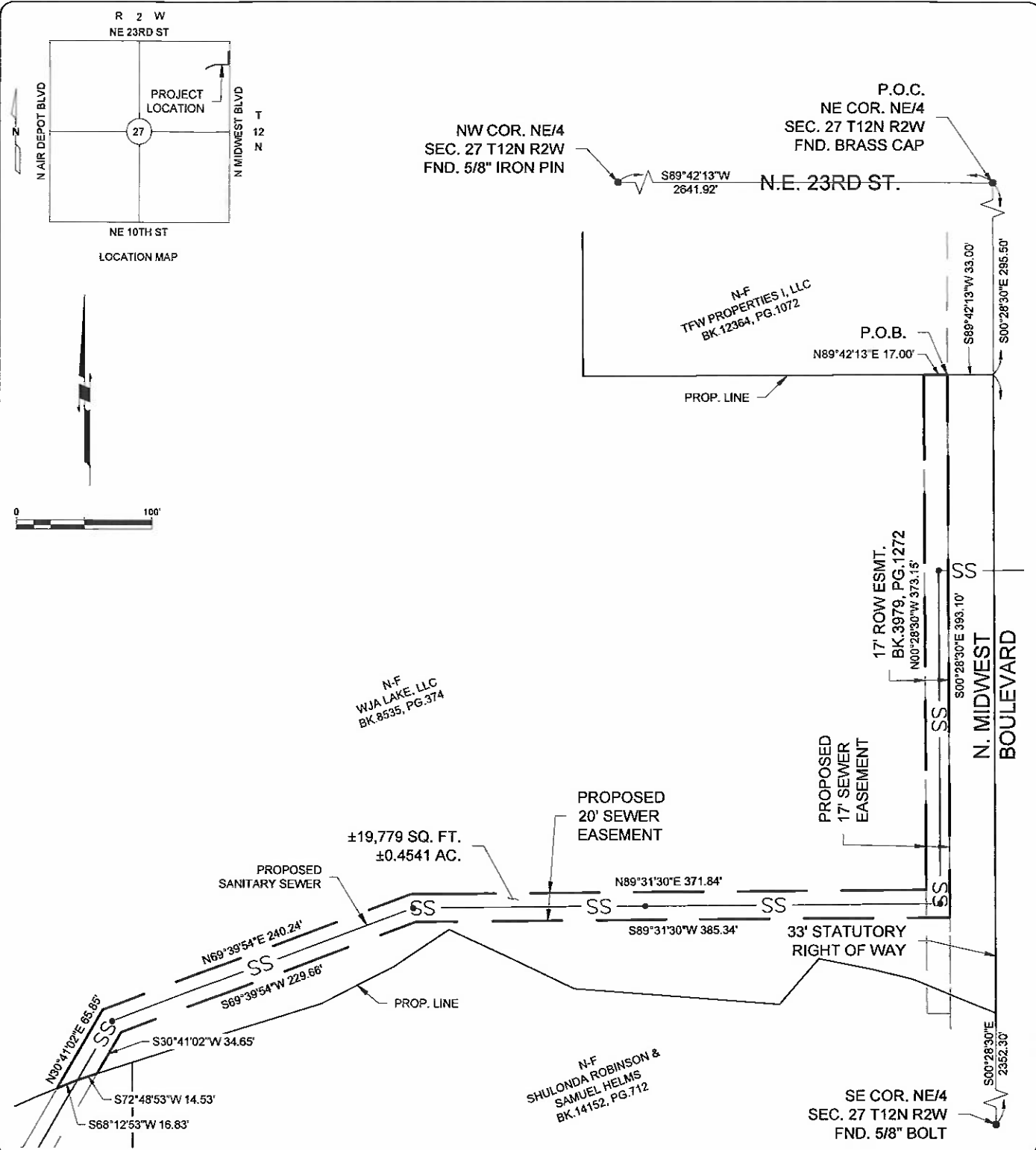
THENCE North 89°31'30" East, a distance of 371.84 feet to a point on the west line of a 17 foot right of way as described in Book 3979, Page 1272;

THENCE North 00°28'30" West, along and with said west line, a distance of 373.15 feet to a point on the north line of said Lake Tract;

THENCE North 89°42'13" East, along and with said north line, a distance of 17.00 feet to the POINT OF BEGINNING.

Containing 19,779 square feet or 0.4541 acres, more or less.

Basis of Bearing: Oklahoma State Plane Coordinate System (North Zone, NAD83) using a bearing of S 00°28'30" E along the east line of the Northeast Quarter of Section 27, T12N, R2W. All Distances are grid distances in U.S. Survey Feet.



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Proj. No.:	5644
Date:	6-27-2024
Scale:	1" = 100'

TRACT 4
MWC PROJECT #1296B
 2251 N. MIDWEST BLVD.
 MIDWEST CITY, OKLAHOMA COUNTY, OK
SEWER EASEMENT

Johnson & Associates
 1 E. Sheridan Ave., Suite 200
 Oklahoma City, OK 73104
(405) 235-8078 FAX (405) 235-9273 www.jaok.com
 Certificate of Authorization #1264 Exp. Date 06-30-2025

• ENGINEERS • SURVEYORS • PLANNERS •

GRANT OF PERMANENT EASEMENT

KNOW ALL BY THESE PRESENTS:

That **TFW PROPERTIES, I, LLC, D/B/A TFW PROPERTIES, LLC**, of Oklahoma County, (grantor) for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto the City of Midwest City, a municipal corporation, a permanent public easement across, over and under the following described lots, tracts or parcels of land situated in Oklahoma County, State of Oklahoma, to-wit:

See EXHIBIT "A" attached hereto and made a part hereof.

This easement is granted for the purpose of enabling the City of Midwest City, its officers, agents, contractors and employees to go upon, layout, construct, change, and or build sanitary sewer improvements upon the above-described lots, parcels or tracts of land and includes the permanent right of ingress and egress for employees, tools and equipment of the City of Midwest City, its officers, agents, contractors and employees.

The consideration herein covers all kinds and character of damages or injury that may be sustained directly or indirectly to any lands owned by the Grantor by reason of the construction and maintenance of such improvements.

Grantor hereby covenants and warrants that at the time of the delivery of this easement that the above-described real estate and premises are free of all liens and claims whatsoever, except – none- and that they will, so long as this easement is in full force and effect, defend the same unto the City of Midwest City against all claiming to the contrary.

WITNESS the hands of the parties this 5th day of AUGUST, 2024

**TFW PROPERTIES, I, LLC,
D/B/A TFW PROPERTIES, LLC**

ATTEST: Jamie L. Webb
TITLE: owner

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STATE OF OKLAHOMA)

) ss.

COUNTY OF OKLAHOMA)

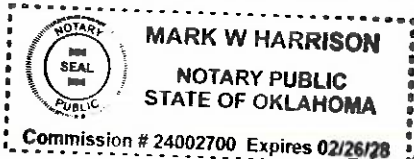
Before me, the undersigned Notary Public in and for the state and county aforesaid, on this 5th day of AUGUST, 2024

personally appeared as Tammie L Witcosky of TFW PROPERTIES, I, LLC, D/B/A TFW PROPERTIES, LLC, to me known to be the identical person(s) who subscribed

the name of the maker thereof to the 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 said company the uses and purposes therein set forth.

WITNESS, my hand and seal this 5th day of AUG, 2024



My Commission expires: 2/26/28

[Handwritten Signature]

NOTARY PUBLIC

Approved by City Attorney _____ Date: _____

Approved by City Council _____ Date: _____

RETURN TO: City Clerk 100 N Midwest Boulevard Midwest City OK 73110

LEGAL DESCRIPTION

MWC Sewer Project #1296B
Tract 6 – TFW Properties I, LLC
Sewer Easement

June 27, 2024

A strip of land being a part of the Northeast Quarter (NE/4) of Section Twenty-Seven (27), Township Twelve (12) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma, being more particularly described as follows:

COMMENCING at the Northeast (NE) Corner of said Northeast Quarter (NE/4);

THENCE South 00°28'30" East, along and with the east line of said Northeast Quarter (NE/4), a distance of 295.50 feet to the southeast corner of a tract of land as described in Book 12364, Page 1072 (TFW Tract);

THENCE South 89°42'13" West, along and with the south line of said TFW Tract, a distance of 33.00 feet to a point on the west statutory right of way of N. Midwest Blvd., said point also being the POINT OF BEGINNING;

THENCE continuing South 89°42'13" West, along and with the south line of said TFW Tract, a distance of 17.00 feet;

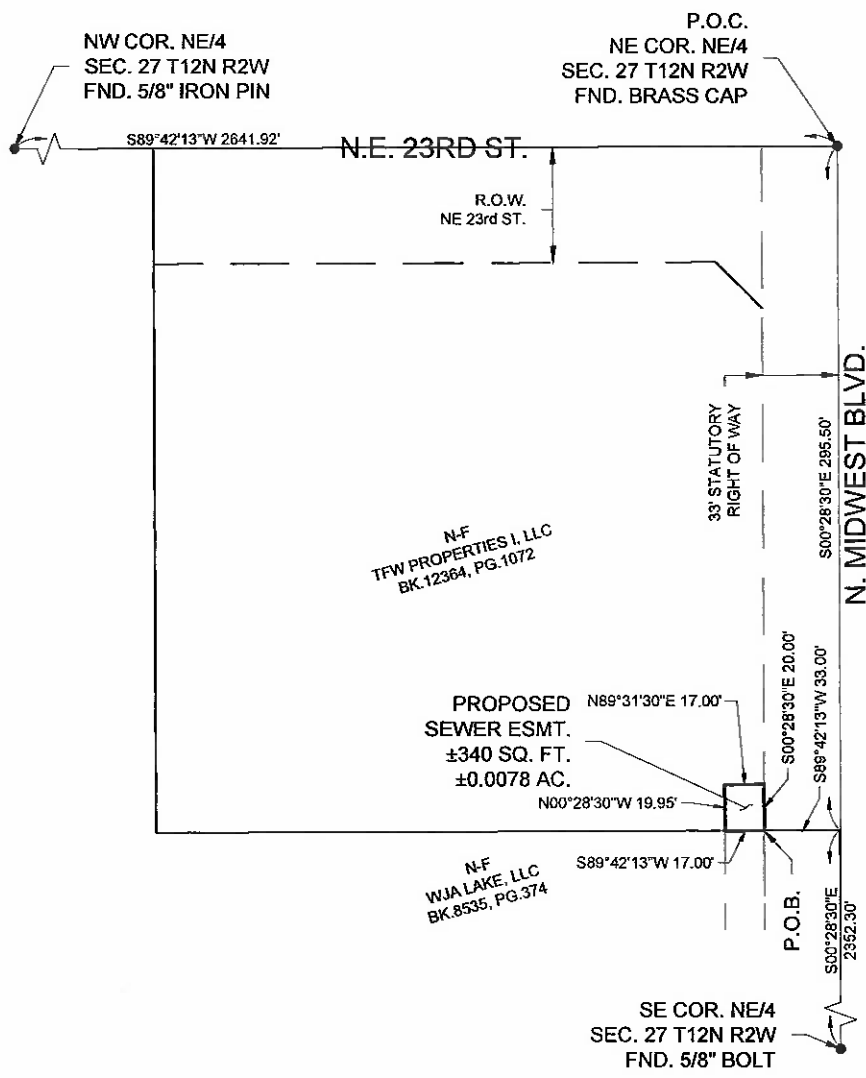
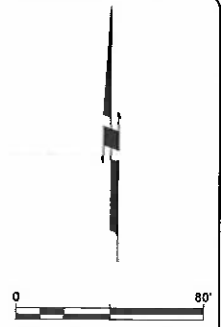
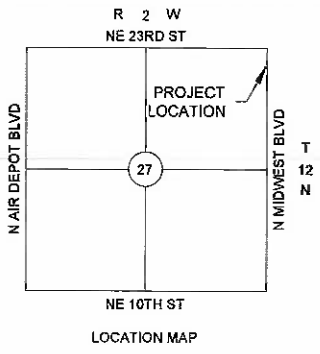
THENCE North 00°28'30" West, departing said south line, a distance of 19.95 feet;

THENCE North 89°31'30" East, a distance of 17.00 feet to a point on said west statutory right of way;

THENCE South 00°28'30" East, along and with said west statutory right of way, a distance of 20.00 feet to the POINT OF BEGINNING.

Containing 340 square feet or 0.0078 acres, more or less.

Basis of Bearing: Oklahoma State Plane Coordinate System (North Zone, NAD83) using a bearing of S 00°28'30" E along the east line of the Northeast Quarter of Section 27, T12N, R2W. All Distances are grid distances in U.S. Survey Feet.



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 Date: 6-27-2024
 Scale: 1" = 80'

TRACT 6
MWC PROJECT #1296B
 N.E. 23rd ST. & N. MIDWEST BLVD.
 MIDWEST CITY, OKLAHOMA COUNTY, OK
SEWER EASEMENT

Johnson & Associates
 1 E. Sheridan Ave., Suite 200
 Oklahoma City, OK 73104
 (405) 235-5775 FAX: (405) 235-5679 www.jaoks.com
 Certificate of Authorization #1484 Exp. Date 05-30-2025
 • ENGINEERS • SURVEYORS • PLANNERS •

LEGAL DESCRIPTION

MWC Sewer Project #1296B
Tract 5 – Midwest City Utilities Authority
Sewer Easement

June 24, 2024

A strip of land being a part of the Northeast Quarter (NE/4) of Section Twenty-Seven (27), Township Twelve (12) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma, being more particularly described as follows:

COMMENCING at the Northeast (NE) Corner of said Northeast Quarter (NE/4);

THENCE South 89°42'13" West, along and with the north line of said Northeast Quarter (NE/4), a distance of 681.87 feet;

THENCE South 00°28'30" East, parallel with the east line of said Northeast Quarter (NE/4), a distance of 808.58 feet to a point on the south line of a tract of land described in Book 8535, Page 374 (Lake Tract), said point also being the POINT OF BEGINNING;

THENCE North 68°12'53" East, along and with the south line of said Lake Tract, a distance of 16.83 feet;

THENCE North 72°48'53" East, continuing along and with the south line of said Lake Tract, a distance of 14.53 feet;

THENCE South 30°41'02" West, departing said south line, a distance of 80.04 feet;

THENCE South 68°08'47" West, a distance of 456.77 feet;

THENCE South 40°59'06" West, a distance of 463.39 feet;

THENCE South 42°49'10" West, a distance of 336.93 feet;

THENCE South 31°53'42" West, a distance of 233.64 feet;

THENCE South 41°12'05" West, a distance of 307.85 feet;

THENCE South 09°20'29" West, a distance of 275.77 feet;

THENCE North 80°39'31" West, a distance of 20.00 feet;

THENCE North 09°20'29" East, a distance of 281.48 feet;

THENCE North 41°12'05" East, a distance of 311.93 feet;

THENCE North 31°53'42" East, a distance of 233.93 feet;

THENCE North 42°49'10" East, a distance of 338.53 feet;

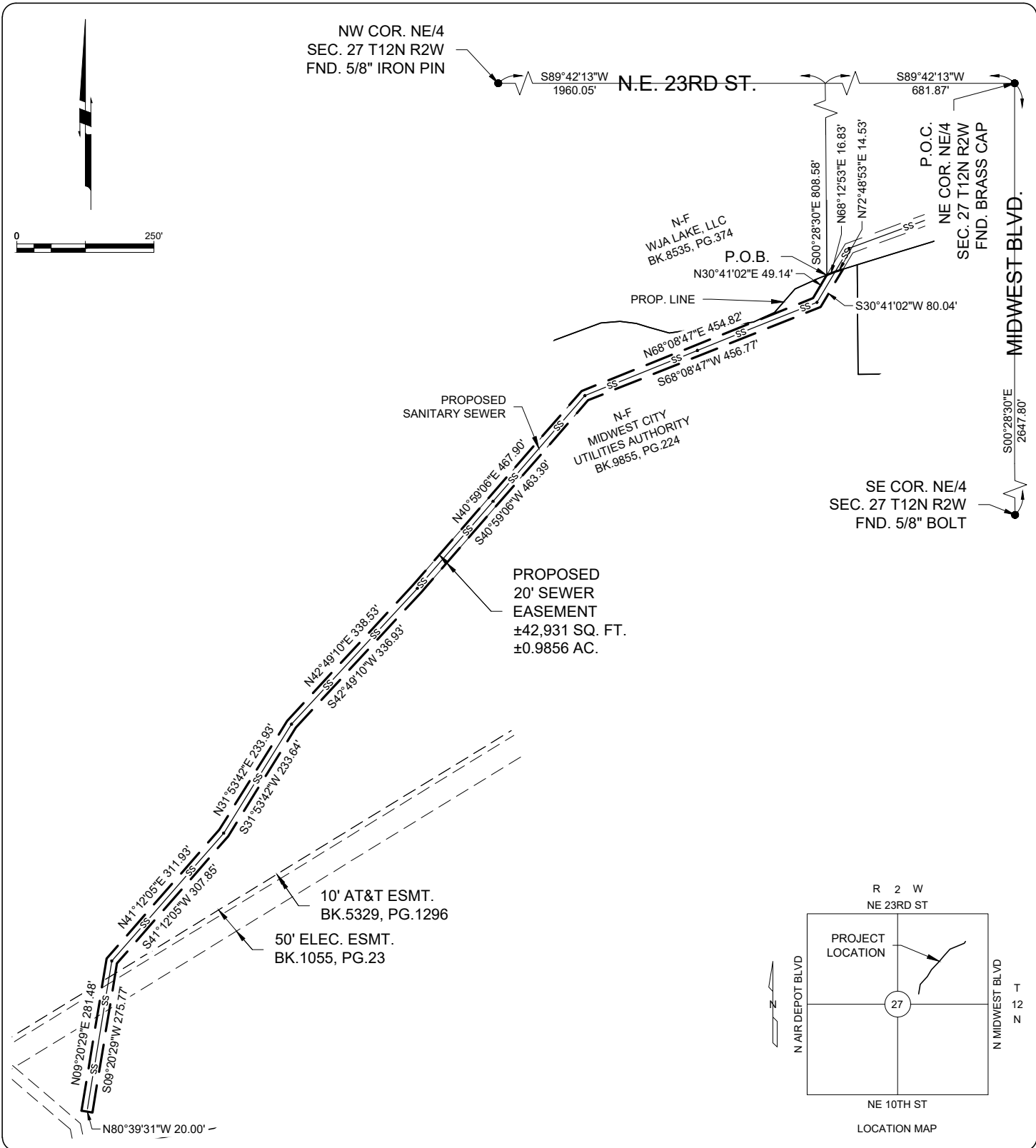
THENCE North 40°59'06" East, a distance of 467.90 feet;

THENCE North 68°08'47" East, a distance of 454.82 feet;

THENCE North 30°41'02" East, a distance of 49.14 feet to the POINT OF BEGINNING.

Containing 42,931 square feet or 0.9856 acres, more or less.

Basis of Bearing: Oklahoma State Plane Coordinate System (North Zone, NAD83) using a bearing of S 00°28'30" E along the east line of the Northeast Quarter of Section 27, T12N, R2W. All Distances are grid distances in U.S. Survey Feet.



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 Date: 6-24-2024
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TRACT 5
MWC PROJECT #1296B
 NE/4 of SEC. 27, T12N, R2W
 MIDWEST CITY, OKLAHOMA COUNTY, OK
SEWER EASEMENT

Johnson & Associates
 1 E. Sheridan Ave., Suite 200
 Oklahoma City, OK 73104
 (405) 235-8075 FAX (405) 235-8078 www.jaok.com
 Certificate of Authorization #1484 Exp. Date: 06-30-2025
 • ENGINEERS • SURVEYORS • PLANNERS •



City of Midwest City Police Department
100 N. Midwest Boulevard
Midwest City, OK 73110
Office 405.739.1320
Fax 405.739.1398

Memorandum

TO: Honorable Mayor and City Council

FROM: Greg Wipfli, Chief of Police-Interim

DATE: August 27, 2024

SUBJECT: Discussion, consideration, and possible action of declaring (1) 2016 BMW 1200 and its contents, as surplus and authorizing disposal by public auction, sealed bid or other means necessary.

The items identified are property that the Midwest City Police Department no longer needs or uses and have been removed from service. Staff recommends that these item be declared surplus. These vehicles are not estimated to have a value or sell for \$10,000.00 or more.

Item for surplus:

060282 2016 BMW 1200 WB10A1303GZ196291

Auction services are provided to the City by:

1. www.ebay.com
2. www.govdeals.com
3. www.pulicsurplus.com

Staff recommends approval.

Greg Wipfli

Greg Wipfli, Chief of Police-Interim

MEMO

To: Honorable Mayor and City Council

From: Bert Norton, Fire Chief

Date: August 27, 2024

Subject: Discussion, consideration, and possible action of declaring Lion Brand Wildland Firefighting (61) coats and (59) pants as surplus and authorizing disposal by public auction, sealed bid or other means as necessary. (Fire - B. Norton))

Discussion and consideration of declaring Lion brand wildland firefighting pants and coats with a manufacture date of 2008 surplus. The gear is 16 years old and has been replaced in 2024. There are 61 coats and 59 pants all are good to fair condition.

Coats – 2XL (6), XL (15), L (34), M (4), S (2) – 61 in total

Pants – 2XL (3), XL (3), L (12), M (30), S (10), XS (1) – 59 in total

Staff recommends approval.



Bert Norton
Fire Chief



DISCUSSION ITEMS





Mayor
100 N. Midwest Boulevard
Midwest City, OK 73110
Office: 405.739.1209
Fax: 405-739-1208
www.midwestcityok.org

MEMORANDUM

To: Mayor and City Council Members

From: Matthew D. Dukes, II, Mayor

Date: August 27, 2024

RE: Discussion, consideration, and possible action of appointing Lorenzo Banks as a Municipal Court Judge for the City of Midwest City. (T. Lyon – City Manager).

Pursuant to Title 11 of the Oklahoma Statutes, Section 27-104 (A), “[t]he judge of each municipal court shall be appointed by the mayor of the municipality where the court is established, with the consent of the governing body. The judge of any municipal court shall be licensed to practice law in this state...” Section 25-7 (b) of the City Ordinances of the City of Midwest City state that when a vacancy with a Judge occurs, “the mayor shall appoint a successor to complete the unexpired term...”

In June of 2024, Adam Bush and Gary Bachman, Judges of the Municipal Court for Midwest City both tendered their resignations.

I would like to request the City Council to give their consent to the appointment of Lorenzo Banks as a Judge for the Municipal Court of Midwest City. Mr. Banks is currently licensed to practice law in the State of Oklahoma.

Mr. Banks is an Oklahoma City practicing attorney who has worked with the Oklahoma Bar Association on explaining the role of a judge in court proceedings to the general public.

I have met and discussed the openings with Mr. Banks he has stated that he would be honored to be appointed as Judge of the Municipal Court for the City of Midwest City. A biography of Mr. Banks is included.

The role and duties of each Municipal Judge for the City of Midwest City shall be established and set by the City Manager as a part of the City Manager’s ordinary administrative matters as set forth in Article II, Section 7 of the City Charter.

Approval of each appointment is at the discretion of the City Council.

Lorenzo Azar Banks is a native of Tulsa, Oklahoma, but currently resides in Oklahoma City. He originally moved there to attend college and had plans of pursuing a career in education. In 2005, he obtained his undergraduate degree in Mathematics Education from the University of Central Oklahoma. Soon after graduating, he entered graduate school to study applied mathematics, taking another step closer to his ultimate educational goal of becoming a doctor of mathematics.

While pursuing his graduate studies, his life changed dramatically when he was named a defendant in a frivolous lawsuit. At that time, he had no means of hiring an attorney to defend him, so he took on the task of defending himself. After getting the plaintiff to dismiss the case, the foundations for his destiny became firmly laid. He decided to begin applying to law schools and was admitted to Oklahoma City University School of Law in 2008. He graduated, passed the bar, and soon became the founder and owner of Minority Report Law PLLC (MRL), a law firm that provided legal services in the state of Oklahoma. His main goal with starting the firm was to make sure that no one ever felt as hopeless as he did in their own legal battles. He lives his dream every day, fighting for those who can't fight for themselves. In 2016, MRL merged with the law firm known today as Banks, Gillett, Gillett, PLLC. Today he is a partner in this law firm in which the vision of MRL lives on.

In addition to running a successful law practice, Lorenzo also serves as an adjunct professor and the Assistant Director of Admissions and Director of Diversity Initiatives for Oklahoma City University School of Law. His dual role as a law admissions staff member and a practicing attorney allows him to have a unique and practical perspective into the need for diversity in the legal community. He uses this perspective to actively seek out, admit, and mentor law students into his law school in hopes to supply well-trained lawyers to the legal community—his focus particularly being finding students that help to ensure diversity in the law school classroom.

Lorenzo is an active member of the Oklahoma Bar Association, a former board member of the Oklahoma Criminal Defense Lawyers Association and the Oklahoma County Bar Association, and the Oklahoma City Association of Black Lawyers. He volunteers his time and services through a number of different programs where he gives free advice and services to veterans, the black community, and other various groups in Oklahoma City. He also serves as the lead attorney for the Urban League of Greater Oklahoma City's Expungement Expo—a program created to provide free expungements of certain criminal records for program participants. Additionally, he takes questions submitted to him from the public and posts free video responses to those questions on his social media handles. Aside from being known as one of the better trial lawyers in Oklahoma, his claim to fame is his Know Your Rights Presentation. For almost a decade, Lorenzo has traveled the country giving this presentation for colleges,

family reunions, churches, and many other different types of groups to discuss the do's and don'ts of civilian and police officer interactions.



Mayor
100 N. Midwest Boulevard
Midwest City, OK 73110
Office: 405.739.1209
Fax: 405-739-1208
www.midwestcityok.org

MEMORANDUM

To: Mayor and City Council Members

From: Matthew D. Dukes, II, Mayor

Date: August 27, 2024

RE: Discussion, consideration, and possible action of appointing Joanne Horn as a Municipal Court Judge for the City of Midwest City. (T. Lyon – City Manager).

Pursuant to Title 11 of the Oklahoma Statutes, Section 27-104 (A), “[t]he judge of each municipal court shall be appointed by the mayor of the municipality where the court is established, with the consent of the governing body. The judge of any municipal court shall be licensed to practice law in this state...” Section 25-7 (b) of the City Ordinances of the City of Midwest City state that when a vacancy with a Judge occurs, “the mayor shall appoint a successor to complete the unexpired term...”

In June of 2024, Adam Bush and Gary Bachman, Judges of the Municipal Court for Midwest City both tendered their resignations.

I would like to request the City Council to give their consent to the appointments of Joanne Horn as Judge for the Municipal Court of Midwest City. Ms. Horn is currently licensed to practice law in the State of Oklahoma.

Ms. Horn is a former attorney for the City of Midwest City and currently is a practicing attorney in Oklahoma, who offices with current Midwest City Municipal Judge David Howell in Midwest City.

I have met and discussed the openings with Ms. Horn and she has stated that she would be honored to be appointed as Judge of the Municipal Court for the City of Midwest City. A biography of Ms. Horn is included.

The role and duties of each Municipal Judge for the City of Midwest City shall be established and set by the City Manager as a part of the City Manager’s ordinary administrative matters as set forth in Article II, Section 7 of the City Charter.

Approval of Ms. Horn’s appointment is at the discretion of the City Council.

Biography of Joanne Horn

Joanne Horn BBA, MPH, JD, is the third of eight children of Thomas and Mary Bryant. Tom's parents moved to Midwest City in 1947. When the U.S. Army called Tom to serve in Vietnam in 1966, his wife and children settled in Midwest City to be near the extended family.

Ms. Horn studied at Midwest City High School, Rose State College and the University of Oklahoma in the areas of Business Administration (Accounting), Public Health (Health Promotion Sciences), and Law. The OU College of Law faculty, students, and staff voted Ms. Horn to be the recipient of the "Professional Responsibility and Leadership Award" at graduation.

Ms. Horn and Roger, her husband, raised Jacob, their only child in Midwest City. Jacob is now a Professor of English Literature at the University of Connecticut.

Joanne practiced law with the Oklahoma Department of Public Safety (DPS) until retirement. She served as an administrative hearing officer in more than 3,000 cases, represented DPS in county courts across the state and on appeal, and served as Interim Deputy General Counsel of the DPS Legal Division. She now practices law at the Harmony Law Office on Douglas Boulevard.

When Joanne returned to Midwest City in 1986, she also returned to her family church, St. Philip Neri, where she now serves as Lector, Catechist, and Stephen Minister. For her years of volunteer work with the third Saturday Legal Clinic of Legal Aid Services of Oklahoma, the Oklahoma County Bar Association presented Ms. Horn with the "Pro Bono Award" on July 14, 2024, at their annual Awards Luncheon.



Planning & Zoning Department

Matt Summers, Director of Planning & Zoning
Tami Anderson, Administrative Assistant
Emily Richey, Current Planning Manager
Cameron Veal, Associate Current Planner

To: Honorable Mayor and Council
From: Matt Summers, Director of Planning & Zoning
Date: August 27, 2024
Subject: Discussion, consideration, and possible action to enter into a professional services agreement with Freese and Nichols, Inc, in an amount not to exceed \$350,000 to prepare a comprehensive plan for the City of Midwest City consistent with standards, procedures, and best management practices in Oklahoma.

The Comprehensive Plan acts as a guide for policy, infrastructure, and planning decisions for years to come, providing the path to a better quality of life and sustainable, efficient, and successful development. The City of Midwest City has seen a substantial amount of change since the Comprehensive Plan was last updated in 2008. It is essential for communities to update or rewrite their Comprehensive Plans to stay up to date with their vision for the future, the plan to achieve that vision, and best practices.

Staff used a two-step RFQ/RFP process to solicit proposals from qualified firms. The request for qualifications (RFQ) was posted to the city's website and published in the Oklahoma Journal Record on December 13, 2023. Staff also sent the RFQ to twelve (12) firms that have a presence in Oklahoma or who have done planning work with Midwest City in the recent past. Staff sent the RFQ to: Crafton Tull, SRB, Guernsey, Freese & Nichols, Kimley-Horn, TAP Architecture, TSW, Halff, Downey D, Catalyst Commercial, Johnson & Associates, and ADG Blatt.

Staff received four (4) responses to the RFQ, and found all four firms, to be qualified to be sent the request for proposals (RFP). The responding firms were Guernsey, Halff (partnered with Catalyst Commercial), Freese & Nichols (partnered with Catalyst Commercial), and TSW (partnered with Johnson & Associates).

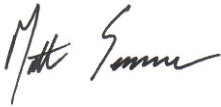
All four (4) firms responded to the RFP, were interviewed, and were scored by a panel consisting of: the Assistant Public Works Director, the Director of Engineering & Construction Services, the Director of Economic Development, the Comprehensive Planner, and the Director of Planning & Zoning. The scoring criteria included the following categories:

- Qualifications of the individuals assigned to the project
- Recent, relevant project experience
- Unique qualifications of the firm
- Management strategy, approach, public engagement, and organization of tasks
- References from current and past clients

- Project timeline
- Proposed innovations

As the highest scoring firm, Freese and Nichols, Inc. (FNI) was selected to provide professional services to create a Comprehensive Plan for the City based on the quality of their proposal and the experience of their project team. Halff was scored as the second-best firm, Guernsey as the third best firm, and TSW scored as the fourth best firm.

Staff and FNI have discussed, negotiated, and agreed upon the scope and cost of the project. The total cost of the project is \$350,000. The project will be funded by the General Fund (010). Action on this item is at the discretion of the City Council.



Matt Summers, AICP
Director of Planning & Zoning

Attachment: Professional Services Agreement

PROFESSIONAL SERVICES AGREEMENT
between
Freese and Nichols, Inc.
And
THE CITY OF MIDWEST CITY

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, the **City** is in need of the following professional services **Provider** will be responsible for preparing a Comprehensive Plan consistent with standards, procedures, and best management practices in Oklahoma.

WHEREAS, the **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, the **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 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 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 (collectively referred to as “**Deliverables**”) that meet all the purposes

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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 accordance with the terms and conditions of this **Agreement**. The **City** may issue a purchase order for the identified services accompanied by the **Service Provider's** written proposal. The **Service Provider** will issue a monthly invoice reflecting a percent of the Scope of Services that was completed during the billing cycle 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 licenses 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 the **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

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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” (“Fee breakdown by Task”),
- Attachment “C” (“Timeframe”)
- Attachment “D” (“Service Provider Project Team”)
- Attachment “E” (“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 for ensuring the **Service Provider’s Project Team** fully understands each Project, the Scope of Services, the Deliverables, the schedule for performance, and the **City’s** goals and purposes. Service Provider will be solely responsible for ensuring 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 in Attachment “D” (“**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**.

PROFESSIONAL SERVICES AGREEMENT
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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**.

3. CONSIDERATION

A. The **City** shall pay the **Service Provider** on a percent complete basis in accordance with Item 1. above.

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 and 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**.

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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** issues 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* of 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 is complete or incomplete unless the notice directs otherwise. Upon termination for the *convenience* of 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**.

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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, 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

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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. 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 the 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**.

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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.

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

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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 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 effect 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

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property damage pursuant to applicable law or the indemnification provisions or under any other paragraph or provision in this **Agreement**.

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 **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**.

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. 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

PROFESSIONAL SERVICES AGREEMENT
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information obtained by **Service Provider**. **Service Provider** shall require and maintain adequate confidentiality agreements with its employees, agents, contractors, and subcontractors.

10. 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:

Ms. Dawn Warrick
Freese and Nichols, Inc.
5100 E. Skelly Drive, Suite 602
Tulsa, OK 74135

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.

11. 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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And
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12. 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.

13. 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.

14. TIME OF ESSENCE

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

15. MULTIPLE ORIGINALS

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

16. 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

PROFESSIONAL SERVICES AGREEMENT
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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**.

17. 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.

18. 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.

PROFESSIONAL SERVICES AGREEMENT
between
Freese and Nichols, Inc.
And
THE CITY OF MIDWEST CITY

19. 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.

20. DISPUTE RESOLUTION

Either **Party** may commence the dispute resolution process pursuant to this provision, by providing the other **Party** written notice of the dispute between the **Parties** concerning any term of this **Agreement** or attachment hereto. The notice shall contain:

- (i) a statement setting forth the position of the party giving such notice and a summary of arguments supporting such position and
- (ii) the name and title of **Party** Representative and any other Persons who will accompany the Representative at the meeting at which the parties will attempt to settle the Dispute.

Within ten (10) days of receipt of the notice, the other **Party** shall respond with

- (i) a statement setting forth the position of the party giving such notice and a summary of arguments supporting such position and
- (ii) the name and title of **Party** Representative and any other Persons who will accompany the Representative at the meeting at which the parties will attempt to settle the Dispute.

The **Parties** shall make good faith attempts to negotiate a settlement between their appointed representatives. If the **Parties** are unable to settle the dispute themselves, the **Parties** shall be required to mediate the dispute, with the **Parties** equally sharing in the cost of said mediation. Mediation shall last at least six (6) hours and be attempted before any litigation shall be filed.

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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 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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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.

Name: 

Title: Chance Sparks, FAICP, Vice President/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 _____, 2024.

THE CITY OF MIDWEST CITY

MAYOR

SARA HANCOCK, CITY CLERK

REVIEWED for form and legality.

DONALD D. MAISCH, CITY ATTORNEY

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ATTACHMENT “A”
SCOPE OF SERVICES

Project Understanding

The City of Midwest City (Client, City) is engaging FNI to prepare a local comprehensive plan consistent with standards, procedures and best national management practices. The project planning area will encompass the existing Midwest City limits and extraterritorial jurisdiction (ETJ) as identified by the city.

The project approach outlines twelve tasks to be conducted over an estimated 14 months to achieve the RFP’s desired outcomes. A focused and up-to-date Comprehensive Plan update will guide the physical and economic development of the city, preserve the unique character of Midwest City, and enhance the quality of life for residents and visitors. The plan will guide decision-making by the City Council, Planning Commission, city departments and administrators, developers, landowners, and citizens.

ARTICLE I

Task 1: Project Management & Quality Control

FNI will perform general project management and control project quality, progress, and budget for the scoped period of completion, including FNI’s monthly reporting and invoicing requirements, biweekly status meetings with the City, and similar efforts.

Task 1 Deliverables

- Monthly one-page reports
- Biweekly project management meetings.

1.1 Freese and Nichols, Inc. Team will conduct an initial consultation session to finalize the project approach and make project team introductions.

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Kick-off meeting and study area tour (1 meeting and study area tour, totaling 8 hours)

Immediately following the kickoff meeting, FNI will participate in one (1) site tour of the study area to provide spatial context to conversations about the City’s challenges and opportunities. If unable to conduct this as an in-person tour, the City will provide a recommended tour route and key information elements. FNI and the City may also mutually agree to other approaches, such as a virtual study area tour. Project goals and timelines for each phase will be finalized during this meeting.

1.2 Freese and Nichols, Inc. will manage the project, including all sub-consultants, to ensure all work is completed accurately and on time. Freese and Nichols, Inc. will also handle all billing of each sub-consultant. The team will ensure the project is coordinated and on schedule. FNI will perform general project management and control project quality, progress, and budget or the scoped period of completion, including FNI’s monthly reporting and invoicing requirements, biweekly status meetings with the City, and similar efforts.

Task 1 Deliverables

- Monthly one-page reports.
- Biweekly project management meetings.

Task 2: Engagement and Meetings

For all engagement efforts described below, the City and FNI may mutually agree to reassign meetings and engagement methods for other forms of outreach with similar effort to leverage other opportunities in the community or allow for other creative approaches as established in the Public Involvement Plan mutually agreed to by the City and FNI. Efforts will be made to coordinate outreach to align with other community events to reach broader audiences, with attention toward tailoring the outreach to align with the atmosphere of the event. A Public Involvement Plan will be prepared, agreed to, and finalized.

1. Staff initiation conference call (1 meeting, totaling 1 hour)

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A conference call or virtual meeting with City staff will take place at the beginning of the project to familiarize all parties with the scope, project schedule, project kickoff, data request needs and timing, invoicing, communication and key staff, and other significant considerations.

2. Kick-off meeting and study area tour (1 meeting and study area tour, totaling 8 hours)
Immediately following the kickoff meeting, FNI will participate in one (1) site tour of the study area to provide spatial context to conversations about the City's challenges and opportunities. If unable to conduct this as an in-person tour, the City will provide a recommended tour route and key information elements. FNI and the City may also mutually agree to other approaches, such as a virtual study area tour.

3. Steering Committee Meetings (5 meetings, 2 hours each | 3 virtual, 2 in-person)
Steering Committee meetings will allow for the review of key components of the plan in detail, to explore possible scenarios, to debrief public participation efforts, and to receive direction on plan issues and topics. Such sessions will include an agenda, any necessary maps and handouts for review, and drafts of key tasks for review and comment. A total of five (5) in-person meetings are included in this scope of work. Then City will establish the Steering Committee with input from FNI.

4. Virtual stakeholder meetings (2 days, 8 hours per day)
A total of two (2) days of stakeholder meetings are proposed during the project, with all planned as virtual meetings unless consolidated with a planned in-person trip associated with another engagement activity of this task. These meetings shall be scheduled as back-to-back meetings, if possible, to ensure continuity of the discussion, with logical breaks as necessary.

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5. Community workshops, open houses or other engagement efforts (4 efforts, 2 hours each)
Four (4) community workshops, open houses or other engagements with similar level of effort, as established in the Public Involvement Plan, will be held during the process to identify issues and opportunities and gather feedback on citizens', visions for the City. At a minimum, two (2) of these engagements will be virtual (see section 7 below). City staff will support outreach and logistics related to community events utilizing materials and graphics generated by FNI to advertise events and public input opportunities.

6. Adoption meetings (2 meetings, 2 hours each)
FNI will attend two (2) adoption meetings; one at the Planning Commission and one at the City Council. The City and FNI may mutually agree to reassign these meetings as needed.

7. Interactive project website, virtual engagement and project brand
 - a. Establish an interactive project website that supports integrated community engagement tools, such as virtual idea walls for brainstorming, interactive mapping for geographic feedback, virtual town halls and open houses, feature-rich online surveys, participatory budgeting in a seamless platform supportive of desktop and mobile access.
 - b. Develop at least two (2) non-scientific online community surveys with the assistance of the City during the course of the project.
 - c. Establish branding for use throughout the planning process and on all documents. Branding efforts will include the provision of 2-3 concept logos and style sheets. Following the City's selection of one of these concepts, it will be refined and delivered with one round of revisions.

Task 2 Deliverables

- Project website with described capabilities

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- Meetings, events and engagements, and their associated support materials, as described
- Summaries of each engagement activity, consolidated as an appendix to the plan

Summary of meetings and trips

Based on the scope of services, FNI will attend the following meetings:

Virtual

- Twenty-eight (28) biweekly virtual coordination meetings with the City
- One (1) staff initiation conference call
- Three (3) virtual Steering Committee meetings
- Two (2) days of virtual stakeholder meetings
- Two (2) virtual community engagement activities

In-Person

- One (1) kickoff meeting and study area tour
- Two (2) in-person Steering Committee meetings
- Two (2) in-person community engagement activities
- Two (2) adoption meetings

Task 3: Draft Introduction and Community Snapshot

1. Baseline Analysis

- a. Study a historic timeline of the City, including major events impacting the physical development of the community.
- b. Analyze historic population and related growth trends and patterns.
- c. Explain patterns and impacts of demographic information collected. Demographic data will be based on the most recent US Census American Community Survey data available at the time the Notice to Proceed is given by the City.

2. Planning Context

The following are elements to be documented in order to establish the planning context for this effort:

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- a. Review past and ongoing planning efforts by the City.
- b. Evaluate regional initiatives.
- c. Conduct a physical features assessment, including topography, floodplains, developed/undeveloped land, natural features, sensitive environmental areas, and other physical implications that impact growth and development.

Task 3 Deliverables

- Draft Introduction plan element.
- Draft Community Snapshot plan element.

Task 4: Draft Vision, Guiding Principles and Goals

1. Community Vision

Develop a vision statement based on an assessment of City feedback, an understanding of existing community constraints, and a summary of public input and feedback.

2. Guiding Principles

Develop guiding principles based on analysis, community input and feedback received at the beginning of the planning process.

Task 4 Deliverables

- Draft Vision Plan element

Task 5: Draft Land Use and Development

1. Existing Land Use Analysis

Assess the land use characteristics of the City including:

- a. Analysis and update of types of land use categories (color-coded) and quantified by acreage.
- b. Discussion of existing development patterns and land use relationships, both opportunities and constraints.

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2. Future Land Use Plan

Develop a future land use plan that will take into account existing land use information, neighborhood compatibility, current zoning regulations, economic development strategies, past development patterns, infill, and redevelopment opportunities, and integrate them into a graphic depiction of the community's future. The plan will consider the following:

- a. Location of future residential, non-residential, mixed uses, open space, and institutional land uses along with associated intensities.
 - b. Location of natural and built environment characteristics of the City to promote conservation, appropriate use, and protection of both natural and cultural resources that should be considered when making future development decisions.
 - c. Location of future land uses along major transportation and transit corridors along with associated intensities, with consideration towards possible transit-oriented development.
 - d. Economic productivity through development and redevelopment strategies.
 - e. Compatibility of adjacent uses and contexts to provide transitions and buffering.
3. Metrics, Consequences, and Tradeoffs
- a. Develop future scenario data and metrics to understand the consequences and tradeoffs to the future development patterns, which may include land consumption, energy use, water use, walkability, transit accessibility, transportation, emissions, household costs, fiscal performance, and risk and resilience.
 - b. Discuss net revenue positions of different development patterns.
 - c. Identify strategies to balance and bridge the gap between current market demand, long-term desired state or aspiration goals of the community, and financial resources required to accelerate preferred development if the market is not yet

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aligned. Analysis and recommendations regarding alignment of the market to vision may alternatively be addressed in Task 10 Economic Resiliency.

4. Population Patterns

Develop a new projected growth rate and population projections for the City based on historical growth patterns and future growth considerations, derived from FNI expertise and other professional sources, such as the Association of Central Oklahoma Governments (ACOG) Metropolitan Planning Organization.

5. Change Pressure Map

Create a map that identifies the level of change occurring geographically in different areas of the City using a scoring system to identify critical locations to consider in the planning process.

Task 5 Deliverables

- Draft Land Use and Development plan element as described including goals, objectives, and recommended actions.

Task 6: Transportation and Mobility

1. Current Plans and Agency Coordination

- a. Compile pertinent planning and capital programming efforts to ensure that connectivity with other current and long-range regional system enhancements is considered.
- b. Analyze data from the City, the Oklahoma Department of Transportation (ODOT), the Association of Central Oklahoma Governments (ACOG), transit providers, railroads, and adjacent communities.
- c. Compile appropriate GIS-based mapping for use in the study. The City will provide current GIS data to include city and extraterritorial jurisdiction limits, street centerline and names, parcel data, current right-of-way, existing thoroughfare plan, and public and community facilities.

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2. Existing Conditions Assessment

Conduct a general overview of the existing thoroughfare system to serve as a basis for plan development. Elements included as a part of this assessment will include existing street functional classification, identification of critical intersections, existing and future major traffic generators, and key regional connections. Data on available traffic volumes or validated travel demand modeling will be used to assess general roadway utilization and potential issues resulting from long-term growth. Data compiled from this task will be documented to establish a planning context and include:

- a. Current local and regional travel patterns.
- b. Key planning, growth, and development influences.
- c. Identified issues and needs of the transportation network.

3. Evaluation of Future Roadway Needs

- a. Review available travel forecast modeling information to serve as a conduit for defining future network needs, roadway sizing, and system improvements necessary to address long-term growth and development.
- b. Coordinate with the Association of Central Oklahoma Governments (ACOG) to obtain relevant forecasts, and other long-range planning or growth trends based on historical count figures.
- c. Internally collaborate with and coordinate relevant interim and long-term growth, as well as future land use and housing planning, to ensure relevant transportation system connectivity and integration is addressed to meet the continuous growth needs of the City. Land use location, type, density, and intensity will be considered as part of the thoroughfare planning process. Other information, such as future major employers, large population concentrations, community facilities, or amenities will also be considered.

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4. Thoroughfare Plan and Functional Classification

- a. Update the Thoroughfare Plan to address community needs, regional connectivity, and long-term needs for thoroughfare network development.
- b. Address system functional classification to facilitate long-term mobility needs.
- c. Identify arterial class intersections within the network, developing policy recommendations for general design and right-of-way parameters.

5. Design Standards

- a. Review current design standards and recommendations prepared for each functional class of street.
- b. Update roadway cross-sections graphically depicting land configurations, pedestrian realm, and right-of-way dimensions.
- c. Prepare general design standards for thoroughfare layout (location, intersection spacing, etc.) along with supporting text detailing pedestrian systems.
- d. Consider approaches to create multimodal solutions and right-sizing of facilities, including concepts like road diets and integration of public health outcomes.
- e. Define key corridor considerations necessary for system implementation and preservation of the carrying capacity of network facilities. Elements such as access coordination, universal design with a focus on ADA, shared drives, special pedestrian facilities, and coordinated median openings will be highlighted.

6. Action Plan

- a. Provide a list of short- and long-term actions for implementation of the thoroughfare plan and include roadway needs, policy considerations (e.g., traffic impact analysis), and other programmatic items (e.g., pavement management program).

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- b. Action items will be organized into a matrix describing the specific action, its priority and timeframe, and the parties responsible for carrying out the action.

Task 6 Deliverables

- Draft Transportation and Mobility plan elements as described, including goals, objectives, and actions

Task 7: Housing Analysis

1. Neighborhood and Housing Assessment
 - a. Evaluate neighborhoods at a high level in terms of completeness (where residents have easy, convenient access to many of the places and services they use daily including grocery stores, restaurants, schools, and parks, without relying heavily on an automobile).
 - b. Identify a variety of existing and recommended neighborhood and housing programs to address any emerging issues, equity, and public health.
 - c. Explore housing typologies to address compatibility with character while allowing for incremental change, such as the use of accessory dwellings, townhomes, and a variety of building type formats and other forms of housing responsive to market interest and need.

2. Neighborhood and Small Area Planning Framework Guidance.

Evaluate approaches to create a policy framework for future neighborhood and small area planning supportive of compatible infill, redevelopment, and revitalization opportunities.

Task 7 Deliverables

- Draft Housing and Neighborhoods plan element as described including goals, objectives, and actions with attached timelines.

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Task 8: Community Character and Urban Design

The cornerstone of a livable community lies within its neighborhoods and human connection. The aim of this section is to evaluate and develop recommendations to encourage quality design of new development and redevelopment.

1. Develop policies that address community gateways, community image, integration of major roadway corridors, and the preservation of character-giving community elements.
2. Urban Form and Overlay Districts
 - a. Assess and provide recommendations on the urban form of the City including compact development, corridors, activity centers, and open space networks.
 - b. Assess methods and approaches to support mixed-use development at a variety of scales and intensities.
 - c. Analyze and propose where use of overlay districts can be used to accomplish objectives, outlining policies and boundaries for proposed districts.
3. Examine opportunities to maintain and enhance the overall quality of life.
4. Recommendations will be made to address the following:
 - a. Street design enhancements
 - b. Pedestrian enhancements
 - c. Gateways along key routes to and through the City
 - d. Community image
 - e. Screening and buffering techniques.

Task 8 Deliverables

- Draft Community Character and Urban Design plan elements as described including goals, objectives, and actions with attached timelines.

Task 9: Public Services, Facilities, and Infrastructure

1. Integration of Stormwater, Water, and Wastewater Utility Master Plans

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Identify and discuss implications for the City’s infrastructure resulting from plan direction for land use and development intensity, integrating existing Stormwater, Water, and Wastewater Master Plans as applicable, and developing high-level goals, policies, and action items.

2. Facilities

Develop high-level goals, policy, and action items related to necessary community facilities and services, such as police, fire, and parks/open space, and hazard mitigation in correlation to future land use projections.

Task 9 Deliverables

- Draft Public Facilities and Infrastructure plan elements as described, including goals, objectives, and actions.

Task 10: Economic Resiliency

1. Market Demand Analysis

Conduct an analysis to explore the long-term capacity for housing, retail, commercial, and industrial uses that may generate direct employment opportunities in the City in both a new development and redevelopment capacity. This will be prepared in consideration of the City’s regional market position and trends. Focus will be on commercial factors that can expand primary jobs and retail opportunities with a priority on increasing the tax base, growing quality jobs, and diversifying the economy.

2. Catalyst Site Identification

Calibrate catalyst identification and recommendations based upon market findings to the identification of up to two catalytic redevelopment sites within the City. These site studies will illustrate application of the plan framework elements above to specific sites. These will be realistic, site-specific drawings that show how development could occur consistent with the Plan Framework and will serve as a basis for feasibility analyses.

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a. Catalyst Sites Feasibility Analysis

Analyze the site designs for two catalytic sites identified above to determine feasibility of development and identify the potential need for the City to support and facilitate such development. This task involves a high-level proforma analysis based on market factors identified in Task 10.1 Market Demand Analysis. These factors will include market-based assumptions of land values, development and construction costs, rents, and operating expenses that contribute to project feasibility. If feasibility gaps exist, this analysis will identify options and strategies to address these gaps including public grants or incentives, if needed.

3. Economic Engagement and Analysis

- a. Conduct a focus group and/or conduct research regarding factors affecting job attraction. (Est 8hrs).
- b. Conduct a focus group and/or conduct research regarding suitability of housing to attract primary jobs and expand economic development. (Est 8hrs).
- c. Catalyst shall synthesize findings and conduct an internal staff workshop to discuss recommendations on opportunities to mitigate factors affecting job attraction, including housing, job environment, real estate suitability, and other factors discovered during this phase of analysis. (Est 16 hrs)

4. Economic Playbook and Action Plan

Identify specific action steps to implement the plan's objectives. This will contain an implementation plan and a tailored economic "playbook" to guide City initiatives within the plan horizon.

Task 10 Deliverables

- Draft Economic Resiliency plan element as described, including goals, objectives, and actions

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Task 11: Metrics and Implementation

The implementation plan will be structured into a coordinated action program so that City leaders, staff, and other decision-makers can easily identify the steps that are necessary to achieve the vision for the City that is described within the Comprehensive Plan. The implementation plan will outline priorities in a matrix format, primarily by:

1. Reviewing the various policies and related recommendations from each plan element.
2. Dividing the policies and related recommendations into applicable implementation techniques/actions, such as regulatory actions (e.g., possible zoning or subdivision ordinance updates), programs, and intergovernmental partnerships, to create an overall Action Plan.
3. Prioritizing the implementation techniques/actions into appropriate time periods.
4. Establishing appropriate metrics from which to gauge the effectiveness of the strategies implemented and progress toward full plan implementation.

Task 12: Preparation of Final Documents

1. Draft Report

Individual draft plan elements will be sent throughout the planning process. To the extent possible, these elements will be provided in a format to ease review and comment for the City. The City will consolidate comments from staff, Steering Committee, and others and provide one set of consolidated comments per plan element.

FNI will prepare a draft Comprehensive Plan Report (Complete Draft) that will document the planning process and aforementioned tasks. It will present a clear narrative with accompanying graphics and figures, as necessary, to describe the intentions of the community. The document will be designed with modern graphic design and narrative approaches to be approachable by both technical and non-technical audiences. The draft will be provided to the City, Steering Committee, and other parties the City wishes to include for review and comments. The City will consolidate comments from staff,

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Steering Committee and others, and provide one set of consolidated comments. FNI will facilitate a comment review meeting to clarify any comments, if necessary.

FNI will prepare a revised draft Comprehensive Plan Report (Final Draft) to address the comments and revisions from the Complete Draft. This draft will serve as the draft for approval consideration by the Planning Commission and City Council.

2. Final Report and Deliverables

FNI will produce an “as adopted” final report to incorporate any changes made during the adoption process by the City Council. This document will be created in digital format, including both text and mapping, such that it will be easily reproducible. Electronic files of the final Comprehensive Plan will be provided to the City.

3. Plan Mapping

Project mapping is vital to both the dissemination of information at meetings as well as to the Comprehensive Plan document. All mapping created by FNI will be prepared using ESRI’s ArcGIS software and other necessary rendering software. It is assumed that the City will provide all necessary base mapping data in compatible electronic format in order to generate the necessary mapping.

Task 12 Deliverables

- Complete draft (Technical Steering Committee and Steering Committee review)
- Final Draft
- As-adopted Final Report, including all graphics and mapping in native formats

*All drafts and final deliverables will be provided in digital format

ARTICLE II

ADDITIONAL SERVICES: Additional Services to be performed by CONSULTANT, if authorized by City, which are not included in the above described basic services, are described as follows:

- A. Printing and binding of documents will be billed in accordance with the rates outlined in

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- Attachment CO. CONSULTANT, following a request for assistance from the City, will prepare an estimate for approval by the City prior to initiating work.
- B. Making revisions to drawings or other report documents when such revisions are 1) not consistent with approvals or instructions previously given by City or 2) due to other causes not solely within the control of CONSULTANT.
 - C. Meeting or trips in excess of the number of meetings included in Article I for coordination meetings, public meetings or other activities. Additional meetings requested by the City in excess of those included in Article I will be billed hourly in accordance with the rates outlined in Attachment CO.
 - D. Preparation of new impact fees or impact fee updates for water, wastewater, roadway or drainage under Chapter 395.
 - E. Preparation of water, wastewater or drainage master plans.
 - F. Preparation of new or updated zoning ordinance, subdivision ordinance and other development regulations, including unified development codes.
 - G. Preparing applications and supporting documents for government grants, loans, or planning advances and providing data for detailed applications, including CAMPO TIP applications.
 - H. Preparing data and reports for assistance to City in preparation for hearings before regulatory agencies, courts, arbitration panels or any mediator, giving testimony, personally or by deposition, and preparations therefore before any regulatory agency, court, arbitration panel or mediator.
 - I. Revisions, contract modifications, studies or analysis required to comply with local, State, Federal or other regulatory agencies that become effective after the date of this agreement.
 - J. Providing basic or additional services on an accelerated time schedule. This includes cost for overtime wages of employees and CONSULTANTs, inefficiencies in work sequence and plotting or reproduction costs directly attributable to an accelerated time schedule directed by the City.

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- K. Preparing statements for invoicing or other documentation for billing other than for the standard invoice for services attached to this professional services agreement.
- L. Providing document revisions in excess of those outlined in Article I.

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ATTACHMENT “B”

The scope of work for Tasks 1 - 12 will be completed for a **LUMP SUM** fee of **\$350,000 INCLUSIVE of EXPENSES**. Additional Services will be provided upon request from the Owner and authorized in writing before commencing work.

Fee Breakdown by Task

TASK	LUMP SUM FEE
Task 1: Project Management & Quality Control	\$53,020
Task 2: Engagement and Meetings	\$109,460
Task 3: Draft Introduction and Community Snapshot	\$10,312
Task 4: Draft Vision, Guiding Principles and Goals	\$9,105
Task 5: Draft Land Use and Development	\$21,674
Task 6: Transportation and Mobility	\$19,784
Task 7: Housing and Neighborhoods	\$16,267
Task 8: Community Character and Urban Design	\$14,225
Task 9: Public Services, Facilities, and Infrastructure	\$9,861
Task 10: Economic Resiliency	\$58,201
Task 11: Implementation	\$6,680
Task 12: Preparation of Final Documents	\$6,650
General Expenses	\$10,261
Contingency	\$4,500
Total	\$350,000

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ATTACHMENT “C”

TIME OF COMPLETION: CONSULTANT is authorized to commence work on the Project upon execution of this Agreement and agrees to complete the services within **fourteen (14) months** of the notice to proceed.

If CONSULTANT’s services are delayed through no fault of CONSULTANT, CONSULTANT shall be entitled to adjust the 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 in the flow of information to be provided to CONSULTANT, governmental approvals, etc. These delays may result in an adjustment to compensation as outlined on the face of this Agreement and will be based upon rates outlined in Attachment CO.

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ATTACHMENT “D”

Service Provider’s Project Team

The following are the members of the Consultant’s Project Team:

Freese and Nichols, Inc.

- Dawn Warrick, AICP- Project Manager
- Dave Van De Weghe, AICP- Assistant Project Manager
- Daniel Harrison, AICP- Quality Control
- Jennifer Wasinger- Senior Advisor
- Wendy Bonneau, FAICP- Principal-in-Charge
- Shobha Pathmanathan- Community Engagement
- Jake Lange- Future Land Use Plan
- Rhys Wilson- Housing Analysis and Neighborhood Plan
- Ellen Emeric, AICP- Thoroughfare Plan Update
- Brandon Huxford, PE- Thoroughfare Plan Update
- Wilson Kerr – Economic Development

Catalyst Commercial

- Chris Branham- Economic Development
- Jason Claunch- Economic Development

PROFESSIONAL SERVICES AGREEMENT
between
Freese and Nichols, Inc.
And
THE CITY OF MIDWEST CITY

ATTACHMENT "E"

	CERTIFICATE OF LIABILITY INSURANCE	FREEAND-02	KSUTTON														
		DATE (MM/DD/YYYY) 10/20/2023															
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).																	
PRODUCER Ames & Gough 8300 Greensboro Drive Suite 980 McLean, VA 22102	CONTACT NAME: PHONE (AC, No, Ext): (703) 827-2277 FAX (AC, No): (703) 827-2279 E-MAIL ADDRESS: admin@amesgough.com																
INSURED Freese and Nichols, Inc. 801 Cherry Street, Suite 2800 Fort Worth, TX 76102	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;">INSURER(S) AFFORDING COVERAGE</th> <th style="width: 20%;">NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : Hartford Underwriters Insurance Company A+ (XV)</td> <td style="text-align: center;">30104</td> </tr> <tr> <td>INSURER B : Valley Forge Insurance Company A(XV)</td> <td style="text-align: center;">20508</td> </tr> <tr> <td>INSURER C : Continental Insurance Company A(XV)</td> <td style="text-align: center;">35289</td> </tr> <tr> <td>INSURER D : Travelers Casualty and Surety Company</td> <td style="text-align: center;">19038</td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>			INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Hartford Underwriters Insurance Company A+ (XV)	30104	INSURER B : Valley Forge Insurance Company A(XV)	20508	INSURER C : Continental Insurance Company A(XV)	35289	INSURER D : Travelers Casualty and Surety Company	19038	INSURER E :		INSURER F :	
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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 SUBR (NSD) (WVD)	POLICY NUMBER POLICY EFF (MM/DD/YYYY) POLICY EXP (MM/DD/YYYY) LIMITS														
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual Liab. GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PER <input checked="" type="checkbox"/> LOC <input type="checkbox"/> OTHER:		7063394194 10/23/2023 10/23/2024 EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/PROP AGG \$ 2,000,000 \$														
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY		7063394177 10/23/2023 10/23/2024 COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$														
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000		7063394180 10/23/2023 10/23/2024 EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$														
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N N N/A If yes, describe under DESCRIPTION OF OPERATIONS below		7063394213 10/23/2023 10/23/2024 <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000														
D	Professional Liab.		107930947 10/23/2023 10/23/2024 Per Claim \$ 5,000,000														
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															
The City of Midwest City 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 															

ACORD 25 (2016/03)

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Planning & Zoning Department

Matt Summers, Director of Planning & Zoning
Tami Anderson, Administrative Assistant
Emily Richey, Current Planning Manager
Cameron Veal, Associate Current Planner

To: Honorable Mayor and Council
From: Matt Summers, Director of Planning & Zoning
Date: August 27, 2024
Subject: (PC-2181) Public hearing, discussion, consideration, and possible action of approval the Final Plat of Glenhaven Commercial for the property described as a tract of land lying in the Southwest Quarter (SW/4) of Section Thirty-Four (34), Township Twelve (12) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma.

Staff and the Applicant have agreed to table this agenda item (PC-2181) until the September City Council meeting to allow for resolution of issues related to the development. The Applicant agreed to have the item tabled via email on August 5, 2024.

The Planning Commission tabled the item at their August 6, 2024, meeting. Tabling this agenda item does require action by the City Council.

Sincerely,

Matt Summers, AICP
Director of Planning & Zoning



Planning & Zoning Department

Matt Summers, Director of Planning & Zoning
Tami Anderson, Administrative Assistant
Emily Richey, Current Planning Manager
Cameron Veal, Associate Current Planner

To: Honorable Mayor and Council
From: Matt Summers, Director of Planning & Zoning
Date: August 27, 2024
Subject: (PC-2182) Public hearing, discussion, consideration, and possible action of approval the Final Plat of Glenhaven for the property described as a tract of land lying in the Southwest Quarter (SW/4) of Section Thirty-Four (34), Township Twelve (12) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma.

Staff and the Applicant have agreed to table this agenda item (PC-2182) until the September City Council meeting to allow for resolution of issues related to the development. The Applicant agreed to have the item tabled via email on August 5, 2024.

The Planning Commission tabled the item at their August 6, 2024, meeting. Tabling this agenda item does require action by the City Council.

Sincerely,

Matt Summers, AICP
Director of Planning & Zoning

To: Honorable Mayor and Council
From: Matt Summers, Director of Planning & Zoning
Date: August 27, 2024

Subject: (PC-2183) Public hearing, discussion, consideration, and possible action of a resolution to amend the Comprehensive Plan from Single-Family Detached Residential Land Use to High Density Residential Land Use; and an ordinance to redistrict from Single-Family Detached Residential District (“R-6”) to High Density Residential District (“R-HD”), for the property described as a part of the Northeast Quarter (NE/4) of Section Twenty-Six (26), Township Twelve (12) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma, located at 1905 & 1919 N. Douglas Blvd., Midwest City.

Executive Summary: The Applicant, Mr. Brad Schwab of Cornerstone Housing Group LLC, is requesting to amend the Comprehensive Plan to High Density Residential Land Use and rezone the property to High Density Residential District.

The subject property is currently vacant and the conceptual plan provided by the applicant shows six (6) buildings totaling one hundred ninety-eight (198) dwelling units. The proposed number of dwelling units decreased from the initial two hundred twenty-five (225) units. The proposed concept includes a unit mix of 54 one-bedroom units, 84 two-bedroom units, 42 three-bedroom units, and 18 four-bedroom units.

Staff would like it noted that if the rezoning is approved, it does not guarantee all the proposed units will fit on site. If this application is approved, all development regulations for the R-HD district shall be observed (which includes a maximum building coverage of 60% of lot area) and all permitted uses in the R-HD district will be allowed.

Though the Future Land Use is currently designated as Low Density Residential, due to it abutting a primary arterial and other factors, High Density Residential could be a compatible use. Transition areas should be incorporated into the plans that are adjacent to single-family residential areas.

Sight-proof screening shall be required. When a property zoned high density residential lies adjacent to property zoned single- or two-family residential, the owner of the property zoned high density residential must erect sight-proof screening along all sides of the property abutting single or two-family residential prior to multi-family use of the property.

To avoid a negative lift station impact, it is recommended to evaluate and implement a sewer extension along NE 17th Street to 8625 NE 17th Street. This will allow for a gravity flow to the Water Resource Recovery Facility (“WRRF”) and not impact the lift station.



If the application is approved, the applicant will then go through the plat process. At that time, water, sewer, drainage, and street requirements will be addressed.

The applicant hosted a neighborhood meeting at the Community Center in June to give a presentation to surrounding property owners of the proposal. A few surrounding property owners voiced their objection to the proposal. Concerns of density, privacy, safety, and traffic were voiced.

Both state and local requirements were met.

The Applicant was present at Planning Commission and addressed the Commission and provided a presentation of the proposal (attached to this report).

At the time of this writing staff has received two phone calls and three emails (attached to this report) in opposition to the proposal and four (4) surrounding property owners voiced their opposition to the Commission at Planning Commission. Density, increased traffic, safety concerns, visual barriers, building height, concerns of theft and vandalism, parking lot lighting, animal safety, infrastructure capacity, and incompatibility with the surrounding single-family homes were among the concerns voiced.

There has been one (1) call in favor of the proposal.

Staff recommends approval of amending the Comprehensive Plan and of the rezone.

Planning Commission recommended approval of this item subject to staff comments (5-2).

Action is at the discretion of the Council.

Dates of Hearing:

Planning Commission- August 6, 2024

City Council- August 27, 2024

Date of Pre-Development Meeting:

March 27, 2024

Council Ward: Ward 5, Sara Bana

Owner: Gary Weed (Clearwater Holdings, LLC)

Applicant: Brad Schwab (Cornerstone Housing Group, LLC)

Proposed Use: Multifamily housing

Size: The subject property has a frontage of approximately 602 feet off NE 17th, a depth of 804 feet, and contains an area of 483,516 square feet, more or less.

Development Proposed by Comprehensive Plan:

Area of Request- Single-Family Detached Land Use

North- Single-Family Detached Land Use

South- Single-Family Detached Land Use

East- Single-Family Detached Land Use

West- Single-Family Detached Land Use

Zoning Districts:

Area of Request- R-6, Single-Family Detached Residential District

North- C-3, Community Commercial District
South- R-6, Single-Family Detached Residential District
East- R-6, Single-Family Detached Residential District
West- R-6, Single-Family Detached Residential District

Land Use:

Area of Request- Vacant
North- A-1 Accounting & Tax Service; Summit Peak Self Storage
South- Single-family residences
East- Star View Heights Addition
West- Single-family residences

Comprehensive Plan Citation:

The future land use designation for the property is Single-Family Detached Residential. The proposed use does not fall within the parameters of the current future land use designation, therefore, an amendment to the Comprehensive Plan is required if the rezoning is approved.

The Applicant has requested the future land use designation be changed to High Density Residential.

High Density Residential Land Use

Traditional apartment-type units in attached living complexes characterize high density residential land use. There are currently several high-density residential areas within Midwest City. It should be noted that medium density uses should also be permitted in any area designated for high density use.

In instances where a development proposal does not directly reflect the land use pattern for a site shown on the Future Land Use Map, the Comprehensive Plan directs us to consider the following (staff comments in bold):

1. Will the proposed change enhance the site and the surrounding area?
New development with the most updated development regulations could enhance the surrounding area. The required landscaping and screening could enhance the arterial corridor.
2. Is the proposed change a better land use than that recommended by the *Future Land Use Plan*?
The proposed change is neither better nor worse than what it recommended by the Future Land Use Plan.
3. Will the proposed use impact adjacent residential areas in a negative manner? Or will the proposed use be compatible with and/or enhance, adjacent residential areas?
The proposed use could impact residential areas in a negative manner if the property falls into disrepair. However, required open space and sight-proof screening may aid in mitigating potential negative impacts.
4. Are uses adjacent to the proposed use similar in nature in terms of appearance, hours of operation, and other general aspects of compatibility?
Most of the adjacent uses are residential. Therefore, the potential residents of the apartments would generally have the same traffic habits as the single-family detached residents. The masonry requirement percentage is the same for multifamily developments as single-family (85%).

5. Does the proposed use present a significant benefit to the public health, safety, and welfare of the community? Would it contribute to the City's long-term economic well-being?

The proposed use would offer more housing for the north side of town which could result in more residents who shop local to contribute to sales tax.

The Comprehensive Plan states, "It should be incumbent upon the applicant to provide evidence that the proposal meets the aforementioned considerations and supports community goals and objectives..." This information is not a part of the application materials submitted for staff review. The applicant should be prepared, in presentations before the Planning Commission and City Council to justify the amendment to the Comprehensive Plan including why High Density Residential is a better use of the site than Single-Family Detached Residential.

Municipal Code Citation:

2.10. R-HD, High Density Residential District

2.10.1. *General Description.* This residential district is intended to provide for a density of more than twenty (20) units per gross acre. The principal use of land is for a wide variety of dwelling types. Related recreational, religious, and educational uses normally located to service residential areas also are permitted to provide the basic elements of convenient, balanced, and attractive living areas.

2.10.2. *District Use Regulations.* Property and buildings in the R-HD, High Density Residential District shall be used only for the purposes listed within Table 4.9-1: Use Chart (Page 75).

2.10.3. *Development Regulations.* Property and buildings shall conform to the related standards listed within Table 3.2-1: Residential Area Regulations and Standards Chart (Page 47) and Section 5 Supplemental Regulations (Page 81).

(A) *Off-street parking, loading and access.* All uses shall contain adequate space on private property to provide for parking, loading, and maneuvering of vehicles in accordance with regulations established in 5.3 Parking and Loading (Page 91) of which Table 5.3-2: Specific Parking Requirements (Page 98) is Included.

(B) *Site plan.* A site plan shall be prepared in accordance with 7.5 Site Plan (Page 183) for any 4.2.3. Townhouse (Single-Family Attached) (Page 50), 4.2.4. Multifamily Residential (Page 50), or 4.2.8. Group Residential (Page 51) type use.

History:

1. Property has been zoned single-family detached residential as far as our records indicate.

Next Steps:

If Council approves this rezone, the applicant can proceed with the preliminary plat process. A pre-development meeting shall be required.

Staff Comments-

There are numerous construction requirement references made in the Engineering, Fire Marshal, and Public Works portions of this report. The intent of the Municipal Code is to directly involve the applicant in continued community development activities such as extending public sewer and water and making street improvements, for examples. This is a rezoning application, and the construction references are provided to make the applicant

and subsequent developers of this property aware of their applicability as they relate to the future development or redevelopment of this property.

Engineering Staff Comments:

Note: No engineering improvements are required with this application.

Water Supply and Distribution

There are public water mains bordering the proposed parcels, a twelve (12) inch line running along the west side of North Douglas Boulevard and a six (6) inch line running along the south side of N.E. 17th Street. Any new building permit will require tying to the public water system as outlined in Municipal Code 43-32.

Sanitary Sewerage Collection and Disposal

There is a public sewer main bordering the proposed parcel, an eight (8) inch line running along the east side of North Douglas Boulevard.

Note the area of request is not located in the east side collection area currently under the sewer moratorium. However, the increase in density that will be granted with this rezoning will require the applicant to do a sewer capacity study on this particular part of the collection system, analyzing the impact the proposed development will have on the existing downstream system. This study will be required as part of any preliminary plat application.

Any new building permit will require tying into the public sewer system as outlined in Municipal Code 43-109.

Streets and Sidewalks

Access to the parcel is from North Douglas Boulevard and N.E. 17th Street. North Douglas Boulevard is classified as a primary arterial road in the 2008 Comprehensive Plan. N.E. 17th Street is classified as a local road in the 2008 Comprehensive Plan. Public road and sidewalk improvements are not required as part of this application.

Drainage and Flood Control, Wetlands, and Sediment Control

The area of request is shown to be in an Area of Minimal Flood Hazard on Flood Insurance Rate Map (FIRM) number 40109C0310H, dated December 18th, 2009. Public drainage and detention improvements are not required as part of this application. However, the high density that will be granted with this rezoning will require an extensive drainage analysis to negate any potential impact to the subject property, the adjacent properties, and the capacity of the existing drainage collection system. This analysis will be required as part of any preliminary plat application.

Easements and Right-of-Way

No further easements or right of way would be required with this application.

Fire Marshal's Comments:

Fire hydrants shall be located and so spaced that no hose lay from a fire apparatus exceeds five hundred (500) feet within areas containing one and two-family detached dwellings.

Access and operational standards for controlled access gates and gated subdivisions shall meet the requirements set forth in Midwest City Ordinance Section 15-26.

- All new commercial construction and gated communities and businesses in the city shall provide an approved emergency rapid access device or key box.

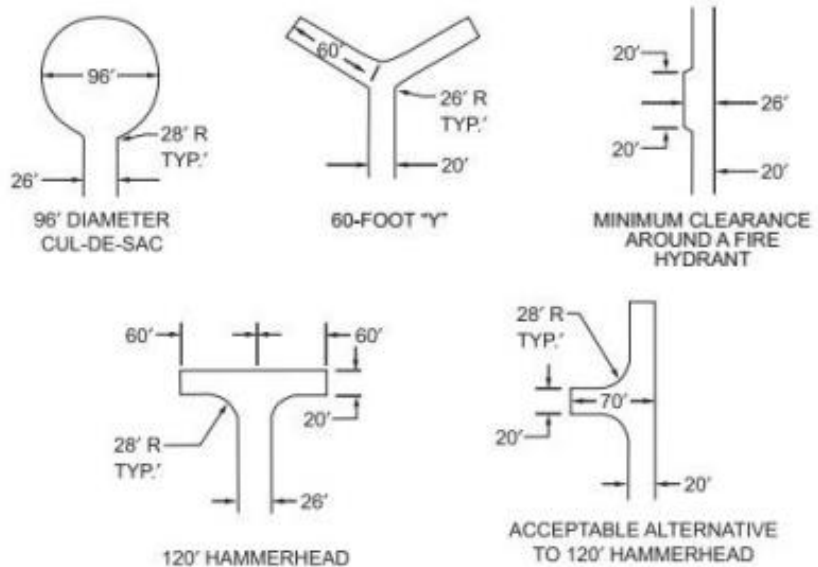
Multiple-family residential projects having more than 200 dwelling units shall be provided with two separate and approved fire apparatus access roads regardless of whether they are equipped with an approved automatic sprinkler system.

Multiple-family residential projects having more than 100 dwelling units are required to have two separate fire apparatus access roads. They shall be placed a distance apart equal to not less than one-half of the length of the maximum overall diagonal dimension of the property or area to be served, measured at a straight line between accesses.

Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet (7925 mm), exclusive of shoulders (see Figure D103.1).

Dead-end fire apparatus access roads in excess of 150 feet (45 720 mm) shall be provided with width and turnaround provisions in accordance with Table D103.4. Fire apparatus access roads shall not exceed 10 percent in grade.

This code analysis has been provided with the current information provided by the applicant. This list is not an all-inclusive list compliance due to the limited information available at the time of this report. A full review can be completed once a comprehensive floor plan/life safety analysis is provided by the architect/designer of record.



Public Works' Comments:

Line Maintenance

Water

- Any required water main extension shall be a designed looped system to eliminate dead ends. Fire hydrant locations shall be installed per Midwest City Municipal Code Section 15-22.
- Water main extension plans shall be approved by Oklahoma Department of Environmental Quality (“ODEQ”) and Midwest City prior to Line Maintenance approval of building permit(s).
- Water meter(s) shall be installed in “green belt” per Midwest City Municipal Code Section 43-54.
*Two-foot horizontal green belt buffer zone and vertical clearance zone of five feet.

Sewer

- Sanitary sewer is available to the property. The applicant shall be responsible for communicating the anticipated daily sewer discharge and impact to lift station.
- To avoid a negative lift station impact, it is recommended to evaluate and implement a sewer extension along NE 17th Street to 8625 NE 17th Street (manhole B-3-046). This will allow for a gravity flow to the Water Resource Recovery Facility (“WRRF”) and not impact the lift station.

Landscaping

Protection of Utilities.

- No street tree, other than those species listed as small trees in section 42-5 of Midwest City Municipal Code, may be planted near or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground waterline, sewer line, transmission line or other utility.

Distance from fireplugs.

- No street trees shall be planted closer than ten (10) feet from any fireplug per Section 42-9 of Midwest City Municipal Code.

**Please note, these requirements do not supersede landscape requirements per Zoning Regulations. If landscaping is to be removed due to encroachment of required utilities protection buffer and/or fireplug distance requirements, new landscaping plan shall be submitted to Planning & Zoning for approval.*

Sanitation

All new commercial buildings shall follow Ordinance No. 3427 of Midwest City Municipal Code regarding trash dumpster(s) and enclosure and dumpster site location.

(A) Dumpster Requirements

1. All new commercial buildings shall be served by a minimum of one (1) eight-yard capacity dumpster provided by the City, unless other arrangements are approved by the City's Environmental Services Direction in compliance with this code.
2. All dumpsters shall be screened/enclosed on three (3) sides by a minimum of eight (8) foot tall masonry walls.
3. Such enclosures shall have inside dimensions of no less than twelve (12) feet in width and fourteen (14) feet in length.
4. Gates shall be incorporated into the design of the enclosure and shall provide a twelve (12) foot wide clear space when open.
5. A locking device shall be installed on the gates.
6. Keeper latches shall be installed to allow gates to remain open during the servicing of the refuse container.

(B) Dumpster Site Location

1. At the time of preparing plans for new commercial buildings, land area on the site shall be designated as a location for the required dumpster(s) and enclosure, which shall be indicated on those plans.
2. An unobstructed approach shall be provided to allow refuse collection trucks to maneuver on the property without the backing onto a public street.

Stormwater

- All applicable land disturbance permits shall be pulled.

Planning Division:

Staff met with the applicant March 27, 2024 for a pre-development meeting.

The subject property is currently vacant and the conceptual plan provided by the applicant shows six (6) buildings totaling one hundred ninety-eight (198) dwelling units. The proposed number of dwelling units decreased from the initial two hundred twenty-five (225) units. The proposed concept includes a unit mix of 54 one-bedroom units, 84 two-bedroom units, 42 three-bedroom units, and 18 four-bedroom uses.

The Comprehensive Plan calls for mid-block properties, such as the subject property, to be developed as residential, light retail, or office uses. It also states that high density residential should be located adjacent to arterial roadways, incorporate transition area adjacent to single-family residential dwellings, and provide useable open space. This site, and the concept plan, have taken some of these items into account. If the application is approved, the site plan submitted with the building permit could try to provide additional buffering along the southern and western property lines. Useable open space is proposed with the playground site, and possibly also between the two easternmost apartment buildings. Any site plans submitted for approval should clarify the number of acres of useable open space being provided.

Staff would like it noted that if the rezoning is approved, it does not guarantee all the proposed units will fit on site. If this application is approved, all development regulations for the R-HD district shall be observed and all permitted uses in the R-HD district will be allowed.

Masonry requirements:

- All multi-family developments shall consist of eighty-five (85) percent masonry materials.
- Prohibited: Concrete masonry units, concrete panel construction, vinyl siding, wood engineered or manufactured wood, medium density fiberboard, particle board, or Masonite shall be prohibited in the construction of residential units.
- Approved masonry materials for residential construction include brick, rock, stone, stucco, cementitious fiberboard and other materials as approved by staff.

Parking requirements:

4.2.4. Multifamily Residential

- Efficiency and 1 bedroom (1.5 spaces per dwelling unit)
- Two or more bedrooms (2 spaces per dwelling unit)

Landscaping requirements:

- a. A base landscaping of six (6) trees and twelve (12) shrubs is required for a new building.
- b. Two (2) trees and two (2) shrubs are required for every ten (10) parking spaces installed.
- c. Trees planted pursuant to this section shall meet the standards contained in Chapter 42 (Tree Ordinance) of the Midwest City Code of Ordinances.
- d. A minimum of ten (10) percent of the net land area being developed must be dedicated to landscape/open space area.
- e. Street right-of-way dedicated for public use shall not be counted as part of the landscape/open space area or island(s).
- f. Trees planted within street right-of-way may be counted as part of the number of trees required.
- g. No more than twenty-five (25) percent of the total required trees may be located in the right-of-way.
- h. All requirements pertaining to size and separation from utilities shall meet the regulations as specified in Chapter 42 (Tree Ordinance) of the Midwest City Code of Ordinances.
- I. Existing trees that meet the requirements of Chapter 42 (Tree Ordinance) of the Midwest City Code of Ordinances and 5.2.5.(B)(2) (Page 86) of this Ordinance may be counted to meet required landscaping.
- j. No less than seventy-five (75) percent of the landscaping installed shall be in the front yard of the property.
- k. Street trees shall be required along the frontage of all arterials and conform to the standards for spacing and tree type as set forth in the latest version of the Midwest City Landscape Plan.

Screening

- Sight-proof screening shall be required. When a property zoned high density residential lies adjacent to property zoned single- or two-family residential, the owner of the property zoned high density

residential must erect sight-proof screening along all sides of the property abutting single or two-family residential prior to multi-family use of the property.

Staff recommends approval of amending the Comprehensive Plan to High Density Residential Land Use and the ordinance to redistrict the subject property to High Density Residential District based on the analysis and comments above.

Action is at the discretion of the Council.

Action Required:

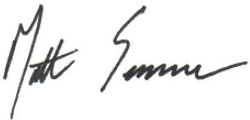
Approve or reject the resolution amending the Comprehensive Plan from Low Density Residential Land Use to High Density Residential Land Use; and to approve or reject the ordinance to redistrict from Single-Family Detached Residential District (“R-6”) to High Density Residential District (“R-HD”) for the property noted herein, subject to staff comments as found in the August 27, 2024 Council agenda packet and made part of the PC-2183 file.

Suggested Motions:

“To approve the resolution amending the Comprehensive Plan to High Density Residential Land Use subject to staff comments found in the August 27, 2024 Council agenda packet and made part of the PC-2183 file.”

“To approve the ordinance redistricting 1905 N. Douglas Boulevard and 1919 N. Douglas Boulevard to the High-Density Residential District subject to staff comments found in the August 27, 2024 Council agenda packet and made part of the PC-2183 file.”

Please feel free to contact my office at (405) 739-1223 with any questions.



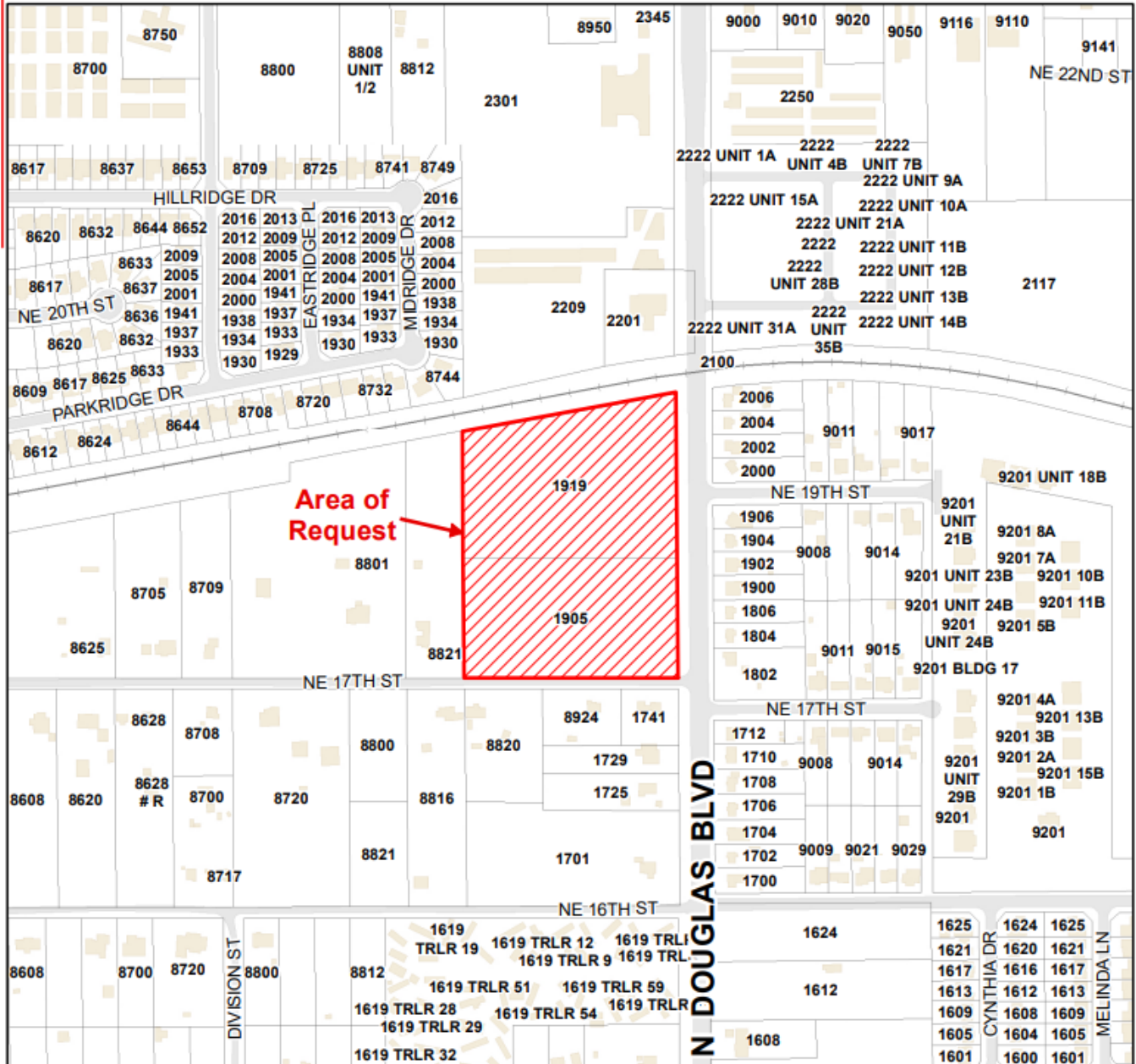
Matt Summers, AICP

Director of Planning & Zoning

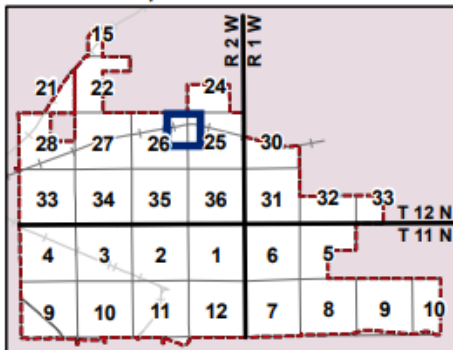
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




GIS- Information Technology/ Planning & Zoning



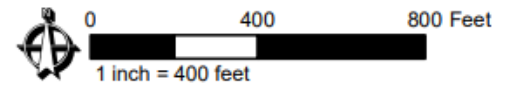
Locator Map



General Map Legend

-  Area of Request
-  Parcels with Addresses
-  Buildings
-  Edge of Pavement
-  MWC City Limits
- Railroads**
-  Active
-  Inactive / Closed

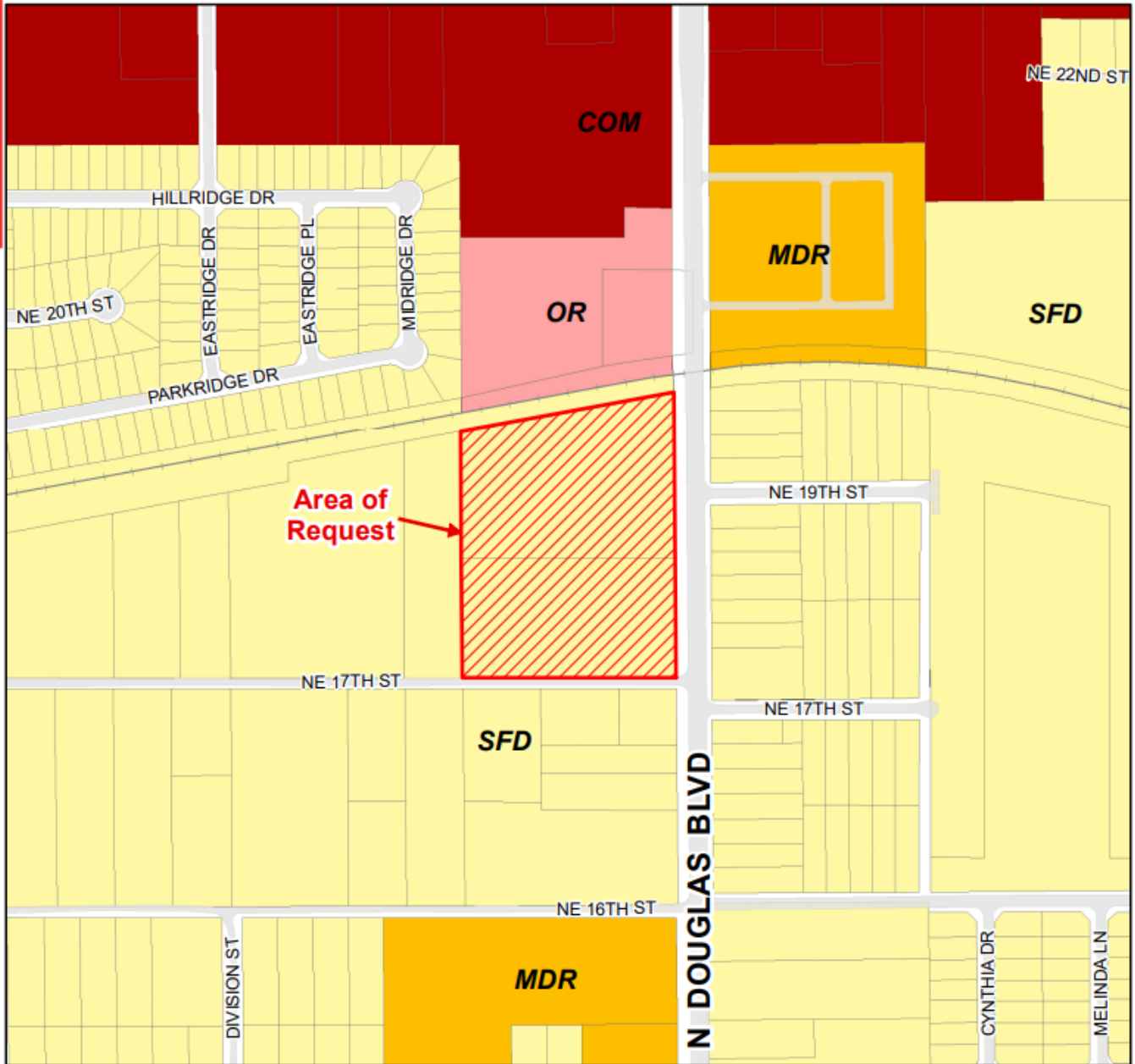
**GENERAL MAP FOR
PC-2183
(NE/4, Sec 26, T12N, R2W)**



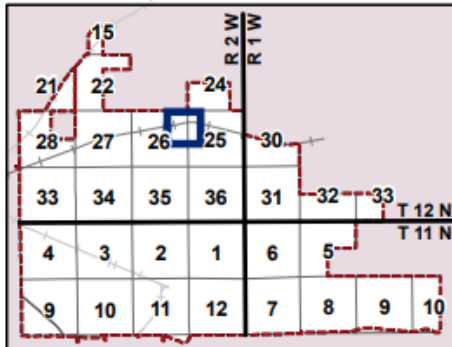
THIS MAP IS A GENERAL INFORMATION PUBLIC RESOURCE. THE CITY OF MIDWEST CITY MAKES NO WARRANTY, REPRESENTATION OR GUARANTEE AS TO THE CONTENT, ACCURACY, TIMELINESS OR COMPLETENESS OF ANY OF THE INFORMATION PROVIDED ON THIS MAP. ANY PARTY'S USE OR RELIANCE ON THIS MAP OR ANY INFORMATION ON IT IS AT THAT PARTY'S OWN RISK AND WITHOUT LIABILITY TO THE CITY OF MIDWEST CITY, ITS OFFICIALS OR ITS EMPLOYEES FOR ANY DISCREPANCIES, ERRORS OR VARIANCES THAT MAY EXIST.



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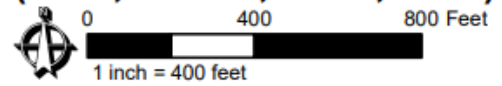
Locator Map



Future Land Use Legend

- Single-Family Detached Residential
- Medium Density Residential
- High Density Residential
- Manufactured Home
- Public/Semi-Public
- Parks/Open Space
- Office/Retail
- Commercial
- Industrial
- Town Center

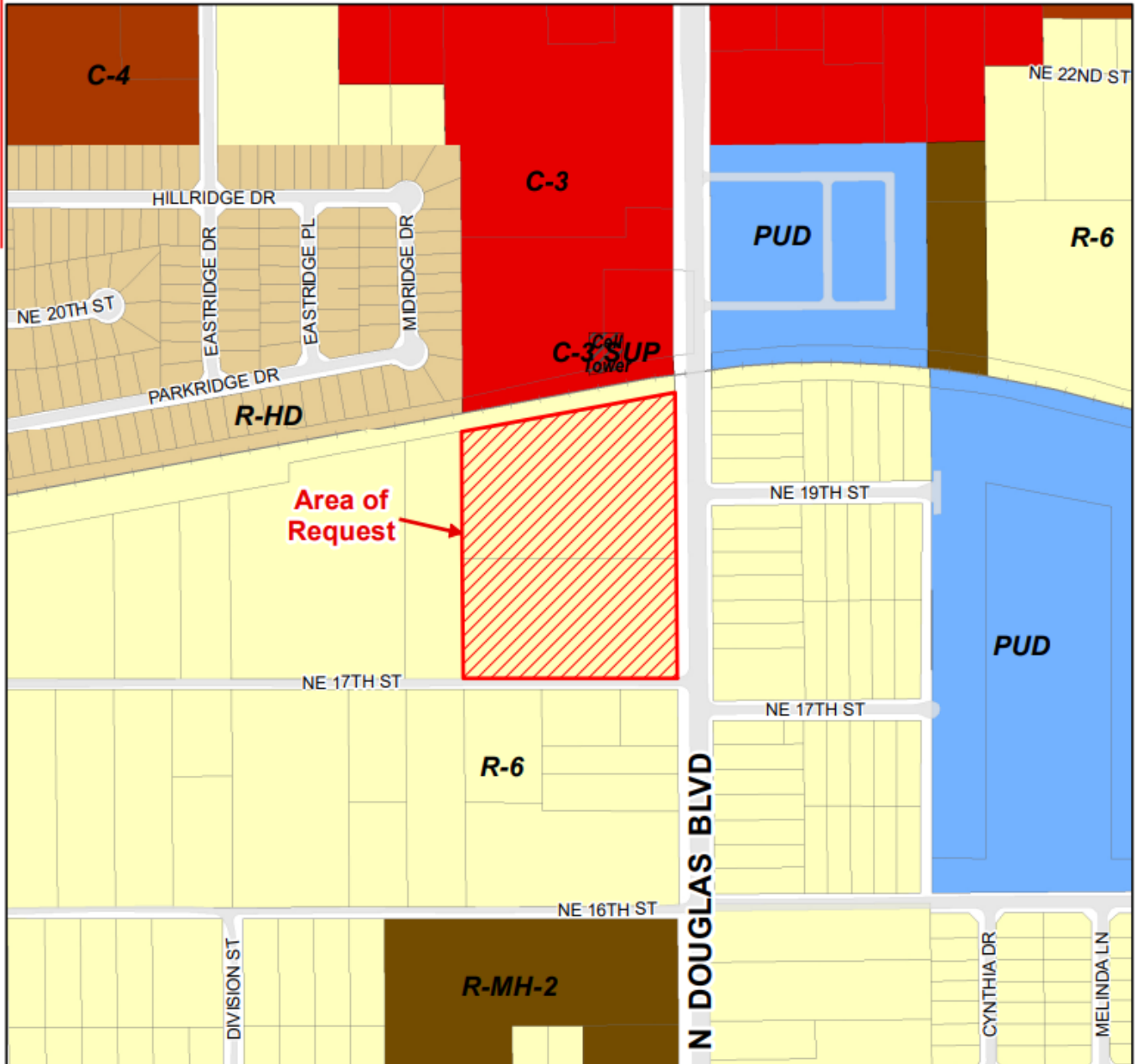
**FUTURE LAND USE
MAP FOR
PC-2183
(NE/4, Sec 26, T12N, R2W)**



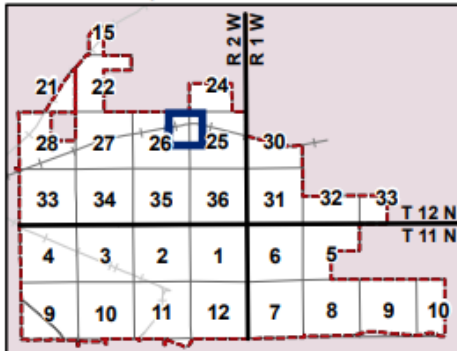
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GIS- Information Technology/ Planning & Zoning



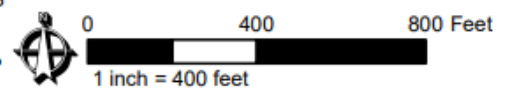
Locator Map



Current Zoning Legend

A-1	I-2 SUP	R-35
A-1 SUP	I-3	R-2F
C-1	O-1	R-MD
C-1 SUP	O-1 SUP	R-MD SUP
C-2	O-2	R-HD
C-3	O-2 SUP	R-HD SUP
C-3 SUP	R-6	R-MH-1
C-4	R-6 SUP	R-MH-2
C-4 SUP	R-8	PUD
I-1	R-10	SPUD
I-2	R-22	HOS
		HOS SUP

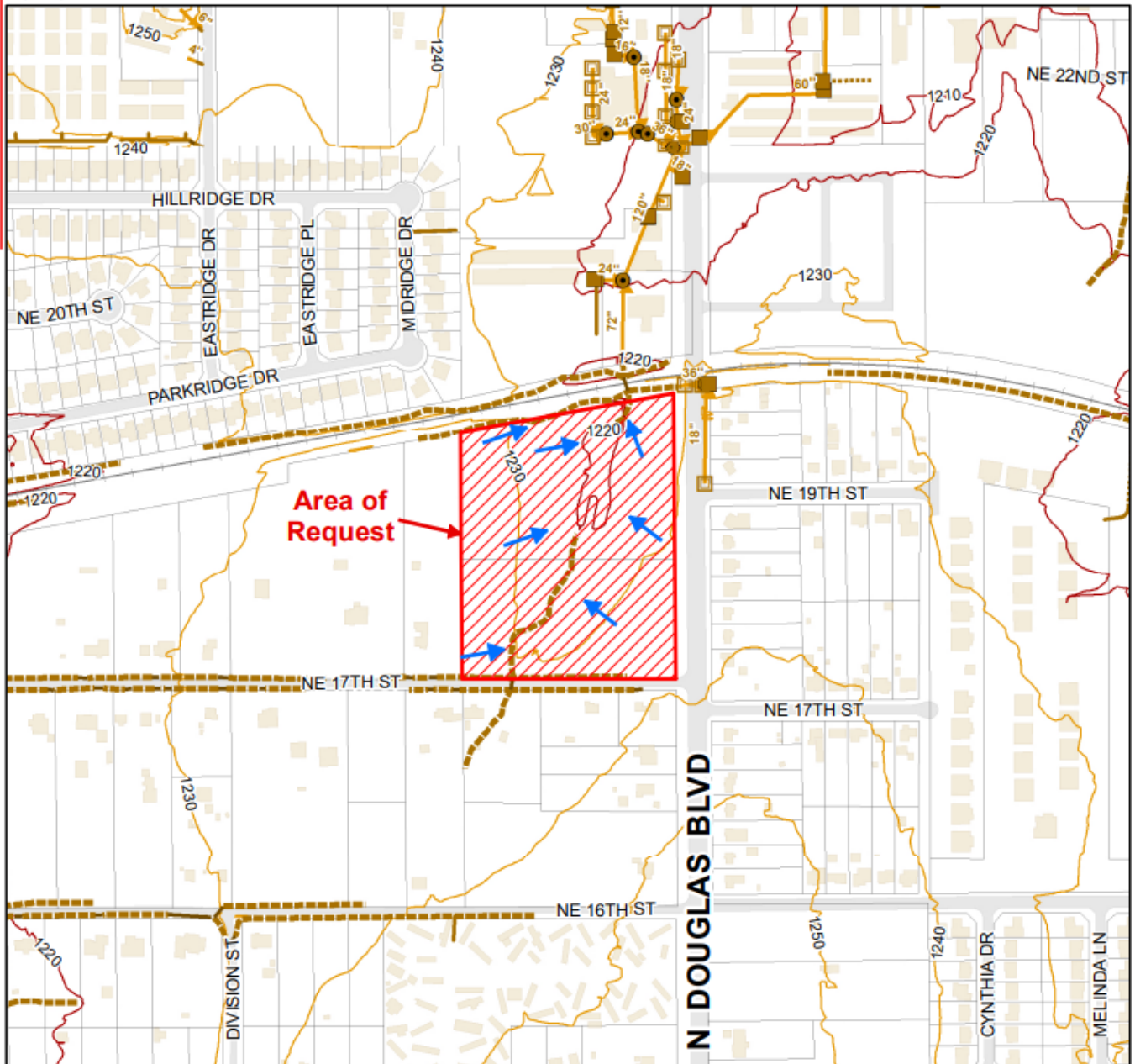
ZONING MAP FOR PC-2183 (NE/4, Sec 26, T12N, R2W)



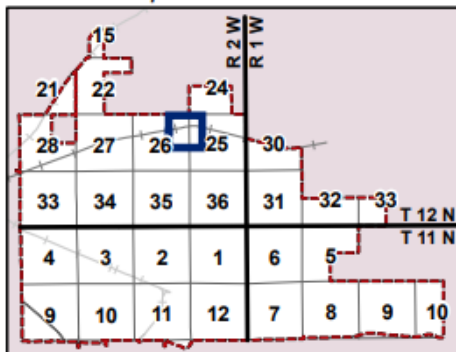
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GIS- Information Technology/ Planning & Zoning



Locator Map

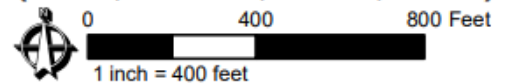


- Drainage Legend**
- Curb Inlets
 - Inlets
 - Junction Box
 - Culverts
 - Flumes
 - Developed Channels
 - Trickle Channels
 - Undeveloped Channels
 - Storm Lines
 - Creeks
- ELEVATION**
- 1166-1204 ft
 - 1204-1228 ft
 - 1228-1250 ft
 - 1250-1278 ft
 - 1278-1324 ft

2009 FEMA Floodplains

- 500-yr floodplain
- 100-yr floodplain
- 2009 FEMA Floodway

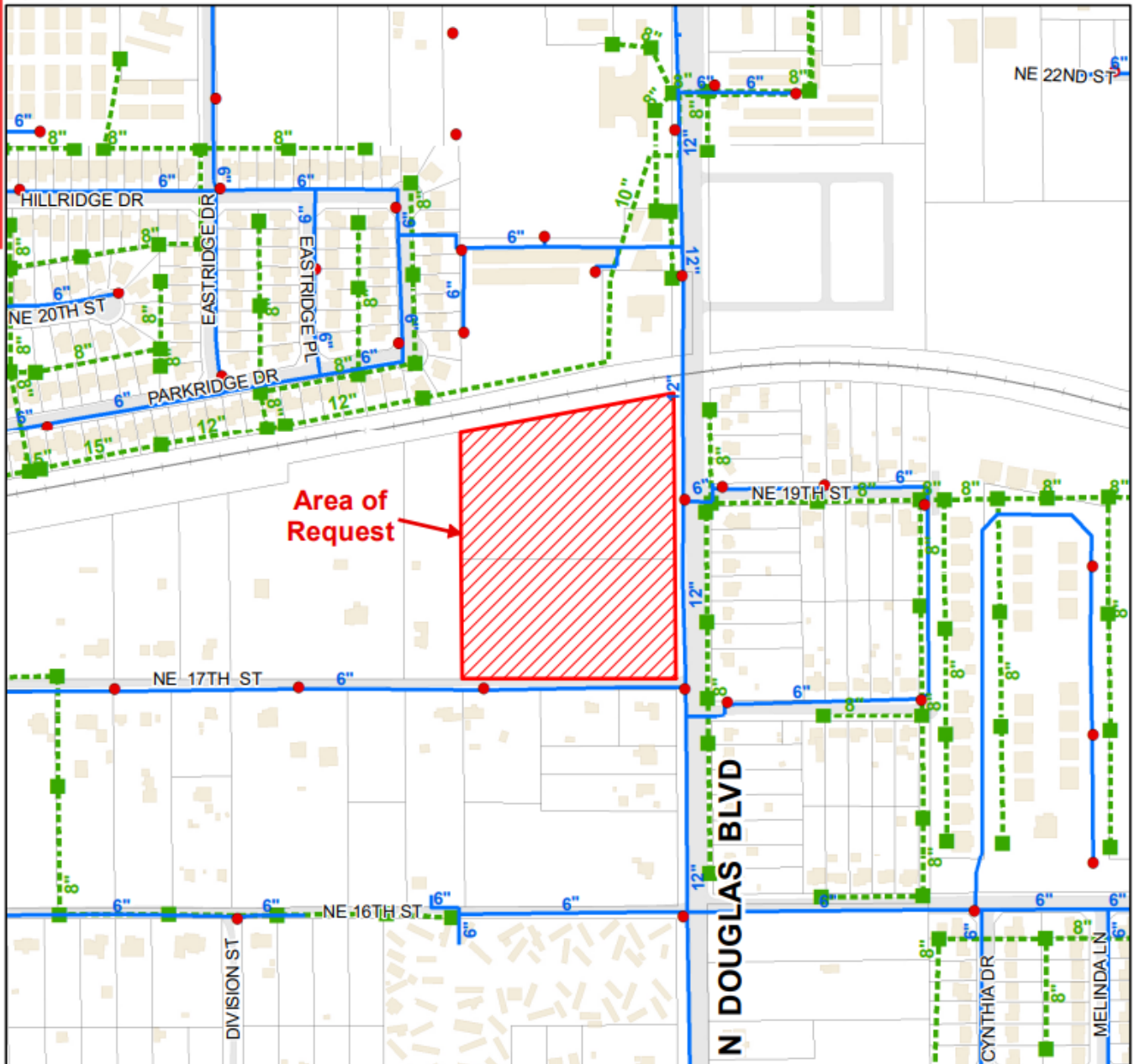
DRAINAGE LOCATION MAP FOR PC-2183 (NE/4, Sec 26, T12N, R2W)



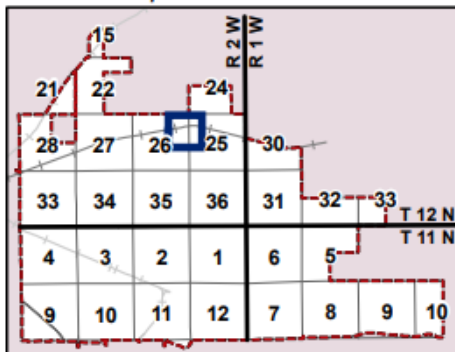
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GIS- Information Technology/ Planning & Zoning



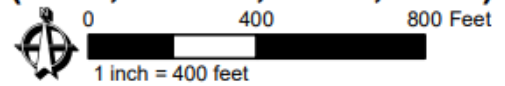
Locator Map



Water/Sewer Legend

- Fire Hydrants
- Water Lines
 - Distribution
 - Well
 - - - OKC Cross Country
 - - - Sooner Utilities
 - - - Thunderbird
 - - - Unknown
- Sewer Manholes
- - - Sewer Lines

**WATER/SEWER LINE
LOCATION MAP FOR
PC-2183
(NE/4, Sec 26, T12N, R2W)**



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Re: [External] PC 2183



Darryl Ljunghammar <dljunghammar@gmail.com>

To: Emily Richey



Mon 7/15/2024 4:26 PM

You replied on Mon 7/15/2024 4:31 PM

This sender dljunghammar@gmail.com is from outside your organization.

Block sender

Thank you, I will be on the look out for the petition.

I would like to give you my official objection to the rezoning. The rezoning will overly increase noise, traffic, crime and pollution in my neighborhood. Also there is no long term plan for this area that includes anything other than single family use and it should be kept that way. All of the above issues will greatly reduce my quality of life in this neighborhood if this is approve. Therefore I urge the Planning Commission to reject this zoning change.

Thank you,

Daryl Ljunghammar

Concerning Re-zoning of 1905 & 1919 N Douglas Blvd, MWC Okla.

PC-2183

As property owner of 1741 N Douglas Blvd, I **OPPOSE** the re-zone effort to change 1905 & 1919 N Douglas Blvd to High Density land use. The re-zoning is inappropriate for the use of this area.

The original City Planners had this area zoned for single family use and our investments were based on faith in the Commissions guidelines. Changing it to allow a high density complex now is contrary to original plan and makes me question the integrity of the original/current board decisions if this radical change is approved.

IF the re-zone is approved, I suppose the City would have considered the negative consequences:

Crime increase is proportionately inevitable with 100 to 200 new units concentrated on this acreage (City burden of police/emergency response).

Traffic congestion. Access to Douglas at NE 17th is currently adequate for the 2 dozen residences in the area. However a complex of an additional 150-200 residential vehicles use at that intersection (or auxiliary access drives) is an increase by a factor of nearly 10. North/south bound traffic (Tinker AFB employees esp) at morning and afternoon rush hours complicates access. How would the City deal with the cost burden of traffic control (lights, right-of-ways , intersection expansion/improvement)?

Also, I would guess the sewer/water systems would have to be modified to handle the x10 demand increase.

As I see it, a re-zone to High Density for an apartment complex is to no-ones benefit , current area property owners nor City.

Please **do not approve** this re-zone request.

Michael F and Mary A Sweeney
Property owner of 1741 NE Douglas Blvd, MWC OK 73141
Mailing address: 1037 Timber Ridge Rd, Harrah OK 73045
Tel: 405 454-3081
Email: michael.sweeney@earthlink.net

From: Gina Johnson <Gina.Johnson@oesc.ok.gov>
Sent: Friday, August 9, 2024 11:47 AM
To: Emily Richey <ERichey@MidwestCityOK.org>
Subject: [External] RE: PC-2183

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good morning,

I would like it to be recorded that I greatly object to the building of apartment or any multi family units on this proposed site. Traffic coming over the railroad tracks is already bad and with apartment type units it will just get worse. Also, the area is already struggling to keep up with code and mowing even though we have turned in multiple request in the area. I was personally told once that if I didn't like it I should move. I have lived here for over 40 years and thought that was extremely rude. Another time I was told that the yard conditions weren't bad considering the ward we live in. So I took that as be happy and quit complaining it could be worse. Instead of them trying to enforce the codes of MWC on keeping up yards they said I should be happy. I am extremely worried about this when it come to the complex they want to build as on page 3 number 3 they state it could affect us in a negative manner but they'll build sight proof screening and that "might" aid in mitigating potential negative impacts. Again out of sight so we are good. I also so worry about the crime impact. We are already close to "murder one" and do not need more things to worry about. Please let my thoughts be heard. I live on NE 19th and this will greatly impact my safety and life. If MWC could show that they actually care about how the area between NE 10th and NE 23rd looked and the safety we might not be as concerned, but prior dealings have shown us that such is not the case. Thank you for your time.

From: Emily Richey <ERichey@MidwestCityOK.org>
Sent: Friday, August 9, 2024 11:18 AM
To: Gina Johnson <Gina.Johnson@oesc.ok.gov>
Subject: [EXTERNAL] PC-2183

Hi Gina,

Attached is the Public Hearing Notice, staff report, and the presentation given by the applicant.

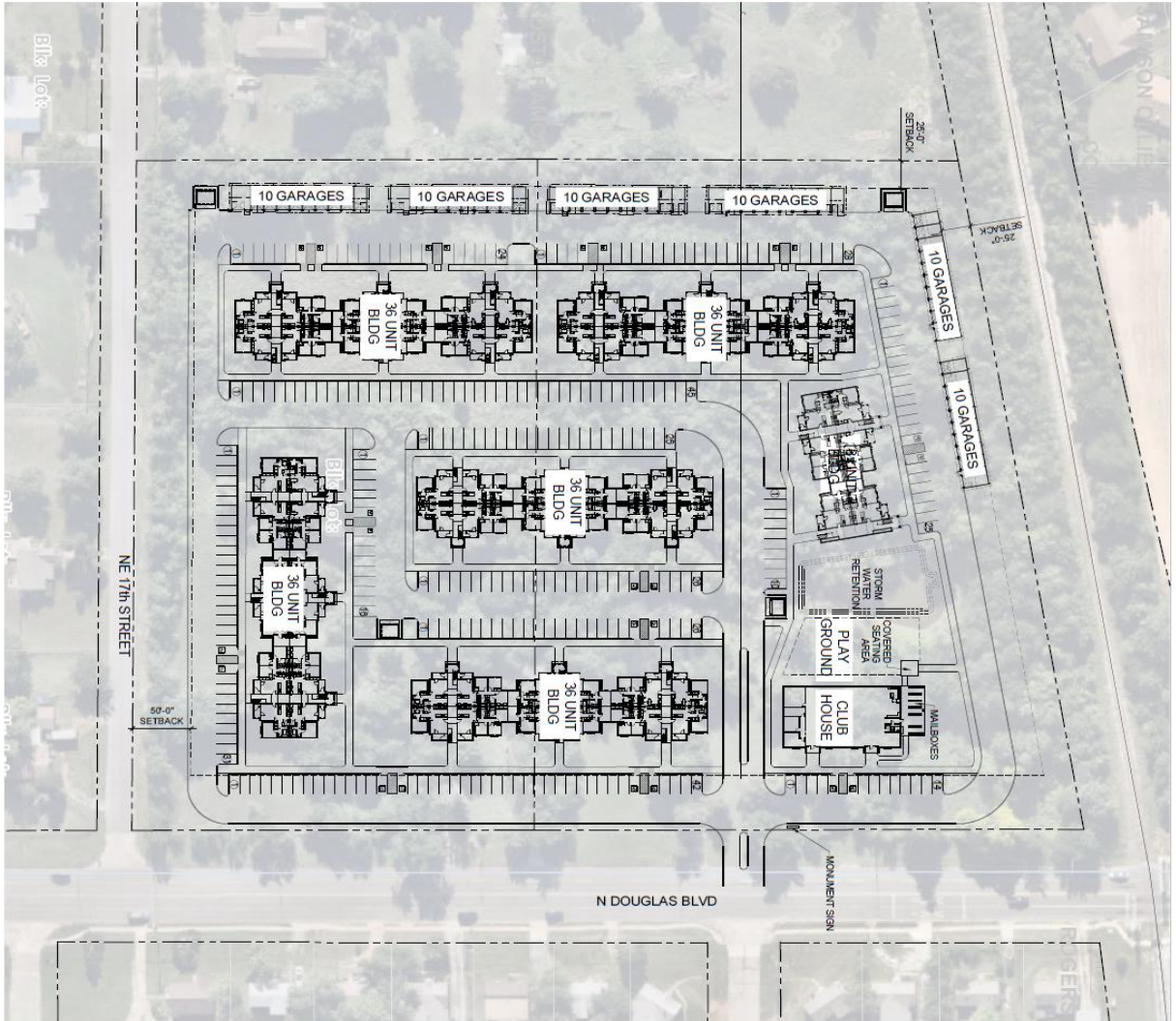
Please let me know if you have further questions.

Have a nice weekend!

Emily Richey
Current Planning Manager
ERichey@MidwestCityOK.org
(405) 739-1223

***Office hours are 7:30am-5:30pm Monday through Thursday, and 7:30am-11:30am Fridays.**

 SITE PLAN
Scale: 1/8" = 1'-0"



C1.1

NO.	DATE	DESCRIPTION

RE ROBERT W. ENGEL AND ASSOCIATES, ARCHITECTS
 2443 South 156th Circle
 Omaha, NE 68130-2512
 (402) 330-8287 Fax: (402) 330-8331
 email: RWEArchitects@RWEArchitects.com

DESIGNED BY RWE ARCHITECTS

CORNERSTONE APARTMENTS
 N DOUGLAS BLVD
 MIDWEST CITY, OK

PROGRESS PRINT
 (NOT FOR CONSTRUCTION)



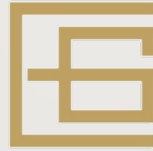
CORNERSTONE APARTMENTS

1905 AND 1919 NORTH DOUGLAS BLVD
MIDWEST CITY, OK

NEIGHBORHOOD MEETING
NICK HARROZ COMMUNITY CENTER
JUNE 27, 2024 – 6:00 PM

PRESENTED BY:

BRAD SCHWAB, VP OF DEVELOPMENT
CORNERSTONE HOUSING GROUP, LLC



CORNERSTONE

HOUSING GROUP, LLC

Privately held
attainable housing
developer

Headquartered in
Omaha, NE

Construct, own
and manage
property portfolio

West, Southwest
and Midwest

CORPORATE STRUCTURE

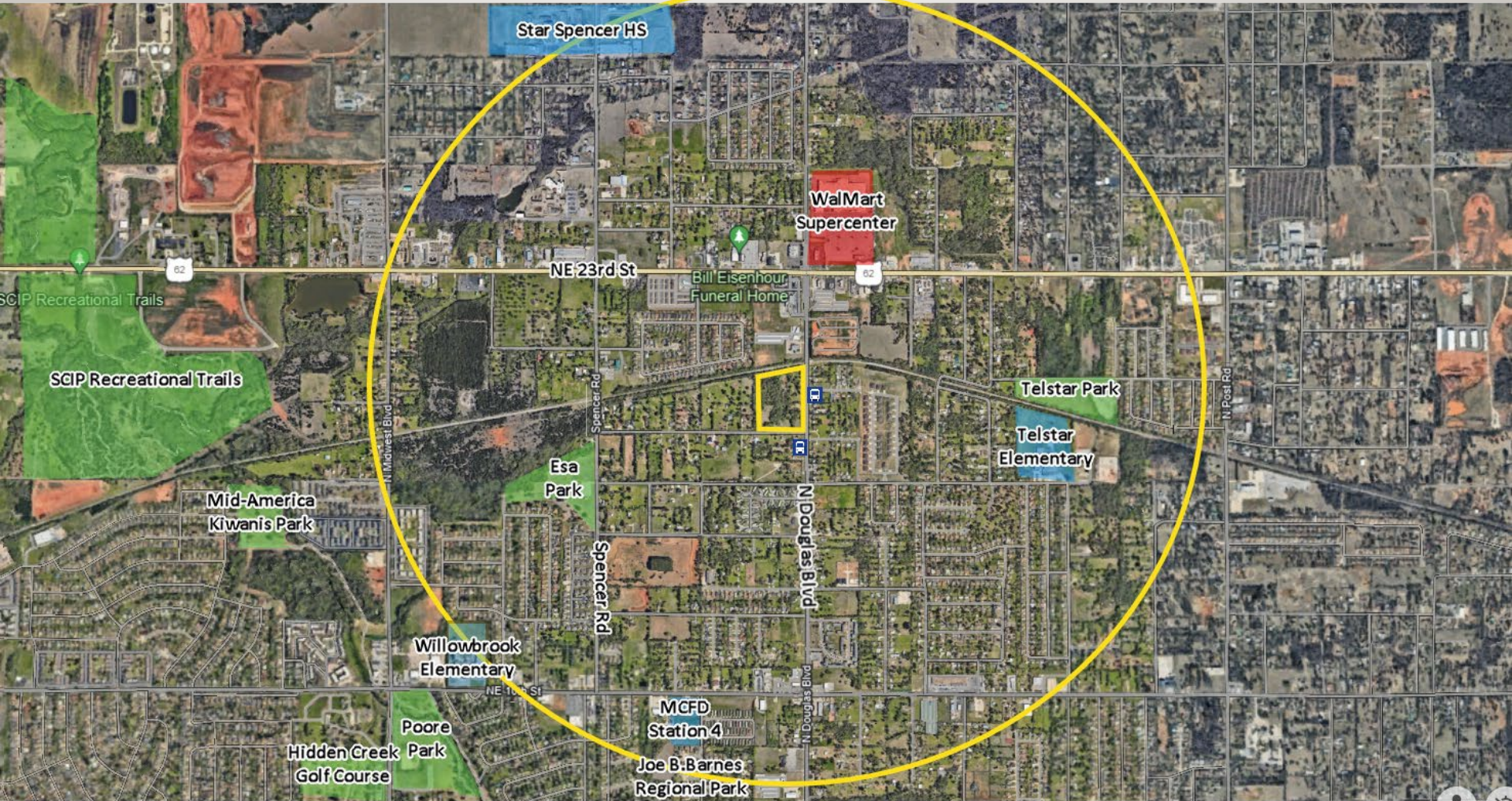


PROJECT OVERVIEW

- 1905 and 1919 N Douglas Blvd
- 11.10 acres
- 198 units
- Apartment buildings, clubhouse, garages and amenities
- 4% bond Low Income Housing Tax Credit through OHFA
- Not public or subsidized housing
- Consistent with City housing goals
- Strong market demand

LOCATION

One Mile

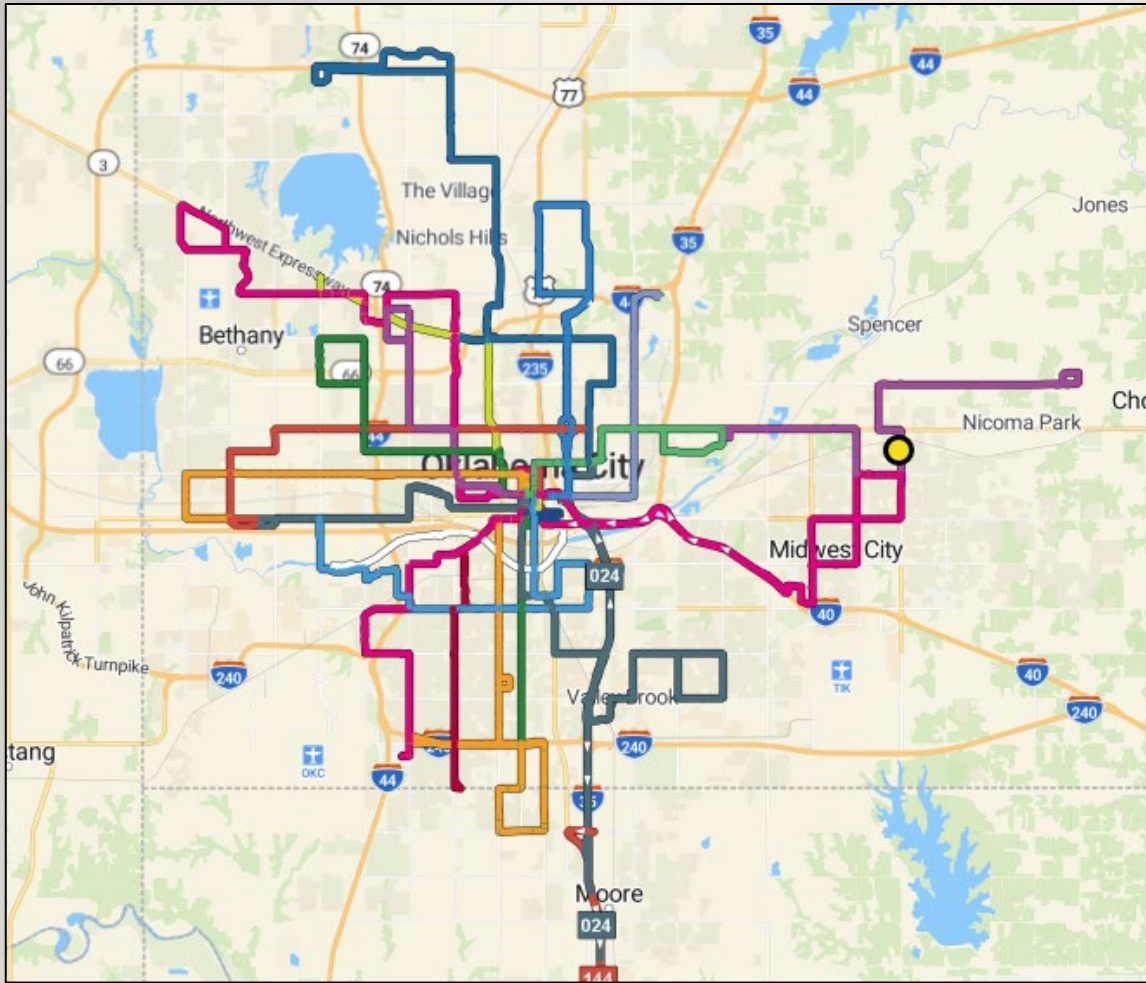




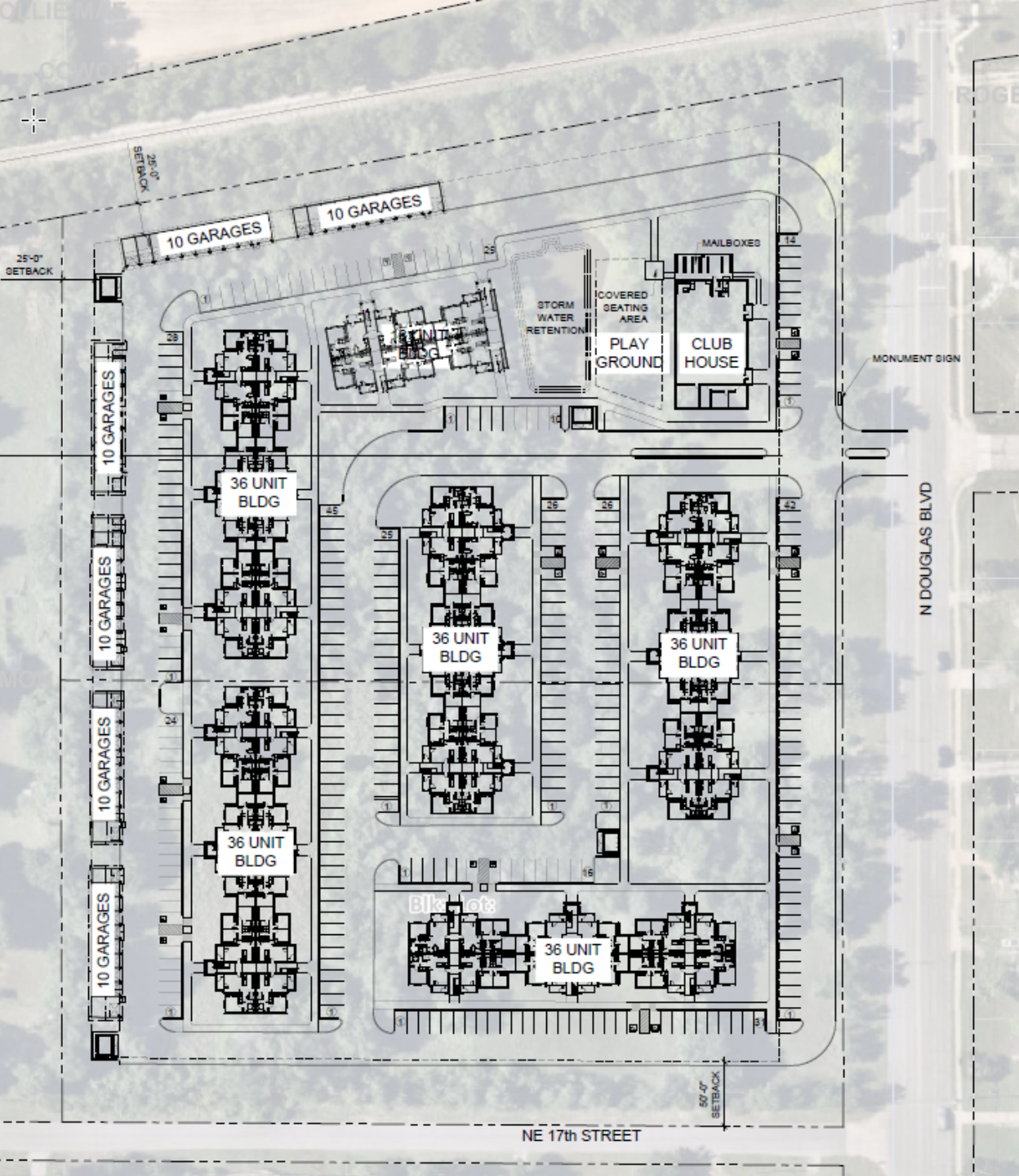
PROPERTY CHARACTERISTICS

- 2 lots
- 1 owner
- 11.1 acres
- Zoned R-6
- 12" water line at site
- 8" sewer line east side of Douglas Blvd, 10" sewer line north of RR
- Primary arterial access
- Transit ready

TRANSIT

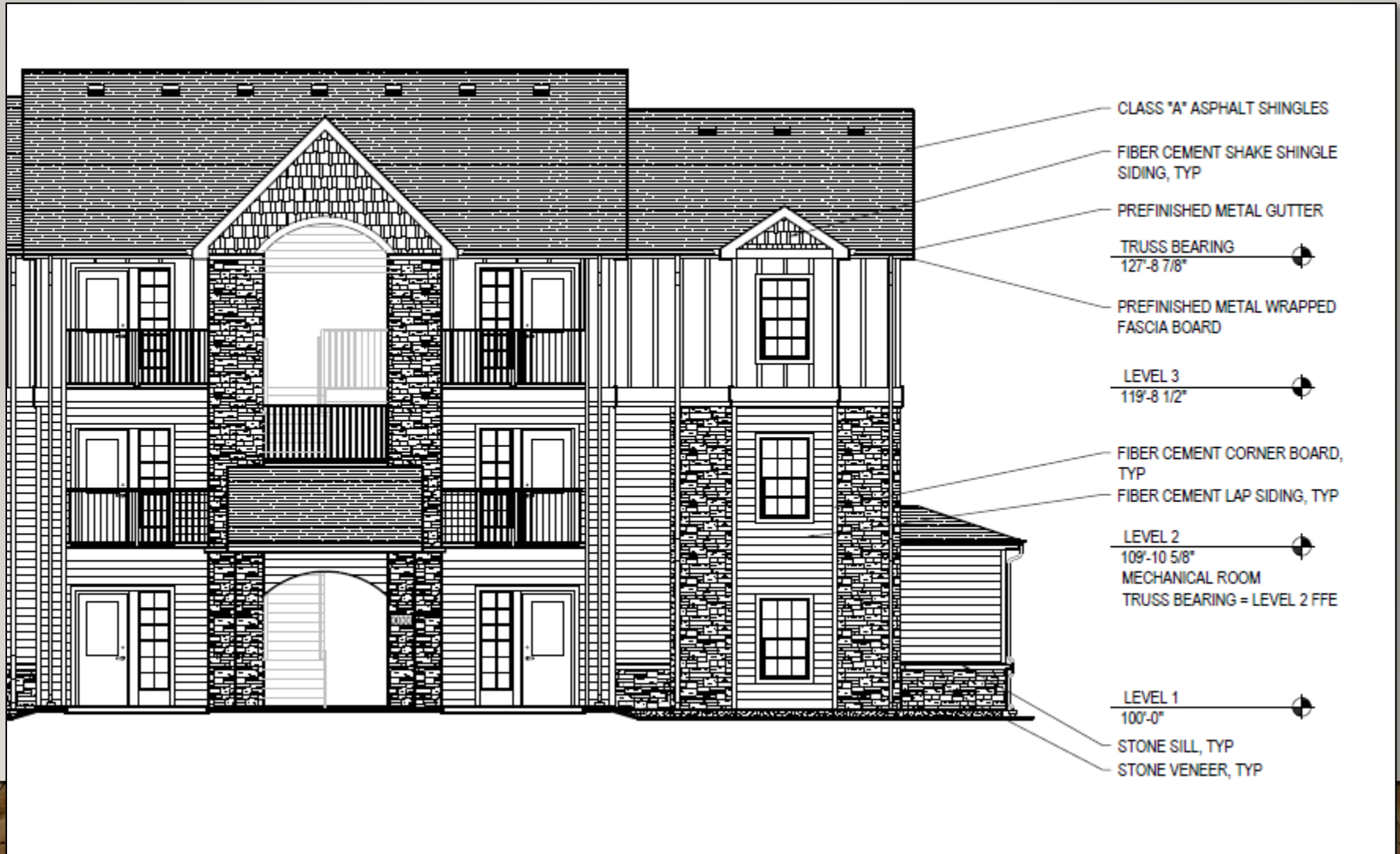


- Embark Route 19
- Connections to metro
- Stop 2971
 - N Douglas Blvd @ 17th St
- Stop 3513
 - N Douglas Blvd @ 19th St



CONCEPT PLAN

HIGH QUALITY BUILDING MATERIALS



DRAFT BUILDING ELEVATION

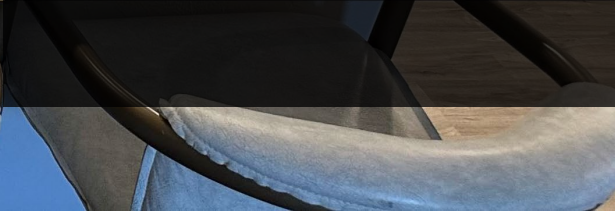




**CORNERSTONE APARTMENTS
YUKON, OK**



YUKON, OK





YUKON, OK



YUKON, OK

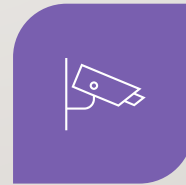
COMMUNITY AMENITIES



ONSITE
MANAGEMENT



ONSITE
MAINTENANCE



SECURITY
CAMERAS



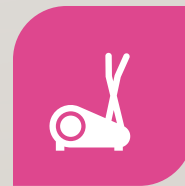
SHADE
SEATING



BUSINESS
CENTER



STORM
SHELTER



FITNESS
CENTER



PLAYGROUND

UNIT AMENITIES

- Plank flooring
- Hard surface countertops
- Window coverings
- Internet and cable hookups
- Storage



UNIT AMENITIES

- Energy Efficient Appliances (electric)
 - Frost Free fridge/freezer
 - Stove/oven with vented hood
 - Microwave
 - Dishwasher
 - Disposal
 - Washer and dryer
 - Ceiling fans in living room and bedrooms

RESIDENT CHARACTERISTICS

- Working families and individuals
- Most are local
- Cannot easily afford “Market Rate” housing
- Pass Credit Check
- Pass Background Check
- Income Verified

RESIDENT INCOME

- Must show proof of income
- Income qualify
 - Up to \$37,620 for single person household
 - Up to \$42,960 for a two-person household
 - Up to \$48,360 for a three-person household
 - Up to \$53,700 for a four-person household

2024 MAX RENTS

- One Bedroom Units
 - \$1,007
- Two Bedroom Units
 - \$1,209
- Three Bedroom Units
 - \$1,396

Maximum amount including rent and utilities.

BENEFITS TO MIDWEST CITY

- High demand for workforce housing
- Large employment center, provides housing close to work
- Allows family members to stay in Midwest City
- Will be developed consistent with City policy

Goal 5: Encourage a quality housing environment within the City that meets the needs of a variety of people.

- Objective 5.1 Develop specific strategies for blighted homes/areas.
- Objective 5.2 Continue with existing housing programs and attempt to add additional funding.
- Objective 5.3 Increase home ownership rates (tenure).
- Objective 5.4** Provide housing diversity throughout the City with:
 - 5.4.1 A diversity in housing type, and
 - 5.4.2 A diversity in housing value.
- Objective 5.5 Protect the integrity of existing and future neighborhoods by ensuring 1) that existing neighborhoods are maintained to a high standard and 2) that new neighborhoods are initially developed to a high standard.
- Objective 5.6** Encourage development of quality residential housing throughout the City that is responsive to the diverse housing market needs of the community.
- Objective 5.7 Promote rehabilitation and reconstruction of substandard housing.
- Objective 5.8 Investigate adding additional residential zoning districts to accommodate various minimum lot and dwelling sizes.
- Objective 5.9 Ensure that new developments are appropriately buffered from existing developments.

COMPREHENSIVE PLAN HOUSING GOALS

LAND USE POLICIES

12. High Density Residential Land Uses Comprehensive Plan Pg 4-28

- Medium density uses should also be permitted in any area designated for high density use.
- In order to ensure that multiple-family areas are designed to a high standard, the City should consider incorporating the following guidelines into the Zoning Ordinance:
 - ✓ The proposed multiple-family tract should be adjacent to an arterial roadway;
 - ✓ All structures within the multiple-family development should be at least 90 percent masonry on exterior of the first story;
 - ✓ If the tract is adjacent to single-family residential dwellings, transition areas (green space, buffer areas, medium density development, etc.) should be incorporated into the project;
 - ✓ Based upon the density of the complex, an appropriate amount of usable open space should be required;
- Multiple-family areas and related development standards are also discussed within the *Image and Design Plan* (Chapter 5) and the *Housing and Neighborhoods Plan* (Chapter 6).

SCHEDULE/NEXT STEPS

- ~~Pre-application Conference~~
- Finalize due diligence
- City entitlements
- Construction
- Opening

We Welcome Your Questions

Thank You!

Bobbi Jo Lucas, President

(402)341-0888

blucas@cstonellc.net

Brad Schwab, Vice President of Development and Acquisitions

(303)517-7875

bschwab@cstonellc.net



2 **RESOLUTION NO. _____**

3 **A RESOLUTION AMENDING THE COMPREHENSIVE PLAN MAP CLASSIFICA-**
4 **TION FROM SINGLE-FAMILY DETACHED RESIDENTIAL LAND USE TO HIGH**
5 **DENSITY RESIDENTIAL LAND USE FOR THE PROPERTY DESCRIBED IN THE**
6 **RESOLUTION WITHIN THE CITY OF MIDWEST CITY, OKLAHOMA.**

7 **WHEREAS**, currently the Comprehensive Plan Map of Midwest City, Oklahoma shows the fol-
8 lowing described property identified, for future planning purposes, as Single-Family Detached
9 Residential:

10 For the property described as a part of the Northeast Quarter (NE/4) of Section Twenty-
11 Six (26), Township Twelve (12) North, Range Two (2) West of the Indian Meridian,
12 Oklahoma County, Oklahoma, located at 1905 & 1919 N. Douglas Blvd., Midwest
13 City, Oklahoma.

14 **WHEREAS**, it is the desire of the applicant to amend the future planning classification of the
15 above referenced property from Single-Family Detached Residential to High Density Residen-
16 tial.

17 **WHEREAS**, with the applicant’s request the change in future planning classification complies
18 with the City’s Comprehensive Plan.

19 **WHEREAS**, the applicant has met both state and local notification requirements.

20 **NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF MIDWEST CITY,**
21 **OKLAHOMA COUNTY, STATE OF OKLAHOMA:**

22 That the classification of above described property located in Midwest City, Oklahoma is hereby
23 changed from Single-Family Detached Residential Land Use to High Density Residential Land
24 Use on the Comprehensive Plan Map.

25 **PASSED AND APPROVED** by the Mayor and Council of the City of Midwest City, Okla-
26 homa, on the _____ day of _____, 2024.

27 **THE CITY OF MIDWEST CITY, OKLAHOMA**

28 _____
29 **MATTHEW D. DUKES II, Mayor**

30 **ATTEST:**

31 _____
32 **SARA HANCOCK, City Clerk**

33 **APPROVED** as to form and legality this _____ day of _____, 2024.

34 _____
35 **DONALD MAISCH, City Attorney**

1 **PC-2183**

2 **ORDINANCE NO. _____**

3 **AN ORDINANCE RECLASSIFYING THE ZONING DISTRICT OF THE PROPERTY**
4 **DESCRIBED IN THIS ORDINANCE FROM R-6, SINGLE-FAMILY DETACHED RESI-**
5 **DENTIAL DISTRICT TO R-HD, HIGH DENSITY RESIDENTIAL DISTRICT, AND DI-**
6 **RECTING AMENDMENT OF THE OFFICIAL ZONING DISTRICT MAP TO RE-**
7 **FLECT THE RECLASSIFICATION OF THE PROPERTY’S ZONING DISTRICT; AND**
8 **PROVIDING FOR REPEALER AND SEVERABILITY**

9 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDWEST CITY, OKLAHOMA:

10 **ORDINANCE**

11 SECTION 1. That the zoning district of the following described property is hereby reclassified
12 from R-6, Single-Family Detached Residential District to R-HD, High Density Residential Dis-
13 trict subject to the conditions contained in the PC-2183 file, and that the official Zoning District
14 Map shall be amended to reflect the reclassification of the property’s zoning district as specified
15 in this ordinance:

16 For the property described as a part of the Northeast Quarter (NE/4) of Section Twenty-
17 Six (26), Township Twelve (12) North, Range Two (2) West of the Indian Meridian,
18 Oklahoma County, Oklahoma, located at 1905 & 1919 N. Douglas Blvd., Midwest
19 City, Oklahoma.

20 SECTION 2. REPEALER. All ordinances or parts of ordinances in conflict herewith are
21 hereby repealed.

22 SECTION 3. SEVERABILITY. If any section, sentence, clause or portion of this ordinance is
23 for any reason held to be invalid, such decision shall not affect the validity of the remaining por-
24 tions of the ordinance.

25 PASSED AND APPROVED by the Mayor and Council of the City of Midwest City, Oklahoma,
26 on the _____ day of _____, 2024.

27 THE CITY OF MIDWEST CITY, OKLA-
28 HOMA

29 _____
30 MATTHEW D. DUKES II, Mayor

31 ATTEST:

32 _____
33 SARA HANCOCK, City Clerk

34 APPROVED as to form and legality this _____ day of _____, 2024.

35 _____
36 DONALD MAISCH, City Attorney



NEW BUSINESS/
PUBLIC DISCUSSION





EXECUTIVE SESSION





City Manager
100 N. Midwest Boulevard
Midwest City, OK 73110
tlyon@midwestcityok.org
Office: 405.739.1201
www.midwestcityok.org

MEMORANDUM

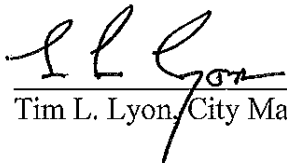
TO: Honorable Mayor and City Council

FROM: Tim Lyon, City Manager

DATE: July 23, 2024

SUBJECT: Discussion, consideration, and possible action 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.

Appropriate information will be dispersed during executive session.



Tim L. Lyon, City Manager



City Manager
100 N. Midwest Blvd.
Midwest City, OK 73110
tlyon@midwestcityok.org
Office: 405-739-1201
www.midwestcityok.org

MEMORANDUM

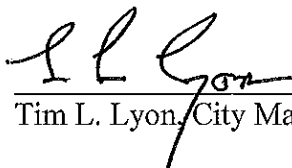
TO: Honorable Mayor and Council

FROM: Tim Lyon, City Manager

DATE: August 27, 2024

SUBJECT: Discussion and consideration, and possible action of, 1) entering into executive session, as allowed under 25 O.S. § 307(B)(3), to discuss the purchase or appraisal of real property; and 2) in open session, authorizing the general manager/administrator 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





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: August 27, 2024

RE: Discussion, consideration, and possible action regarding the renewal of the Collective Bargaining Agreement (CBA) between the City of Midwest City and the Fraternal Order of Police (FOP) Lodge 127, as negotiated to be effective from July 1, 2024, through June 30, 2025.

The City of Midwest City and the FOP Lodge 127 met and negotiated a proposed CBA to be effective from July 1, 2024, through June 30, 2025. This agreement was tentatively reached between City designated staff and the FOP Lodge 127 in August of 2024. The agreement was ratified by FOP Membership. Changes in the proposed agreement from the previous agreement include the following items.

- The term of the agreement will be from July 1, 2024, through June 30, 2025.
- An across the board increase of 3.0% was negotiated, along with adjusting the steps in the pay scale for all ranks, to be comprised of 3.0% in between steps, to be effective on July 1, 2024 (see Addendum A in CBA).
- Group Health Benefits Premiums are updated to the amounts previously approved by Council for the 2024-2025 City Fiscal Year.
- The City and Lodge 127 agree to revamp the Grievance article with major changes. Most of the old language was scrapped. The new language is modeled after the City of Norman's policy, which is intended to streamline and add clarity to the process. This language also changes the response timelines from calendar days to business days, allowing for more response time by not counting weekends and holidays in the timeline. The new language also includes new post-arbitration procedure language.
- The City and Lodge 127 agree to modify the Emergency Leave article to remove the original language and replace it with the City policy language.
- The City and Lodge 127 agree to a minor change in the Hours of Work article, changing Field Operations Bureau from four (4) shifts to three (3) shifts.



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

Staff recommends approval.

Troy Bradley, Human Resources Director



Collective Bargaining
Agreement for Fiscal
Year ~~2022/2024~~
2024/2025

The Fraternal Order
of Police Lodge #127

City of Midwest City

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ARTICLE 1

PURPOSE AND INTENT

SECTION 1. This Agreement, entered into by the City of Midwest City, hereinafter referred to as Employer, and the Fraternal Order of Police, Lodge #127, as Collective Bargaining Agent, hereinafter referred to as FOP, pursuant to Title 11, Oklahoma Statutes, Section 51-101, et seq., as amended, is made for the following purposes:

- A. To establish wages, hours, benefits, grievance procedures and other conditions of employment of represented officers of the Midwest City Police Department;
- B. To provide for quality law enforcement and police services on an uninterrupted basis for the benefit of the citizens of Midwest City;
- C. To assist in promoting the harmonious relations between the Employer, the FOP and the represented officers, and to assist in the amicable adjustment of labor-management disputes

ARTICLE 2

RECOGNITION

SECTION 1. The Employer recognizes Lodge #127 of the Fraternal Order of Police as the exclusive bargaining agent for all full-time, permanent commissioned police officers of the Midwest City Police Department, except the Chief of Police, his Administrative Assistant and those employees on entry-level probation.

SECTION 2. For purposes of conducting performance evaluations and qualifications to be a Midwest City police officer, employees hired after July 1, 1989 will serve an entry-level probation period of eighteen (18) months. Provided however, this article does not conflict with any provision pursuant to Oklahoma Statutes, Title 11, Section 51-101, et seq., as amended.

ARTICLE 3

DURATION OF AGREEMENT

SECTION 1. The duration of the first term of this Agreement shall be from July 1, 2024~~2~~, to June 30, 2025~~3~~. ~~The duration of the second and final term of this Agreement shall be from July 1, 2023, to June 30, 2024.~~ In the event an agreement has not been reached by June 30, 2025~~4~~, this Agreement may remain in full force and effect by mutual agreement

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of the Employer and the FOP until such time as a new agreement is attained.

SECTION 2. Whenever wages, rates of pay or any other matters requiring appropriation of monies by the Employer are included as matters of collective bargaining, it shall be the obligation of the FOP to serve written notice of request for collective bargaining not later than February 15 of each year.

ARTICLE 4

MUTUAL RESPONSIBILITY

SECTION 1. No employee shall be favored or subject to discrimination by the Employer or by the FOP because of race, creed, size, color, sex, religion, age, national origin, disability (as defined by the Americans with Disabilities Act, the Oklahoma State Police Pension Act and any other applicable law) or relationship to any person or persons, political affiliations or FOP activities.

SECTION 2. The Employer and the FOP agree not to interfere with the right of an employee to become or not become a member of the FOP, and further agree that there will be no discrimination against nor coercion of any employee because of FOP membership or non-membership.

SECTION 3. The Employer and the FOP agree to comply with the objectives set forth in the Employer's Affirmative Action Program to insure equal employment opportunity for all.

ARTICLE 5

MANAGEMENT RIGHTS AND RESPONSIBILITIES

SECTION 1. The FOP recognizes the prerogative and responsibility of the Employer to operate and manage its affairs in accordance with its responsibilities. The powers and authority which the Employer has not officially abridged, delegated, granted or modified by this Agreement are retained by the Employer, and all rights, powers and authority the Employer had prior to the signing of this Agreement, are retained by the Employer and remain exclusively the rights of the Employer.

SECTION 2. Except as may be limited herein, the Employer retains the rights in accordance with the Constitution and laws of the state of Oklahoma and the responsibilities and duties contained in the Charter of the City of Midwest City and ordinance's and regulations promulgated there under. These rights shall include, but shall not be limited to, the rights:

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- A. To determine and enforce Police Department policy, rules, regulations and orders, including the right to manage the affairs of the Police Department, so long as the same are not punitive in nature and so long as they do not affect mandatory subjects of bargaining which are required to be negotiated;
- B. To assign working hours, including overtime;
- C. To direct the members of the Police Department, including the right to promote, transfer discipline, suspend, demote or terminate for the good of the service, any member of the Police Department, subject to other provisions of this Agreement, including the procedure found in Article 10. The FOP recognizes the standard "Just Cause"/ "for the good of the service" when its use is fair, proper, and reasonable under the circumstances.
- D. To determine the table of organization of the Police Department, including the right to organize and reorganize the Police Department; however, such actions by the Employer shall not be punitive in nature. If any new rank is established, it will be filled as otherwise provided in this Agreement. In the event a new classification is established, the selection for that classification will be a competitive process designed by management to meet the needs of management;
- E. To establish or determine new job classifications and ranks based upon duties assigned, provided, however, such new job classifications shall not reduce the pay of any current officer;
- F. To determine the location, means, methods and personnel by which operations are to be conducted;
- G. To determine the safety, health and property protection measures for the Police Department. In making such determinations, due regard will be given to the safety of the officers of the Midwest City Police Department;
- H. To be sole judge of the qualifications of applicants and training of employees;
- I. To set the standards for services to be Offered to the public;
- J. To introduce new, improved or different methods and techniques of operation of the Police Department or change existing methods and techniques;

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- K. To determine reasonable means and methods of effective communication of any and all rules, regulations and orders to members of the Police Department, provided, however, new rules and regulations shall be reduced, to writing and be made available;
- L. To determine the amount of supervision necessary;
- M. To control the departmental budget, subject to the mandates of this contract;
- N. To take whatever actions may be reasonably necessary to carry out the mission of the Employer in situations of emergency.

ARTICLE 6

PREVAILING RIGHTS

SECTION 1. All rules, regulations, fiscal procedures, working conditions, departmental practices and manner of conducting the, operation and administration of the Midwest City Police Department currently in effect upon the effective date of this Agreement, shall be deemed a part of said Agreement, unless and except as modified or changed by the terms of this Agreement. Such prevailing rights shall include, but not be limited to, the present "86" policy (rides to and from work).

ARTICLE 7

BARGAINING AGENT SECURITY

SECTION 1. This Agreement shall be binding upon the successors and assignees of the parties hereto during the term of this contract, and no provisions, terms or obligations herein contained shall be modified, altered or changed in any respect except by mutual agreement of the parties in writing.

SECTION 2.

- A. The FOP president's duty assignment shall be in accordance with Article 19. The FOP President may be assigned to a day-shift position during his/her term of office, by mutual agreement of the FOP President and the Chief of Police. The president shall report directly to the Chief of Police or his designee regarding FOP business.
- B. It is understood that the FOP president's first duty is that of a Midwest City Police Officer and that interference with those duties should be minimized. The president or his designee may conduct FOP

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business for short periods of time during his/her normal duty shift so long as it does not interfere with police business. In the event that a designee is conducting FOP business, he/she shall obtain prior approval from his/her immediate supervisor.

In the event of absence of the president of the FOP for any period scheduled in excess of five (5) working days, the rights of the president under this article shall be extended to the first vice-president of the FOP, should the need arise. In the event of a change in the presidency of the FOP, the newly elected president shall receive no loss of pay.

- c. It shall, be the responsibility and right of the president of the FOP, or his designee, to communicate directly with any City Official or other employee, after proper notification of the Chief of Police, if deemed necessary to avoid potential grievances or other potential personnel problems.

SECTION 3.

- A. Scheduled Leave. Lodge #127 shall be granted a bank of 270 hours, effective July 1, for the purpose of conducting SCHEDULED Lodge business.

SCHEDULED meetings shall include, but are not limited to: preparation for or attending labor conferences, court action, arbitrations or PERB hearings. The FOP president shall ensure all hours used under this section are documented on a monthly report to the Chief of Police by the Administrative assistant and/or secretary.

In the-event the bank of 270 hours of SCHEDULED union leave cited above is exhausted, the FOP president may have additional hours of union leave granted to him/her for scheduled arbitration, court or PERB hearings on an actual hour for hour basis while said hearings are conducted. Additional union leave hours may be granted at the discretion of the City Manager.

Executive Board officers and elected delegates shall be given primary consideration for granting of leave for attendance at local, state or national meetings.

- B. Unscheduled Leave. The FOP president shall be allowed up to five (5) hours per week to conduct unscheduled union business.

SECTION 4. The Employer shall permit five (5) members of the FOP bargaining team time off without loss of pay for the purpose of contract negotiation preparations, table negotiations with the Employer and debriefing following negotiation sessions. Said member shall have one (1) hour to return to work following the conclusion of the negotiating session. If the negotiation sessions are on a bargaining team member's

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normal off duty hours they shall receive straight time in the form of Compensatory time or Pay for the time that they are in preparations, table, and debriefing negotiations with the Employer. Negotiation sessions will be scheduled during a majority of the committee member's on duty time when possible.

SECTION 5. Upon written authorization from the employee, Employer agrees to deduct regular monthly FOP dues from the earned wages of FOP members.

The deductions shall be made in accordance with the City pay plan in an amount certified in writing to be correct by the treasurer and/or the secretary of the FOP. Changes in the amount of dues will be certified in the same manner and shall be done at least thirty (30) days in advance of the effective date of such change.

All FOP members desiring dues deduction shall sign an authorization form provided by the FOP and approved by the Employer. The employee may withdraw any such authorization by providing written notice to the Employer and the FOP at least thirty (30) days prior to the effective date of withdrawal. Unless revoked in writing by the employee, the authorization will remain in effect until the expiration date of the contract and will be automatically renewed with the adoption of each new contract.

In the event the FOP should endorse an illegal job action as defined in Article 8 or if a court should determine the FOP had endorsed such an action, and then the Employer shall terminate the automatic dues deduction.

The Employer will provide the FOP treasurer with the monthly report showing the employee's name and the amount of deduction. The FOP will refund all deductions refundable at the time of termination or resignation.

The FOP shall pay the Employer a monthly service fee of 1% of the amount remitted to the FOP. Said amount shall be remitted within fifteen (15) calendar days after the deductions are made. In case an error or improper deduction is made by the Employer, a proper adjustment of same shall be made by the FOP with the employee affected.

The FOP shall indemnify the Employer against any and all claims, suits or other forms of liability that shall arise against the Employer on account of FOP error or negligence in furnishing information to the Employer upon which said dues deductions are based.

ARTICLE 8

STRIKES

SECTION 1. Employees shall have no right to engage in any work stoppage, slowdown or strike. "Strike" shall be defined in accordance with the state law as the concerted failure to report for duty and willful absence from one's position, unauthorized holidays, sickness unsubstantiated by a physician's statement, the stoppage of work or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment for the purpose of inducing, influencing or coercing a change in the conditions, compensation, rights, privileges or obligations of employment. In applying the provisions of this article, all of the terms used herein shall be given the meaning commonly understood or as defined by statute. The FOP shall not be in breach of this Agreement here the acts or actions hereinbefore enumerated are not caused or authorized directly by the FOP.

SECTION 2. Upon notification confirmed in writing by the Employer to the FOP that certain of its members are engaging in a strike, the FOP shall immediately order such members in writing to return to work at once and shall provide the Employer with a copy of such an order, and a responsible official of the FOP shall publicly order its members to work. Such characterization of the "'strike" by the Employer shall not establish the existence of a strike. Such notification by the FOP shall not constitute an admission by it that a strike is in progress or has taken place or that any particular member is or has engaged in a strike. The notification shall be made solely on the representations of the Employer.

ARTICLE 9

SENIORITY

SECTION 1. Seniority shall commence from the date which the employee is employed in the Midwest City Police Department; however, until the initial employment probation is completed, the employee shall not attain seniority status. At the conclusion of his initial employment probation, his initial probationary period shall count on his seniority to be accumulated in the future.

SECTION 2. Initial probationary period for the officers of the Midwest City Police Department shall be eighteen (18) months from the date of their employment.

SECTION 3. Seniority shall be determined as between two or more employees by highest rank. When two or more employees have the same rank, seniority shall be determined by the length of service within the rank. As between two or more employees of the same rank who have the same length of service in said rank, seniority shall be determined by the

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earliest date of employment with the Midwest City Police Department, as a police officer.

As between two or more employees of the same rank with the same length of service in the same rank, and who were initially employed by the Midwest City Police Department on the same date, their seniority shall be determined by the date of their employment application with said City.

The rank structure in order of seniority is:

1. Major
2. Captain
3. Lieutenant
4. Sergeant
5. Police Officer

The rank structure above Police Officer is by promotion through the promotion system as specified in Article 30 with the first level of supervision beginning with the rank of Lieutenant.

In the event an officer is demoted, said officer shall be restored to the same seniority status held just prior to being promoted to the classification from which said officer was demoted.

SECTION 4. Seniority shall determine the priority of each employee in the following:

- A. Time when annual vacation is submitted to ExecuTime;
- B. Time when compensatory time is submitted to ExecuTime;
- C. Time when PTO Leave is submitted to ExecuTime.

Paid time off, compensatory time, and vacation leave may be scheduled ninety (90) days prior to the day or the dates requested.

Pre-approved leave (paid time off, compensatory time, and vacation leave) shall not be affected by seniority.

- D. Leave which has been requested at least thirty (30) days prior to the day requested off once approved shall be cancelled only by the Chief of Police.

SECTION 5. If, in the opinion of the Chief of Police, all other factors are equal, then seniority shall determine the priority of each employee in the following:

- A. Shift and duty assignments;
- B. Transfer;
- C. Assignment of days off;
- D. Layoffs and recalls, provided, however, the Employer may elect, based on the merit of employees of the same rank, to retain a

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less senior employee. If said election is made, the senior employee shall be notified in writing within ten (10) calendar days of the reasons therefore, have access to the grievance procedures set out in Article 10 of this Agreement and shall be recalled to duty / employment prior to hiring of new employees. It shall be a violation of this contract for the Employer to change the classification of an employee for the purpose of avoiding following the strict rule of seniority in determining layoffs and recalls.

Management may depart from the use of seniority due to "needs of the service." Upon request of the affected officer, a supervisor making assignment different from an officer's established seniority position, shall state in writing his reasons for departing there from. A copy of the supervisor's reasons shall be forwarded to the officer, lodge, president and the Chief of Police within seven (7) calendar days of the questioned assignment.

SECTION 6. A sixty (60) day notice shall be given to any employee who will be affected by a reduction in force prior to any reduction in force going into effect.

ARTICLE 10

GRIEVANCE AND DISCIPLINARY APPEAL PROCEDURE

SECTION 1.

A. The purpose of this procedure is to promote communication, encourage a thorough review of employee issues and to provide a just and equitable method, for the prompt resolution of ~~the~~ disputes without discrimination, coercion, or reprisal against any employee who submits a Grievance or Disciplinary Appeal.

B. A Grievance shall be defined as any controversy or dispute between the Employer and FOP or any employee concerning the interpretation, enforcement or application of any provision of this Agreement, or concerning any of the terms or conditions of employment.

C. A Disciplinary Appeal shall be defined as the appeal of any disciplinary action the employee is subjected to. (Excluding counseling forms which are considered non-disciplinary/non-grievable).

D. A Written Counseling Form shall normally be provided to an employee at the earliest, reasonable opportunity and include both the supervisors and the employee's signatures. Normally, a written counseling shall occur within fourteen (14) days of the occurrence

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or discovery of a matter by a supervisor. However, if an investigation takes longer for a supervisor or the department to complete, this fourteen (14) day limit shall not apply.

SECTION 2. The FOP, or any employee, may ~~file~~initiate a ~~written~~ Grievance or Disciplinary Appeal within fifteen (15) ~~business~~calendar days (excluding Saturdays, Sundays, and holidays) of ~~said~~ occurrence, as hereinafter defined, and shall be afforded the full protection of this Agreement. ~~No grievance or disciplinary appeal will be considered timely filed under the terms of this procedure unless a written grievance or disciplinary appeal with sufficient facts pertaining to the alleged contract violation(s) to reasonably inform the City of the basic issue(s) is provided by the FOP or the Grievant, as the case may be, to the Police Chief or designee and an FOP Executive Officer.~~

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~~the act or action giving rise to the Grievance or Disciplinary Appeal including, but not limited to, written reprimands, and above, a recommendation of disciplinary action based on the allegation of misdeed or misconduct by the employee, or within fifteen (15) calendar days of the date knowledge is gained of said act or actions giving rise to the Grievance or Disciplinary Appeal. This shall not include oral counseling given to the employee, nor shall it include criminal investigations as outlined by Article, 11, Section 4.~~

~~It shall be the right of the employee to request a member of the/bargaining unit to be present and aid him in any discussion with supervision in which the employee feels disciplinary action may result (re: Weingarten). The employee retains the right of FOP representation throughout the Grievance or Disciplinary Appeal process.~~

~~Written Counseling Forms: All written counseling forms shall be afforded to the employee upon request, of any written matter requiring said employee's signature or initials. Entries made by supervisors that may affect an employee's performance evaluation shall be discussed with the affected employee and the officer's initials required at the earliest opportunity. If an event or matter has not been documented within fourteen days (14) of its occurrence or discovery, and the effected employee given notice, it shall not be documented. However, if at the conclusion of an investigation under article 11, it is determined the most suitable disciplinary action is a written counseling form that discretion will be afforded to the supervisor without regard to the 14 day time limit.~~

SECTION 2. ~~(moved to 1(B))A Grievance shall be defined as any controversy or dispute between the Employer and FOP or any employee concerning the interpretation, enforcement or application of any provision of this Agreement, or concerning any of the terms or conditions of employment.~~

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~~(moved to 1(C)) A Disciplinary Appeal shall be defined as the appeal of any disciplinary action the employee is subjected to. (Excluding counseling forms)~~

~~In all portions of the Grievance or Disciplinary Appeal procedure where the Employer is required to give notice to the Lodge or the Lodge president, the Employer shall also give notice to the employee's representative if someone other than the Lodge president.~~

SECTION 3. Any grievance or disciplinary appeal (grievance) between the employer and the FOP or any employee concerning the interpretation or application of this Agreement, or the actions of the parties under the Agreement, or dismissal, demotion, or other discipline of an employee, shall be handled in the following manner:

Step 1. If an employee or the FOP intends to file a grievance on any matter, the grievance shall be submitted in writing to the Chief of Police or designee for adjustment. The Chief or his designee, shall have a right to meet with the grievant at this step, at which time the employee or FOP shall have the right to a representative of the grievant's choice.

Step 2. The Chief of Police or designee shall submit his answer, in writing, to the employee involved and the FOP President within ten (10) business days (excluding Saturdays, Sundays and holidays) after receipt of the grievant's written grievance.

Step 3. If the grievance has not been settled in Step 2, after receipt of the Chief's response, the grievant or the FOP may submit the grievance in writing to the City Manager or designee within ten (10) business days. The City Manager or his designee shall have a right to meet with the grievant at this step, at which time the employee or the FOP shall have the right to a representative of the grievant's choice.

Step 4. The City Manager or designee shall submit his written answer to the Chief of Police and the grievant within ten (10) business days. If the City Manager and the grievant have not settled the grievance within that time, the FOP may notify the City Manager in writing of the FOP's intent to arbitrate the grievance within twenty (20) calendar days from the City Manager (or designee's) response.

(a) Within fourteen (14) calendar days from the date

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of the notification for arbitration, the grievant (and/or FOP) and the employer (the parties) shall attempt to agree upon a neutral arbitrator. If the parties are unable to agree upon the selection of a neutral arbitrator, the moving party shall request, within the same fourteen (14) calendar days, the Federal Mediation and Conciliation Service to provide a list of seven (7) arbitrators. Within seven (7) calendar days after receipt of the list of arbitrators from the Federal Mediation and Conciliation Service, the parties shall alternately strike the name of one (1) arbitrator from the list of seven (7) until one (1) name remains, with the moving party making the first strike from said list. The neutral arbitrator, whether selected as a result of an agreement between the parties or selected from the list provided by the Federal Mediation and Conciliation Service, shall conduct a hearing regarding the issue submitted by the grievance.

- (b) The Neutral Arbitrator shall call a hearing to be held as soon as reasonably possible after the date of the appointment. The hearing shall be informal and the rules of evidence prevailing in judicial proceedings shall not be binding. The Arbitrator shall have the authority to subpoena the production of documents and records and the attendance of witnesses to the hearing. Any and all evidence and other data deemed relevant by the Arbitrator may be received in evidence. The Arbitrator shall have the power to administer oaths and receive evidence relative or pertinent to the issues presented to them for determination.
- (c) A hearing conducted by the Arbitrator shall be concluded as soon as reasonably possible and normally within twenty (20) days from the time of commencement. Within the time allowed in FMCS rules after the conclusion of the hearing, the Arbitrator shall issue a written Award resolving the issues presented. The time periods in this article may be extended by mutual written agreement of the parties or as ordered by the Arbitrator to accommodate transcripts, post hearing briefs, or other additional time periods necessary to achieve a complete and thorough

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review of the evidence prior to rendering a decision. A copy of said Award shall be mailed or otherwise delivered to the grievant and the employer.

(d) Pursuant to the FPAA the Award of the Arbitrator shall be final and binding on the parties to this Agreement.

(e) The parties shall share equally the cost of the arbitrator's fees and expenses. If a transcript of the proceedings is requested, then the party so requesting shall pay for it or the parties may agree to both receive a transcript and share the costs.

~~The Employee or the FOP shall initiate a Grievance or Disciplinary Appeal. A Grievance or Disciplinary Appeal shall be initiated by the Employee or the FOP. A grievance shall be deemed initiated when the employee or the FOP takes the appropriate step or those steps set out below and brings the matter to the attention of the appropriate supervisor in accordance with the following procedure.~~

~~In responding to a Grievance or Disciplinary Appeal the Supervisor/Chief of Police must notify the affected employee or his FOP representative. If the employee or his FOP representative is not available, the president or the vice-president of the FOP shall receive personal notice by telephone or in person of the availability of the written response to the Grievance or Disciplinary Appeal.~~

~~Step 1. The employee or the FOP shall first fill out the accepted Grievance or Disciplinary Appeal Form, if an employee or the FOP is filing the Grievance, it shall be presented to the employee's supervisor that initiated the action being grieved. If the employee or the FOP is filing a Disciplinary Appeal it shall be presented to the Chief of Police. The Chief of Police or his designee will handle all Disciplinary Appeals. The employee or the FOP shall discuss a Grievance with the supervisor receiving the Grievance in an attempt to reach a satisfactory solution. The supervisor who was presented the Grievance should review their handling and recommendations of the situation with their immediate supervisor prior to making recommendations to the employee. The supervisor's decision shall be made in writing and given to the employee and a FOP representative and the FOP president within ten (10) calendar days of receiving the Grievance. The majority of Grievances should be resolved at this step.~~

~~Step 2. If the provisions of Step 1 do not settle the Grievance filed by an employee, it shall be submitted in writing within ten (10) calendar days, from the receipt of the supervisor's response in Step 1 to the FOP Grievance Committee, which shall be defined as the Executive Board of~~

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~~the FOP. If the provisions of Step 1 do not settle the grievance filed by the FOP, it shall be submitted in writing within ten (10) calendar days, from the receipt of the supervisor's response in Step 1 to the Chief of Police. If the grievance committee meets during a member's normal off duty hours they shall receive straight time in the form of Compensatory time or pay for the time they are in the meeting.~~

~~Within ten (10) calendar days, the FOP Grievance Committee shall determine, in its discretion and judgment, whether or not a Grievance exists as defined above.~~

~~Step 3. If the FOP Grievance Committee finds a Grievance does exist, and the said Grievance warrants further processing, the Committee will submit in writing within ten (10) calendar days, this Grievance to the next level of supervision within the chain of command. If the Grievance Committee does not find that a Grievance exists then the Grievance process will stop. This Grievance process may continue through the chain of command to the Chief of Police if the Grievance is not resolved. The same ten (10) calendar day requirement shall be in affect throughout each step of the Grievance process.~~

~~The employee and FOP representatives shall be granted reasonable duty time to prepare their Grievance or Disciplinary Appeal to the succeeding levels, in so far as this does not adversely impact the operation of the Department.~~

Step 4.

~~A. The Chief of Police may respond to the Grievance or Disciplinary Appeal immediately or may first refer the matter to the Labor Management Review Board for fact finding and recommendation. The Labor Management Review Board shall follow the guidelines set up in Article 11 Section 5, with exception of Compositions.~~

~~B. The Chief of Police shall respond to the employee and the FOP president, in writing, within ten (10) calendar days from the date he received the Grievance or Disciplinary Appeal.~~

~~Step 5. If the Grievance or Disciplinary Appeal is still unresolved after receipt of the answer from the Chief of Police, the Grievance or Disciplinary Appeal may be submitted to the City Manager within ten (10) ealendar days from the date the Chief of Police's response is received by the employee. The City Manager shall review the Grievance or Disciplinary Appeal and issue his response to the Chief of Police, the FOP president and the employee within ten (10) calendar days.~~

~~At no time during this procedure will an employee be threatened with increased punishment or disciplinary action.~~

SECTION 4. Post-Arbitrations Procedures.

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A. Issuance of Award. In no event shall the date of submission of briefs exceed 60 days from the day of the close of the hearing except in cases where all parties are in agreement and as documented in writing. In the event briefs are not considered timely by the arbitrator, the arbitrator may render his rulings based upon the facts, evidence, and arguments then before him. If the arbitrator's jurisdiction is forfeited for any reason, the parties shall request another FMCS list and select another arbitrator to hear the grievance pursuant to the provisions of this Article. The arbitrator shall not accept the case except upon agreement to the instant limitations and grant of powers contained in this grievance arbitration clause.

B. Should either the City or the FOP desire to file suit to vacate the award of the arbitrator to a court of competent jurisdiction, they shall do so within twenty (20) business days of receipt of the award of the arbitrator. Failure to file suit within this time period shall be deemed a waiver of the right to sue by both parties, unless an extension of the filing period is granted by written request of the City and the FOP.

~~If the Grievance or Disciplinary Appeal is unresolved after receipt of the answer from the City Manager, the FOP may request that the matter be submitted to impartial arbitration. This request shall be made in writing to the City Manager's answer to the Grievance or Disciplinary Appeal and the parties shall jointly request a panel of seven (7) arbitrators from the Federal Mediation and Conciliation Service. Such request for arbitration shall be submitted to the City Manager's office within sixty (60) calendar days of receipt of the City Manager's response to the Grievance or Disciplinary Appeal.~~

~~A. Within five (5) calendar days from the receipt of such panel, a representative of the FOP and the City shall meet and alternately strike names until one (1) arbitrator remains, whom shall be selected as the impartial arbitrator.~~

~~B. The party requesting arbitration shall strike the first name. The arbitrator so selected shall call a hearing to be held within ten (10) calendar days after the date of his selection and shall give at least seven (7) calendar days notice, in writing, to the FOP and the City of the time and place of such hearing.~~

~~C. The hearing shall be concluded within twenty (20) calendar days from the time of commencement. Within ten calendar (10) days after the conclusion of the hearing, the arbitrator shall issue a written opinion~~

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~~containing the findings and recommendations with respect to the issues presented. A copy of said opinion shall be mailed or otherwise delivered to the FOP and the City.~~

~~D. The arbitrator's authority shall be limited to the interpretation and application of the terms of this Agreement and/or any supplement thereto. The arbitrator shall have no jurisdiction to establish provisions of a new agreement or variation of the present Agreement or to arbitrate away, in whole or in part, any provision of this Agreement, or any supplements thereto or amendments thereof. This shall not preclude individual wage grievances.~~

~~E. The hearing shall be informal and the rules of evidence prevailing in judicial proceedings shall not be binding. Any and all documentary evidence and other data deemed relevant by the arbitrator may be received in evidence. The arbitrator shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production of books, records and other evidence relevant or pertinent to the issues presented to the arbitrator for determination.~~

~~F. With respect to the interpretation, enforcement or application of the provisions of this Agreement which do not relate to the statutory and Charter authority of the City Council and the City Manager, the decision, findings and recommendations of the arbitrator shall be final and binding on the parties to this Agreement.~~

~~G. The cost of the arbitrator shall be shared equally between the FOP and the Employer. If a transcript of the proceedings is requested, then the party so requesting shall pay for it.~~

~~All time limits set forth in this article may be extended by mutual consent between the employee and the Chief of Police but, if not so extended, they must be strictly observed. If either party fails to pursue any Grievance or Disciplinary Appeal within the time limits provided and the Grievance is at the level of Lieutenant, or FOP Grievance committee the Grievance shall immediately go to the level of the Chief of Police. If the Grievance or Disciplinary Appeal is at the level of Captain, Major, Assistant Chief, Chief of Police, or City Manager and a party fails to pursue any Grievance or Disciplinary Appeal within the time limits provided, in case of the employee, he shall have no right to continue the Grievance or Disciplinary Appeal; in the case of management, it will be deemed a response in favor of the employee's remedy.~~

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~~It is specifically and expressly understood that filing a Grievance or Disciplinary Appeal under this article, which has as its last step final and binding arbitration, constitutes an election of remedies and a waiver of any and all rights of both parties, the FOP or the Employer, to litigate or otherwise contest the last answer rendered under the procedures set forth in this article in any court or other appeal forum.~~

SECTION 5. The FOP president, or his authorized representative, may report an impending Grievance ~~or Disciplinary Appeal~~ to the Chief of Police ~~or designee~~ in an effort to forestall its occurrence. ~~This effort to resolve the matter prior to a grievance being filed shall not result in a timeframe waiver (unless mutually agreed upon in writing by the parties) as concerns the initial filing requirement.~~

ARTICLE 11

POLICE OFFICER BILL OF RIGHTS

SECTION 1. POLICE OFFICER BILL OF RIGHTS

- A. The FOP acknowledges that the governmental administrators and Chief of Police of Midwest City have the right to establish reasonable rules and regulations for processing complaints against police officers and for disciplining police officers for cause.
- B. When existing rules and regulations or policy are changed, or new rules, regulations or policy are established, they shall be posted prominently on all department bulletin boards and furnished to each commander, who will be responsible for dissemination of written copies of the changes to each officer under his supervision. Memos which permanently alter or change Policy and Procedure, General Orders, or Regulations, shall be incorporated into those documents on a quarterly basis.
- C. The Chief of Police shall establish and put into operation a system for the receipt, investigation and determination of complaints against police officers that he receives from any person.
- D. In order to properly delineate and protect the rights and responsibilities of members of the Midwest City Police Department with regard to disciplinary matters, the following provisions are hereby made a part of the rules and regulations of the Department.
- E. Whenever an officer is under investigation and is subject to interrogation by members of the department for any reason that could lead to disciplinary action, demotion or dismissal, such investigation will be conducted in a professional manner as follows:

SECTION 2. COMPLAINTS

The procedures established herein shall be used when a complaint is registered against any employee of the Midwest City Police Department by anyone who makes allegations which, if true, would constitute an infraction of some policy, procedure, rule, regulation or law governing the personnel of the Midwest City Police Department.

Critical complaints shall be defined as any offense that, if proven, could result in a violation of local, state or federal laws or, if verified, would result in a demotion, any loss of pay or termination of employment.

All other complaints shall be defined as Non-Critical.

A. Receipt of Complaints

1. Any employee of the Midwest City Police Department receiving a complaint regarding employee actions shall immediately refer the complainant to a supervisory officer who shall immediately reduce the complaint to writing. The supervisory personnel then shall obtain the basic information if known (date, time, complainants name, address and telephone number, nature of complaint, name(s) of witnesses), and then immediately forward the complaint to the Chief's Office.
2. All complaints shall be made in writing, with sufficient specificity so as to fully inform the officer of the nature and circumstances of the alleged violation, in order that he/she may be able to properly defend himself or herself.
3. Written complaint forms shall be available at all commanders' offices.
4. When a complaint is received at the Chief's office, it may be assigned to the Internal Affairs or sent to the respective employee's commander, at the discretion of the Chief of Police or his Designee.
5. If the complainant declines cooperation in any manner, or refuses to sign a formal complaint if asked, the supervisor's inquiry will be brief, if not ceased immediately, unless the allegation is one of a criminal nature or one defined as a critical complaint.
6. Any investigation critical or non-critical shall be started and completed within thirty (30) days or sooner

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if possible from the act or its discovery, or ten (10) calendar days after the completion of criminal complaint/investigations (whichever is greater). This shall include written notification of proposed disciplinary action, which results from the investigation. Any form of disciplinary action which results in any loss of pay, demotion or termination, shall be reviewed and approved by the Chief of Police. Any and all discipline recommended shall be started at the conclusion of the grievance process as outlined in Article 10 if applicable. An extension may be granted, for critical complaints only, by the City Manager upon receipt of written justification, provided to all appropriate parties not to exceed an additional ten (10) working days.

B. Notice to Officer:

The accused officer shall be furnished a copy of the affidavit that contains the alleged wrongdoing and the full name of the complainant, before the accused officer is interviewed or disciplined. This notice requirement shall not prohibit the conducting of an independent investigation by the Chief, or his designee, prior to notice provided, however, this independent investigation shall cease immediately upon the determination of the substance. After notice, the accused officer may elect to postpone any interview for a mutually agreeable reasonable time.

C. Investigation of Complaints:

1. An investigation shall begin immediately upon receipt of a complaint at any supervisory level, as assigned by the Chief's office.
2. Investigation of telephone and anonymous complaints shall be made only at the direction of the Chief of Police, and then only if the allegation is of a criminal nature or if the allegation is a critical complaint by definition.
3. Any written or recorded statement made by the complainant to an investigating officer shall be made available to the complainant, affected officer or FOP upon request by the complainant, affected officer or FOP.

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4. The employee under investigation cannot discuss the subject matter of the inquiry with anyone other than the employee's labor representative and attorney during the investigation. The complainant must not be contacted under any circumstance during the investigation.
5. The officer in charge of the investigation will, if warranted in his judgment, ask the complainant to take a polygraph test administered by a qualified operator. The investigator will also inform the complainant that he may be asked to appear at a board of inquiry for the purpose of giving testimony regarding his complaint.

D. Withdrawal of Complaint:

If a complainant expresses the desire to withdraw his/her complaint and has no desire to pursue the complaint further, he/she will be requested to sign a "Complaint Waiver Form" so that the case can be closed. Internal Affairs will take complaint waivers they receive to the Chief's office; supervisors will forward complaint waivers they receive through the chain of command.

SECTION 3. RIGHTS OF LAW ENFORCEMENT OFFICERS WHILE UNDER INVESTIGATION:

- A. Whenever a law enforcement officer is under investigation and is being interviewed by members of his agency, for any reason which could lead to disciplinary action, demotion or dismissal, such interrogation shall be conducted under the following conditions:
1. The interview shall be conducted at a reasonable hour, preferably at a time when the law enforcement officer is on duty, unless the seriousness of the investigation is of such a degree that an immediate action is required.
 2. The interview shall take place either at the office of the commander of the investigating officer, or at the office of the Internal Affairs Unit or Police Unit in which the incident allegedly occurred, as designated by the investigating officer.
 3. The officer under investigation shall be informed of the rank, name and command of the officer in charge of the investigation, the interviewing officer and all persons present during the interview. All questions directed to the officer being interviewed shall be asked by and through one interviewer at any one time.

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4. Interviewing sessions shall be for reasonable periods and shall be timed to allow for such personal necessities and rest periods as are reasonably necessary.
5. The law enforcement officer being interviewed shall not be subjected to offensive language or threatened with transfer, dismissal or disciplinary action. No promise or reward shall be made as an inducement to answering any questions.
6. During internal affairs and critical complaint investigations, the interview of the law enforcement officer who is the subject of Complaint, including all recess periods, shall be recorded and there shall be no unrecorded questions or statements.

- B. No officer shall be discharged, disciplined, demoted or denied promotion, transfer or reassignment, or otherwise be discriminated against in regard to his employment, or be threatened with any such treatment by reason of his exercise of his rights.

SECTION 4. CRIMINAL INVESTIGATION:

If an officer is arrested, or likely to be arrested, or is a suspect in any criminal investigation, he/she shall be afforded the same constitutional rights as are accorded a civilian including, but not limited to, the right to remain silent, the right to counsel, and shall be notified of these rights before any questioning commences. Nothing in this provision shall prevent the suspension with pay, or reassignment, of such officer pending internal disposition of such charge.

CIVIL SUITS:

Police officers named as defendants in any civil lawsuit for actions taken while performing in an official capacity as a police officer for the City of Midwest City Police Department have the same rights accorded any litigant in a civil suit. The Employer recognizes its responsibility pursuant to Title 51' Oklahoma Statutes, Section 151 et seq., as amended, to indemnify employees from certain claims arising out of the performance of their duties and from the costs and expense incurred in defending said claims. The Employer states its intention to adhere to said statutory requirement.

SECTION 5. INTERNAL BOARD OF INQUIRY AND RECOMMENDATION:

- A. The purpose of this Section is to establish an Internal Board of Inquiry and Recommendation designed to inquire into or investigate all allegations of misconduct by officers presented to it.

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B. THE INTERNAL BOARD OF INQUIRY AND RECOMMENDATION:

1. The Chief of Police shall have available to him an Internal Board of Inquiry and Recommendation that will inquire into or review all allegations of misconduct presented to it by the Chief of Police. The Chief of Police shall confer with the Human Resources Director as to appropriateness of utilization of such Board on matters that could involve demotion, suspension without pay or termination and will mutually agree as to whether or not to utilize such Board.
2. Following such inquiry, it shall then make recommendations on its determination to the Chief of Police.
3. The Board, as indicated, is comprised of two areas of responsibility, one of inquiry and one of recommendation; thus, the inquiry may be extended to matters of policies and procedure for which a need may be indicated by the initial incident inquiry.
4. Composition:
 - (a) The Board of Inquiry will be chaired by an officer appointed by the Chief of Police, with the hearing being conducted informally.
 - (b) The Board of Inquiry will be comprised of five (5) officers. These officers will be selected by a random drawing process. The officer before the Board will accomplish the drawing in one of the following manners according to his grade.

Examples:

- 1) If an incident involving a Patrol Officer/Sergeant is being reviewed, the make-up of the Board will be four (4) Lieutenants, and one (1) Captain.
- 2) If an incident involving a Lieutenant is being reviewed, three (3) Lieutenants, one (1) Captain and one (1) Major.
- 3) The officer before the Board may challenge and have removed from the Board one member and replace that member with one of equal grade of his choosing.

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- (c) In no event will there be a member of the Board of lower rank than the subject officer.
- (d) Any action involving a Captain or above will be handled personally by the Chief of Police.
- (e) Persons who were directly involved in the incident or in the investigation of that incident being brought to the Board will not be selected to serve on the Board.
- (f) The selection process will be completed prior to the FOP selecting a member of the Police Department to witness the proceedings.

5. Procedure:

- (a) Internal Affairs will present the case to the Board.
- (b) The subject Officer is privileged to participate in the hearing or remain silent; however, he/she may be compelled to, answer questions from the Board.
- (c) The officer before the Board is permitted, in fact urged, to be represented and aided by another officer of the department. The officer may choose anyone he/she wishes to represent the officer, up to and including Major.
- (d) By mutual consent, the proceedings may be recorded, and either party may request a copy of the tape at their own expense.
- (e) Rules of evidence shall not apply to the proceedings.
- (f) The Board may accept investigative reports as full and fair statements of facts unless the officer presents contrary evidence.
- (g) The scope of the inquiry shall address specifically, directly and narrowly the allegation before the Board.
- (h) The proceeding of the Board shall be maintained in confidence until the close of the inquiry and results given the Chief of Police to the subject officer.
- (i) No evidence, presented by the Internal Affairs office shall be reproduced or any way copied by any member of the Board.

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- (j) The only other persons permitted at the hearings include an aide to the Chief of Police, the City Manager or his designee, a member of the Police Department selected by the legal bargaining agent and one member of the Oklahoma Bar Association. These persons may only act as observers and will not participate in any way in the hearing.
- (k) The Chairman of the Board, will to a large measure determine its success; his position, therefore, will be one of impartiality and objectivity so that he will not influence the Board except in the maintenance of decorum, dignity and control of conduct.
 - (l) On completion of the inquiry, the Chairman and all others except the five (5) members of the Board will be excused.

6. The Board of Inquiry becomes an independent Board of Recommendation at this point:

- (a) The five-officer Board will then be chaired by the senior officer of the highest rank.
- (b) Each member shall participate fully in the deliberations.
- (c) At the conclusion of its deliberation, if the Board has found a basis for the complaint on a preponderance of evidence, it will call the Chief of Police, the immediate supervisor of the subject officer and the subject officer and his/her representative (if the employee so chooses). If the Board has found no basis for the complaint, it shall move immediately to Step f. below.
- (d) It will then ask for a general statement from the immediate supervisor on the work record and reputation of the subject officer and a specific recommendation of disciplinary action if he wishes to make one. The HR department should then give the Board the personnel record file of the subject officer for review. Red Books, supervisor diaries or their electronic equivalents for the current performance evaluation period shall be reviewed.

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- (e) At this time, the Chief of Police, the immediate supervisor and the subject officer will again leave the Board so that it may determine its recommendation.
- (f) A recommendation will be made by the directly to the Chief of Police by memorandum.
- (g) While the Chief may accept, modify or reject the recommendation, it should be the basis for his final decision. In the event the Chief of Police does not follow the recommendation of the Board, he shall state his specific reasons therefore in writing to the subject employee.
- (h) With the concurrence of the Chief of Police, the Board may be expected to continue its deliberations and inquiry into matters of policy and procedure which may be presented in an additional memorandum to the Chief of Police for his consideration.

SECTION 7.

COMMUNICATIONS

1. Communications, or requests made in writing directed through the chain of command, shall receive a response in writing.
2. Acknowledgment to a written communication or request shall be made within fifteen (15) calendar days of it being placed into the chain of command.

ARTICLE 12

HOLIDAY PAY

SECTION 1

All employees covered by this Agreement shall be entitled to one hundred hours off per contract year for which they shall receive pay at their regular rate and which are available to all employees July 1 of each year,

SECTION 2.

A maximum of sixty hours (60) of holiday pay not utilized by the employee during the contract year prior to the last day of the last pay period ending in June shall be paid for by the Employer at a rate of straight time for hours not used. This payment shall be in

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addition to the employee's regular pay, with payment being made with the first payroll check in July.

SECTION 3. Holiday pay may be utilized in no less than one quarter $\frac{1}{4}$ (.25) hour increments.

SECTION 4. Upon termination of employment, for any reason, the employee shall receive pay at his/her regular hourly rate of pay. The employee shall be paid for his /her unused holiday pay at a rate of 3.85 hours per pay periods from July 1st. Any time over twenty pay periods of service shall result in full payment of unused holiday pay. If the employee has used more holiday pay than earned by the probation, his/her final check will be adjusted by his/her current rate of pay.

ARTICLE 13

VACATION LEAVE

SECTION 1. All employees covered by this Agreement shall be entitled to vacation leave at the following rates:

<u>Length of Service</u>	<u>Leave Accrued</u>
12 - 59 months	4.2 hours per pay period
60 - 119 months	5.1 hours per pay period
120-179 months	6.0 hours per pay period
180-239 months	7.0 hours per pay period
240 or more months	7.85 hours per pay period

SECTION 2. Vacation leave may be accumulated up to a maximum of two hundred sixteen (216) hours. At the end of the calendar year, all approved accumulated leave in excess of 216 hours shall be paid at the rate of straight pay, with payment being made on the second payday in January.

SECTION 3. No more than a total of twelve (12) days vacation and personal leave shall be taken in succession without the prior approval of the Chief of Police. Vacation leave may be utilized in no less than one quarter $\frac{1}{4}$ (.25) hour increments.

SECTION 4. Upon termination of employment for any reason, the terminating employee shall receive pay at his/her regular hourly rate for all accrued vacation leave hours.

ARTICLE 14

SICK LEAVE

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SECTION 1. All employees covered by this Agreement shall be entitled to accrue twelve (12) days sick leave per year. Employees shall accrue 4.6 hours sick leave per pay period.

SECTION 2. Sick leave may be accumulated up to a maximum of eleven hundred hours (1100). Pay for accumulated hours over the maximum amounts shall be computed at the rate of one hour's pay for every two (2) hours accumulated. Pay shall be figured at the end of the calendar year and payment shall be made on the second payday in January

SECTION 3. Permanent employees are the only employees eligible to take sick leave with pay. Sick leave shall be granted for the following reasons: personal illness or physical incapacity, enforced quarantine of the employee in accordance with community health regulations, medical and dental appointments (not to exceed four (4) hours each) and an illness of a member of the employee's household that requires the employee's personal care or attention.

SECTION 4. Sick leave with pay in excess of three (3) consecutive work days shall be granted only after presentation of a written statement by a licensed physician certifying that the employee's condition prevents him/her from performing the duties of his/her position. A statement for sickness may be required for less than three (3) days at the discretion of the Chief of Police.

SECTION 5. Upon termination of employment with less than ten (10) years continuous municipal employment, no payment shall be made to the terminating employee for unused sick leave. Upon termination of employment after ten (10) years of continuous municipal employment for any reason, the terminating employee shall receive payment for all accrued sick leave. All hours of accrued sick leave shall be paid at fifty percent (50%) of the employee's regular hourly rate of pay. One hundred (100) percent of the sick leave balance shall be paid to the employee's named beneficiary in the event an employee is killed in the line of duty, defined as follows: A death in the line of duty occurs when suffered in the performance or discharge of a duty required of the employee as a member of the Police Department.

SECTION 6. Sick Leave Saving Incentive.

- A. Employees who use three (3) shifts or fewer per calendar year shall receive incentive pay in the following manner: For the purpose of calculation, shifts shall be used in hours according to employees work schedule.

Eight (8) hour employees:

0 Hours sick leave used \$900
1-8 hours sick leave used \$500
9-16 hours sick leave used \$300

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Ten (10) hour employees:

0 Hours sick leave used \$900
1-10 hours sick leave used \$500
11-20 hours sick leave used \$300

Pay for sick leave savings will be figured at the end of the calendar year at the pay rate of straight hourly pay and shall be paid on the second payday in January. An employee who receives an off duty injury may be granted light duty status. Although he is assigned to light duty work status, the first one (1) through four (4), days of that assignment shall be counted as sick leave in computing his/her sick leave incentive pay. The employee shall not be required to use his/her sick leave for this deduction to occur during his/her light duty work assignment (injured off duty). This shall not change the manner in which on duty injuries are handled.

ARTICLE 15

INJURY LEAVE

SECTION 1. An officer injured on the job shall continue to receive his/her regular rate of pay during absence from work not to exceed six (6) calendar months from the date of injury; provided, however, after the first ninety (90) days, a physician's statement verifying the officer's inability to perform assigned duties shall be required at thirty (30) day intervals to carry said officer on paid injury leave. The officer shall not make any type of pay back concerning his/her regular pay received while absent from work.

SECTION 2. If, during the six months of injury leave, it is determined by the Police Pension and Retirement Board, based on medical evidence, that the injured officer should be medically retired, and he/she is so retired, then the injury leave shall cease.

SECTION 3. Employees on injury leave shall be in compliance with provisions or restrictions of their doctor or physician in all aspects of their outside employment or personal activities.

Any violation of this section shall be dealt with pursuant to Title 85 and Title 11, Oklahoma Statutes, et seq., as amended, Oklahoma Police Officers Pension and Retirement Systems, additions and amendments.

ARTICLE 16

CHILD BIRTH LEAVE

SECTION 1. The Family Medical Leave Act shall be followed by the employees and the Employer.

SECTION 2. An employee on child birth leave shall notify the Chief of Police thirty (30) days in advance of the date he/she intends to return to work.

SECTION 3. Approved childbirth leave shall not constitute a break in service. The employee shall not lose seniority or accrued benefits while on birthing leave, but accrual of additional benefits shall not be permitted during that period. Time spent on birthing leave without pay shall not be used in computing longevity or time-in-step for merit increases. At the expiration of birthing leave, the employee shall be returned to the next available position of the same class and grade.

SECTION 4. The Employer shall comply with the Pregnancy Discrimination Act and shall not treat leave due to pregnancy any differently than other types of medical leave.

ARTICLE 17

EMERGENCY LEAVE

SECTION 1. Emergency leave with pay shall be granted for the death of a member of the employee's immediate family (parents, grandparents, brothers, sisters, sons, daughters, spouse, father-in-law, mother-in-law, dependent members of the employee's household, and in the case where the employee was raised by persons other than natural parents, those parents who acted in the capacity of the natural parents).

SECTION 2. A maximum of three (3) days may be allowed at one time and the maximum of seven (7) days may be allowed per calendar year.

SECTION 3. Additional emergency leave may be granted at the department head's discretion.

SECTION 4. Where there is a death in the family of the employee other than those stipulated as immediate family, an employee may be granted one day of emergency leave with pay.

SECTION 5. In the event an employee is notified of the impending death of those listed as immediate family in Section (a) above, emergency leave may be granted, subject to the limitation noted in this section.

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~~**SECTION 1.** Emergency leave with pay shall be granted for the following reasons. A serious sickness, reviewed on a case by case basis by the Chief of Police; an unscheduled hospitalization of a member of the employees immediate family that requires an employee's personal care or attention; an emergency relating to a member of the employee's immediate family which requires for immediate action; or the death of a member of the employee's immediate family (parents, grandparents, grandchildren, sons, daughters, brothers, sisters, spouses, father in law, mother in law, dependent members of the employee's immediate family and, in case of where the employee was raised by persons other than natural parents, those persons who acted in the capacity of the natural parents).~~

~~**SECTION 2.** In the event an employee is notified of the impending death of those listed as immediate family in Section I above, emergency leave may be granted, subject to the limitations noted herein.~~

~~**SECTION 3.** The maximum number of working days allowed per year is seven (7).~~

~~**SECTION 4.** Additional emergency leave may be granted at the discretion of the City Manager.~~

~~**SECTION 5.** When there is a death in the family of the employee of a person other than those stipulated as immediate family in Section 1 above, an employee may be granted one shift of emergency leave with pay. Definition of family in this section shall be all relatives once removed from the employee's immediate family.~~

ARTICLE 18

MILITARY LEAVE

SECTION 1. Military leave for active duty other than for National Guard or Reserve Training shall be governed by the following provisions:

- A. Eligibility. Any represented officer who leaves the Employer's service for military duty shall be placed on military leave without pay.
- B. A represented officer going on military leave may use,

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freeze, or be paid in full all of his/her accrued Vacation Leave, Personal Time Off, Compensatory Time at the employees discretion. If frozen, all leave will be restored to the represented officer upon return from active military leave.

- C. A represented officer's sick leave shall be frozen or paid as appropriate under Article 14 of the CBA while he/she is on military leave. When the represented officer returns to the employer's service, he/she shall have his/her sick leave restored.

The employer and all represented officers will comply with all federal and state laws as they pertain to military service and use of military leave.

SECTION 2. Military leave for National Guard or Reserve training shall be governed by the following provisions:

- A. All represented officers who are members of a reserve component of the Armed Forces or the National Guard shall be entitled to military leave for the purpose of annual camp and regular drills without the loss of base pay during the first thirty (30) calendar days of such leave of absence during any federal fiscal year (October 1-September 30). However, the represented officer will not be entitled to any pay other than base pay, such as car allowance, while on military leave.
- B. In the event that the military training for which military leave is requested is optional and the represented officer volunteered for such school, training or duty, all such military leave will be without pay; however, the represented officer may be permitted to schedule vacation for such purpose at the discretion of the Chief of Police.
- C. The represented officer shall present the Chief of Police a copy of his/her orders to report for annual active duty training a minimum of ten (10) working days prior to departure on leave (or as soon as known). The represented officer shall also provide the Chief of Police with notice of his/her drill schedule within ten (10) working days of receipt of the schedule.
- D. A represented officer who is a member of the reserve component of any branch of the Armed Forces or the National Guard who is ordered to active duty as a result of a state or national emergency is entitled to leave of absence without loss of pay during the first thirty (30) calendar days of such leave unless his/her being ordered to active

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duty is because of (a) his/her own request or (b) a failure to fulfill the contractual obligation to the Armed Service.

ARTICLE 19

HOURS OF WORK

SECTION 1. The standard work period shall be 28 days in length comprised of eight (8) or ten (10) hour shifts. In the event an employee's shift schedule is changed, the existing mathematical ratio of duty days on shall be adjusted in regard to shifts off within 30 days of undertaking the new duty schedule.

The standard work period for eight-hour employees shall be 28 days in length composed of eight (8) hour shifts with five (5) consecutive days on duty and two (2) consecutive days off duty. The existing two (2) rotating shifts system in effect on the date of this Agreement shall be maintained.

The standard work period for investigations employees shall be 28 days in length composed of ten (10) hour shifts with four (4) consecutive days on duty and three (3) consecutive days off duty. The days off shall be limited to Friday, Saturday, Sunday or Saturday, Sunday, Monday.

The FOP recognizes the necessity for flexibility as to the actual hours of work of the two Investigation Bureau shifts of operation. It is agreed that the two shifts shall begin no earlier than 0700 hours and end no later than 2200 hours. An exception to these hours of work may be necessary to address specific crime problems as identified by Police Department Management. These changes in the hours of work shall not exceed fourteen calendar days at a time.

The FOP recognizes the necessity for flexibility as to the actual hours of work of the Traffic Enforcement shifts, comprised of the four Motorcycle Officers. A Ten (10) hour shift system shall be maintained for the Traffic Enforcement shifts, eight (8) consecutive days on duty followed by six (6) consecutive days off duty.

Field Operations Bureau shall maintain the ten (10) hour shift system comprised of three (3) ~~four (4)~~ shifts, with eight (8) consecutive days on duty, followed by six (6) consecutive days off duty. The hours of each shift shall be posted during the shift bid cycle.

A "Shift - Bidding" program will go into effect at the time of this Agreement for the Field Operations Bureau. With the following categories and ranks being separated into categories

1. Field Training Officers
2. Sergeants and Patrol Officers
3. SWAT team members

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If an officer is listed in more than one of the special categories of Field Training Officers, Motor Officers or SWAT team members, his/her choice shall be subject to the following priority of categories.

Priority I: Field Training Officers
Priority II: SWAT Team Members

EXAMPLE :

An officer is a Field Training Officer and a SWAT team member and he/she bids Shift I in both categories. Three other field officers are senior to this officer, but he/she is the most senior officer on the SWAT team. The officer would not be awarded his/her first choice because the category of Field Training Officers is a higher priority category.

Each officer within a category will submit a bid in writing, indicating his/her four (4) choices of shifts he/she wishes to be assigned to for the bidding cycle; the first choice being the shift most desired and the third choice being the least desired.

The cycle will be for one (1) year and the shifts assigned will be determined by seniority in the category the officer is in. Depending on the officer's seniority and the shifts requested by the officer, the officer will be assigned to his/her first choice unless that shift is already filled with officers with more seniority. At that time, the officer will be assigned to his/her second choice unless it is also filled with officers with more seniority. The third choice of the officer will then be assigned, unless it is also filled with officers with more seniority. The fourth choice of the officer will then be assigned if the officer does not have the seniority for the other requested shifts.

The District assignments and days off assigned to them for the coming Shift Bidding year shall be posted no later than the first day of November each year.

The written bid will be turned in to the Field Operations Commander between November 1 and November 30 of each year and the shift cycle will commence on January 1 of each year. The only shift transfers other than outlined in the bidding process will occur upon promotion (Seniority Article shall apply), agreements between two (2) officers of the same category to trade shifts, vacancies upon shifts that are posted and bids will be taken by seniority, and temporary shift shortages, or short term special projects requiring additional manpower. Any officer not submitting a bid within the dates outlined above, without special permission, will be assigned to the shift with vacancies after all other officers are assigned. Any other transfers (reassignments) will be from disciplinary action and subject to Article 10 of this Agreement.

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The Chief of Police may, under Article 5 Management Rights, assign officers to other shifts or special assignments for a period not to exceed four (4) months appointment. At the conclusion of such time the affected officer shall return to his/her normal shift assignment as bid under the provisions stated above. By mutual agreement of the affected officer and the Chief of Police, the time period may be extended to, but not exceed, eighteen (18) months appointment.

An assignment to the Investigations Division as an Investigator shall be for a minimum of twenty four (24) months with no maximum time assigned. By mutual agreement of the affected officer and the Chief of Police, the minimum time period may be changed to less than twenty four (24) months.

The "shift bidding" process will not affect the assignment of probationary police officers to such shift(s) as the Chief deems appropriate for training purposes. Upon successful completion of their entry-level probation period, such officers shall be required to bid on shift assignments on the basis of seniority in the manner stated above.

SECTION 2. Employees required to perform duties in association with their position outside their normal shift shall, at their option, be paid or receive compensatory time.

- A. If payment is received, the employee shall receive pay at one and one-half his/her total hourly rate for each hour worked outside his/her normal shift. The total hourly rate of pay shall include the regular rate of pay and shift differential plus Longevity pay if the shift differential or longevity pay is received on a regular basis.
- B. If compensatory time is received, the employee shall be credited with one and one-half hours compensatory time for each hour worked outside his/her normal shift.
- C. Employees required by the Employer to receive training outside their regular work period shall be paid their regular rate of pay. The Chief of Police or his designee may adjust an officer's regular work period within the officer's work cycle to accommodate the receiving of training. Represented officers required to attend training during their regular work cycle shall be provided with ten (10) hours off duty with pay immediately prior to each day of class or training.

Employees who are instructing outside of their regular work period shall be allowed to choose between being paid at a rate of one and one half hours for each hour worked, or receiving

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compensatory time at a rate of one and one half hour for every hour worked.

SECTION 3. Employees who are called back to duty during their normal off duty hours shall receive a minimum of three (3) hours compensatory time or three (3) hours pay, at their option. However, officers who are called back less than three hours prior to the beginning of their regularly scheduled shift shall receive the actual time prior to his reporting for his/her shift. This time prior to the beginning of the officers' regular shift shall be paid at the rate of one and one half hour for every hour. This section does not apply to any litigant who names the city as a defendant or any one subpoenaed by the plaintiff.

- A. "Court Time Compensation" Employees who are called back to duty during their normal off duty hours, to attend Department of Public Safety Hearings, which shall include Phone Hearings, Municipal, District and Federal Court, shall receive a minimum of three (3) hours compensatory time or pay, at time and one-half for all court appearances in which they are subpoenaed and appear. However, officers who are called back less than three hours prior to the beginning of their regularly scheduled shift shall receive the actual time prior to his reporting for his/her shift. This time prior to the beginning of the officer's regular shift shall be paid at the rate of one and one half hour for every hour.

Employees whose call back is canceled prior to them reporting for work will only receive one (1) hour compensatory time or pay.

SECTION 4. Compensatory time shall be taken at such time so as not to impede the operation of the department as determined by the chief of Police. Overtime shall be approved in accordance with departmental policy. Employees shall be allowed to accumulate eighty (80) hours of compensatory time. Over eighty (80) hours will result in automatic cash payment for overtime worked.

- A. **SIU Employees.** Employees assigned to Special Investigations Unit (SIU) and School Resource Officers (SRO), and Community Action Officers (CAO) shall be allowed to accumulate four hundred (400) hours of compensatory time while assigned to SIU or School Resource duties. Compensatory hours above four hundred (400) hours will result in automatic cash payment for overtime hours worked. Employees who transition from any of these assignments shall have their accumulated compensatory time placed into their compensatory bank. Employees

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transferring from any of these assignments shall have half of the accumulated compensatory bank transferred as use or lose time within one (1) year from date of transfer.

The Employer shall not be required to pay the employee for any compensatory time over eighty (80) hours which was transferred from any of these assignments (see Section 4 this article). The employee shall keep the remaining time until the employee uses it or terminates. Any new compensatory time earned once transferred from any of these assignments shall be handled according to Section 4 of this article. The employee shall not be forced to use compensatory time by the Employer.

- B. Employees assigned to Criminal Investigations shall be allowed to accumulate eighty (80) hours of compensatory time while assigned to the division. Compensatory hours above eighty (80) hours will result in automatic cash payment for overtime hours worked. Employees who transition from their respective division shall have their accumulated compensatory time placed into their compensatory bank.

The Employer shall not be required to pay the employee for any compensatory time over eighty (80) hours which was transferred (see Section 4 of this article.) The employee shall keep the time until the employee uses it or terminates. Any new compensatory time earned once transferred shall be handled according to Section 4 of this article. The employee shall not be forced to use compensatory time by the Employer.

SECTION 5. Upon termination of employment for any reason, the terminating employee shall receive pay at his/her regular hourly rate for all accrued compensatory hours.

SECTION 6. The Employer agrees that officers shall not be required to perform duties normally performed by other municipal departments except in an emergency situation or where danger to life, health or property exists. The determination of these situations shall be made by the City Manager and/or anyone properly acting in his capacity.

ARTICLE 20

WAGES

SECTION 1. All police officers that are promoted into the Sergeant rank will be placed in the Sergeant step showing the smallest increase in pay.

SECTION 2. Employees covered under the bargaining agreement shall receive a ~~3.06-0%~~ across the board increase to the pay scale, additionally, the City has agreed to adjust the steps in the pay scale

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~~for all ranks to be comprised of 3.0% in between steps for fiscal year 2024/2025³ which will be effective July 1, 2024², as reflected in Addendum A., and shall receive a 2.0% across the board increase to the pay scale for fiscal year 2023/2024 which will be effective July 1, 2023, as reflected in Addendum B.~~

ARTICLE 21

**SPECIAL ASSIGNMENT/HAZARDOUS DUTY/
MOTORCYCLE OFFICER/FIELD TRAINING OFFICER/
K-9 (CANINE) HANDLER**

SECTION 1. Special Assignment is defined as any of the following positions: Detective, Special Investigations, Community Action Officer, School Resource Officer, and Explorer Post Advisor, SWAT, Motor Officers, and Bilingual Officers. Officers assigned duty that is managed outside of this department (e.g. FBI, Violent Crimes Task Force).

1. Officers assigned as Detective shall have reached the rank of Sergeant prior to being assigned.
2. Hazardous Duty Assignment is defined as any of the following positions: Special Weapons and Tactics Team Officers.

Selection process for above Special Assignments and Hazardous Assignments to be designed by management to meet the needs of management.

At the time of posting of the opening in a Special or Hazardous Assignment, the minimum duration of assignment shall also be posted and the successful applicant shall be guaranteed the posted duration of assignment unless the employee voluntarily withdraws from the assignment or the employee is removed for the unwillingness or inability to perform duties assigned after appropriate counseling, training and developmental measures have been exhausted.

It is understood and agreed that this article does not preclude management from specially assigning an employee of a higher rank than Sergeant position; however, in the event management elects to specially assign an employee of higher rank than Sergeant, that employee shall not lose any seniority status, benefits or monies for the duration of the assignment and shall be returned to the position formerly held prior to the special assignment.

- A. Officers who are assigned as Field Training Officers (FTO) shall receive additional pay in the amount of fifty dollars (\$50.00) per shift in which an FTO has a Police Officer, or a Probationary Police Officer assigned to him/her for more than one-half (1/2) of the regularly scheduled shift.

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1. Field Training Officers shall be selected from the rank of Sergeant.
2. Only certified Field Training Officers (FTO) selected in a process designed by management to meet the needs of management shall conduct Field Training Officer duties. Assignment of probationary officers shall be done on a rotating basis with the intent being that each FTO shall receive an equal number of training assignments.

B. Effective October 24, 2007 employees assigned the task of being a K-9 (Canine) Handler, who cares for, houses and is responsible for handling a Midwest City Police Canine (to include bomb dog, patrol dog and drug dog) shall receive 30 minutes (time off), during each shift worked, for their off-duty care and handling of the dog(s) assigned to them. This time off shall occur the first or the last 30 minutes of the shift, as determined by management. In the event the handler is not allowed the time off they will receive 30 minutes of compensatory time figured at straight time.

1. K-9 (Canine) Handlers shall receive compensation in the form of 60 minutes compensatory time for the off-duty care and handling of the dog(s) assigned to them which occurs on days that the handler does not work a shift. The rate of compensation shall be figured at straight time.
2. K-9 Handlers shall receive compensation in the form of compensatory time for veterinary appointments for their assigned dog(s) which occur outside of the handler's normal shift. The rate of compensation shall be figured at straight time for every hour spent going to and from the veterinarian's office and the time spent at the office. Handlers shall be required to notify the K-9 Supervisor as soon as possible after an emergency visit, and prior to routine veterinarian appointments.
3. K-9 (Canine) Handlers shall be allowed to accumulate compensatory time earned by the off duty care of their assigned dog (s). This bank shall be separate from the compensatory time bank found in Article 19, Section 2 through Section 4.
4. A total of eighty (80) hours of compensatory time earned by the off duty care of their assigned dog(s) shall be carried over into a new contract year. Time in excess of

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the eighty (80) hour bank shall be paid to the handler at the end of the contract year. At a rate of one hours pay for one hour of compensatory time.

Upon Termination of employment for any reason, the terminating employee shall receive pay at his/her regular hourly rate for all compensatory time earned by the off duty care of the assigned dog(s).

5. K-9 (Canine) Handlers required to perform duties in association with their position outside their normal shift, other than care for the dog(s), shall be compensated in accordance with Article 19.

- C. Officers who are assigned as Spanish and/or American Sign Language interpreters shall receive additional pay in the amount of thirty dollars (\$30.00) per pay period. Such officers shall complete a mutually agreed upon system, demonstrating at least basic fluency in the assigned language prior to receiving the special assignment pay. Officers receiving such pay will be required to serve as interpreters on an as-needed basis.

ARTICLE 22

ACTING OUT OF HIGHER CLASSIFICATION

Section 1. Any employee covered by this Agreement who is required to accept the responsibilities and carry out the duties of a position or rank above that which he normally holds for thirty-one (31) consecutive days, in conformance with departmental policies and retroactive to and including the first day, shall be paid at the rate for that position or rank while so acting. No payment shall be made if service is voluntarily broken for more than two (2) days (shifts) during the 31-day period. Sick leave, emergency leave or previously scheduled holiday pay (leave) shall not constitute broken service.

SECTION 2. The Employer agrees that employees who act out of higher classification shall be compensated at the rate of pay they would receive were they permanently promoted to the higher classification.

ARTICLE 23

TRAVEL EXPENSES

SECTION 1. When an employee is required to furnish his/her own transportation to conduct City business, the employee shall be reimbursed

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the same rate as city policy for each mile as determined by the most direct route.

SECTION 2. Employees shall be reimbursed for all parking fees at actual cost.

ARTICLE 24

PENSION CONTRIBUTION

SECTION 1. The City of Midwest City and all eligible commissioned officers shall continue to participate in the State Police Pension and Retirement System pursuant to Title 11, Oklahoma Statutes, Section 50-101, et seq., as amended.

SECTION 2. The employee shall contribute to the pension fund an amount equal to eight percent (8%) of his/her regular pay plus pay (8%) of his/her longevity pay.

SECTION 3. The Employer shall contribute to the pension fund an amount equal to thirteen percent (13%) of the employee's regular pay plus thirteen percent (13%) of the employee's longevity pay.

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ARTICLE 25

LONGEVITY

SECTION 1. All employees covered by this CBA shall be eligible for Longevity benefits according to the following schedule; effective July 1, 2021 the Longevity benefit will begin on the fourth (4) year of service:

	Years of Service	Annual Longevity	Payday Longevity Pay	Hourly Longevity Pay
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\$150.00	4	\$600.00	\$23.08	\$0.29
\$150.00	5	\$750.00	\$28.85	\$0.36
\$150.00	6	\$900.00	\$34.62	\$0.43
\$150.00	7	\$1,050.00	\$40.38	\$0.50
\$150.00	8	\$1,200.00	\$46.15	\$0.58
\$150.00	9	\$1,350.00	\$51.92	\$0.65
\$150.00	10	\$1,500.00	\$57.69	\$0.72
\$150.00	11	\$1,650.00	\$63.46	\$0.79
\$150.00	12	\$1,800.00	\$69.23	\$0.87
\$150.00	13	\$1,950.00	\$75.00	\$0.94
\$150.00	14	\$2,100.00	\$80.77	\$1.01
\$150.00	15	\$2,250.00	\$86.54	\$1.08
\$150.00	16	\$2,400.00	\$92.31	\$1.15
\$150.00	17	\$2,550.00	\$98.08	\$1.23
\$150.00	18	\$2,700.00	\$103.85	\$1.30
\$150.00	19	\$2,850.00	\$109.62	\$1.37
\$150.00	20	\$3,000.00	\$115.38	\$1.44
\$150.00	21	\$3,150.00	\$121.15	\$1.51
\$150.00	22	\$3,300.00	\$126.92	\$1.59
\$150.00	23	\$3,450.00	\$132.69	\$1.66
\$150.00	24	\$3,600.00	\$138.46	\$1.73
\$150.00	25	\$3,750.00	\$144.23	\$1.80
\$150.00	26	\$3,900.00	\$150.00	\$1.88
\$150.00	27	\$4,050.00	\$155.77	\$1.95
\$150.00	28	\$4,200.00	\$161.54	\$2.02
\$150.00	29	\$4,350.00	\$167.31	\$2.09
\$150.00	30	\$4,500.00	\$173.08	\$2.16

SECTION 2. This payment will be in addition to an employee's base pay.

SECTION 3. Whenever an employee is eligible for the next level of longevity, the higher level pay will begin and will be in conjunction with the date of hire with the City of Midwest City.

SECTION 4. Longevity does not go into effect until the beginning of the fourth (4th) year of service as an officer and the maximum that can be received is at Thirty years of service as an officer. Longevity is calculated by taking \$150.00 a year times the years of service and will be figured hourly and paid per pay period.

ARTICLE 26

RESIDENCY REQUIREMENTS

SECTION 1. Pursuant to Title 11, Oklahoma Statutes, Section 22-127, et seq., as amended, and the City of Midwest City Municipal Ordinances, police officers are not required to reside within the city limits of Midwest City.

SECTION 2. Since members of the bargaining unit are not required by Title 11, Oklahoma Statutes, section 22-127, et seq., as amended, and the City of Midwest City Municipal Ordinances, members of the bargaining unit shall maintain a current active cell phone and/or land line number for recall purposes. All such employees will be required to insure the Chief's secretary / administrative assistant has updated numbers. These numbers will be kept in confidence and with established policy.

ARTICLE 27

GROUP HEALTH BENEFITS

SECTION 1. The Employer agrees to provide health, dental, vision and hearing benefits coverage for employees.

SECTION 2. Effective July 1, 2024,~~The~~ employees covered by this Agreement and enrolled in the Health Plan **Preferred Network** shall pay ~~\$87.83106.33~~ \$87.83106.33 premium per pay period for the employee's health benefit and ~~\$293.03325.13~~ \$293.03325.13 for their dependent spouse, or ~~\$229.82260.35~~ \$229.82260.35 for their dependent child(ren), or ~~\$335.36389.06~~ \$335.36389.06 for all dependents within the employees family for health benefits. Employee and dependent dental, vision and hearing benefits will be provided at no cost to the employee.

Effective July 1, ~~2025~~2023, the above premium amounts shall be updated to correspond to the premium amounts established by the Life and Health Committee and approved by the City Council for fiscal year ~~2025-2026~~2023-2024.

SECTION 3. If, during the term of this Agreement, the City Council approves an alternative health care program as an option to the City's health benefits plan, the City agrees to contribute to the optional program chosen by the employee an amount, equal to the City's contribution being paid by the City to the City's internally operated health benefits plan.

SECTION 4. The FOP president may appoint one member of the FOP as the FOP's representative to the Health Benefits Committee established by the City Manager. The local FOP president shall select said appointee for the entire period of this Agreement. Said appointee shall be a full voting member of the Health Benefits Committee.

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SECTION 5. The Employer shall have the right to modify, alter or amend the Health Benefits Plan Document in whole or in part, provided, however, that no amendment shall diminish or eliminate any claim for any benefit to which a participant was entitled, prior to such amendment.

SECTION 6. The City shall provide life insurance for members of the Police Department with a basic benefit of thirty thousands dollars (\$30,000) and a double indemnity benefit for accidental death in the amount of sixty thousand dollars (\$60,000).

SECTION 7. During the Contract year in the event that the Internal Revenue Service (IRS) issues any regulations or additional guidance that affects the Employee Health and Benefit Plan overall costs and/or premiums, the parties agree to reopen negotiations on Article 27 for the sole purpose of modification to the premium that is referenced in section two (2) and section three (3) of the article.

In the event of an increase to the Employee Health Plan and/or employee's premium and/or the dependent premium during the ~~2024-2025~~~~2022-2024~~ contract years, the city agrees to pay half of the cost with employee paying the remaining half.

ARTICLE 28

SAFETY AND HEALTH BOARD AND LABOR MANAGEMENT REVIEW

SECTION 1. There shall be established a Safety and Health Board.

- A. Said Board shall have the responsibility of recommending safety and health needs to the Employer.
- B. The membership of the Board shall be comprised of two members appointed by the FOP president and two members appointed by the Chief of Police. Said Board shall elect a chairperson from within their Board.
- C. Said Board shall meet quarterly or at such times as deemed necessary by the Chief of Police or the FOP.
- D. After each meeting of the Board, a written report shall be made and copies of it submitted to the Chief of Police, the City Manager and the FOP president.
- E. The Chief of Police shall acknowledge receipt of the report from, said Board within ten (10) days and inform the Board in writing of any administrative action taken regarding the Board's recommendations.

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SECTION 2. There shall be established a Labor Management Review Board.

- A. Said Board shall be charged with reviewing accidents, shootings, grievances and other matters referred to it by the Chief of Police.
- B. The membership of the Board shall be comprised of three members appointed by the Chief of Police or designee and three members appointed by the president of the FOP or designee. Members so appointed shall serve for a period of one year. The chairperson of the Board shall be the Human Resources Director or designee.
- C. Said Board shall be convened upon order of the Chief of Police. Said Board shall conduct its business within the time span allotted by the convening order of the Chief of Police.

SECTION 3. General Provisions

- A. Members of the Safety and Health Board and the Labor Management Review Board shall be granted time off without loss of pay to attend their Board meetings and to conduct investigations deemed necessary by the Chief of Police.
- B. The FOP president and the Chief of Police shall each appoint alternate members in the event that their regularly appointed members are unable to serve.
- C. In reviewing matters other than grievances referred by the Chief of Police, the Labor Management Review Board shall serve as a fact finding body; one fact of the situation being a determination of the appropriateness of the action taken by an individuals involved.
- D. In reviewing a grievance, the Labor/Management Review Board shall review the appropriateness of the action which is the subject of the grievance and make recommendations to the Chief.

ARTICLE 29

PROMOTION POLICY AND PROCEDURES

SECTION 1. All employees shall be entitled, after meeting certain requirements, to a fair and equitable opportunity for advancement as established herein.

SECTION 2. It is the purpose of this procedure to assure all employees an equal opportunity to compete in promotional examinations

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that shall be free of favoritism, personalities and politics. The goal of this procedure is to select the most qualified individual available for the position in an organized and orderly manner.

SECTION 3. Testing will be administered by the Chief of Police in accordance with the Equal Employment Opportunity Commission guidelines and the Midwest City Affirmative Action Plan. All written tests questions administered in accordance with this Agreement shall be validated prior to competition.

SECTION 4. Sergeant

A. Eligibility.

1. Applicants shall be required to have been employed for a period of four (4) continuous years of service as a police officer with this department. Applicants will be allowed to test during the 30 days prior to his/her reaching their fourth (4) anniversary date. Upon successful completion of the competency testing, the applicant shall be promoted to Sergeant once they reach their fourth (4) anniversary date. Applicants must not be on disciplinary probation or disciplinary suspension on the date of examination. Applicants must not have been reduced in grade for cause within the last twelve (12) months prior to the date of examination.
2. Advancement to the rank of Sergeant shall be made following the applicant successfully scoring seventy-five percent (75%) or better on a written test of "police officer" job skills, knowledge and abilities.
3. Applicants who do not successfully score seventy-five percent (75%) or better on the written test must wait a minimum of 90 days before they are eligible to re-test for the rank of Sergeant.
4. It shall be the responsibility of a police officer who has met the eligibility requirements cited in subsection 1 or 3 of this section to notify the Chief of Police, in writing, of his/her intention to take the written test.

SECTION 5. Lieutenant

A. Eligibility

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Applicants shall be required to have held the rank of Sergeant for a period of one (1) continuous year. Applicants must not have been on disciplinary probation or disciplinary suspension or have been reduced in rank for just cause within the last twelve (12) months prior to the date of competition.

B. Written Examination

A written examination will be prepared by the Chief of Police or his designee. The Human Resource Director, Chief of Police or assessment facilitator and the FOP Representative shall meet prior to testing and review all test questions and answers. If any of the three representatives fail to agree upon a test question, it shall not be used. Only clear, direct questions requiring concise answers will be used. Neither trick nor ambiguous questions will be a part of the written test. The test should consist of at least one hundred (100) objective (multiple / true or false) job knowledge questions. Test questions must be obtained from materials available to all applicants, with a list of these materials posted in conspicuous places throughout the Police Department thirty (30) days prior to the date of examination.

Pass/fail on the written examination will be seventy five 75% of the highest score possible on the written examination. The top eight (8) candidates scoring seventy five percent (75%) or more of the highest score possible on the written test will qualify to compete in the assessment process. In the event of a tie for the eighth position, all officers tied for that position will be permitted to compete in the, assessment process. The written test shall be weighted by the Chief of Police prior to testing and be included in the candidates' final score.

Grading of written examinations will consist of: The Human Resources Director will appoint a representative who shall grade the written examinations with the assistance of the designated Fraternal Order of Police observer and Chief of Police designee. Immediately following the grading and prior to the posting of the scores, all candidates will review the test together with the Human Resource Director or representative by use of an overhead projector or power point presentation. At that time, if the validity of any question is raised, the Human Resource Director Representative, the Labor Representative and the Assessment Facilitator for Management will determine whether or not the question will be counted. All grievances concerning the written test shall be filed prior to the meeting being adjourned. Any grievance

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will be filed with the City Manager. If a grievance is not filed, the written test scores will stand.

C. Assessment Board

The Chief of Police shall establish a board consisting of four (4) members of the rank of Lieutenant or above. All assessors will be from police Departments comparable in size to the Midwest City Police Department or larger departments. One (1) of the assessors shall be from the Midwest City Police Department, struck from a list of the eligible personnel, with the first to strike a name being determined by a coin toss.

The competitive assessment shall be designed by management to address the particular needs identified by management. The eligibility of each assessor to serve on the board shall be determined by the Human Resources Director.

D. Personnel File Review Process

Each of the top eight (8) Candidates scoring seventy five (75%) or higher on the written examination shall who appear before the assessors at which time his/her personnel or 201 file covering the past three years shall be presented by the Human Resources Director or designee for the review of the assessment panel.

The candidate will be present during their review process and will be given the opportunity to clarify or correct any material/information presented to the Board.

The 201 review will be considered by the assessors in determining the final assessment ranking.

This shall be the final exercise of the assessment process.

E. Selection.

The selection of Lieutenant shall be made by the Chief of Police as outlined in Section 8.

F. Shift III officers who are among the top 12 candidates, and are on the regular work cycle will be allowed to take personal leave off duty with pay immediately prior to each day of the assessment. This does not include the written test.

SECTION 6. Captain

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The position of Captain shall be filled by appointment by the Chief of Police from the rank of Lieutenant from the Midwest City Police Department, with the process designed by the Chief to meet the needs of the department.

SECTION 7. Major

The position of Major shall be filled by appointment by the Chief of Police from the rank of Captain from the Midwest City Police Department, with the process designed by the Chief to meet the needs of the department.

SECTION 8. Selection

The assessors will confer and develop a written consensus report identifying the top candidate, specifically addressing the skills, knowledge and abilities demonstrated by that individual during the assessment process. The top Sergeant candidate, as determined by the assessors, shall be the individual promoted to the vacant position.

SECTION 9. Applicant Rights and Responsibilities

- A. If the applicant believes the procedures outlined herein have been violated, the individual may present a grievance on this issue to the Chief of Police.

Such appeal must be made within three (3) working days following completion of the assessment process.

- B. A member of the Fraternal Order of Police shall be named by the FOP to act as an observer during the promotion process, except that the observer will not be present during the preparation of the assessment process and during the personal interview portion of the assessment board. He shall be afforded the opportunity to verify the process immediately prior to the review of applicants. The observer shall carry out the following duties:

1. Review the eligibility list to insure all individuals meet the requirements according to the current contract.
2. Shall be present during the administering and grading of the written test and monitor the same.
3. Shall be present during the assessment process and monitor the same, excluding individual interviews.

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4. Report any and all irregularities, immediately, to the Fraternal Order of Police president, Human Resources Director and Chief of Police.
 5. Observe the same rules of confidentiality that apply to members of the Promotion Review Board.
- C. The Human Resources Director or designee shall be present at each step in the assessment process as an observer.
- D. Each applicant is entitled to review his/her individual final results, including the written test results, with the Human Resources Director.
- E. Written examinations and Promotion Review Boards shall not exceed eight (8) hours in a given day.
- F. Applicants shall be notified of the selection following the expiration of the grievance period outlined in Section 9(A) of this article.

SECTION 10. Special Circumstances

During the application of this promotion system, special circumstances may arise. The following shall be used as guidelines for pertinent situations:

- A. In the event of a change in job title only, a similar change of title shall be made in the promotional procedures.
- B. Should a totally new position in the rank structure become available, then this position will be filled as nearly as possible in accordance with the procedures set out in this system. This new position will then be written into this system following the basic procedures contained herein.
- C. At no time will only one person be eligible for a position if three or more people would be eligible except for time-in-grade. A staff decision will be made as to how many or who will be eligible. At all times, the general provisions will be adhered to as closely as possible.
- D. When new positions in the rank structure are created, then time-in-grade requirements will be waived until the position has been filled for the requisite time for advancement to the next higher position, when an adequate number of applicants are not eligible within the department.

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- E. If, during the promotional process, there is a dispute about any of these sections or provisions in this promotion procedure, then all such disputes will be settled by a staff decision.

SECTION 11. Integrity of Promotional Process

- A. All aspects of this promotional process, with particular attention to questions and answers of the written examinations, and assessment procedures, shall be maintained in the strictest confidence and this information provided on "need to know" basis only.
- B. Any employee, regardless of rank or status, who is determined to violate this section shall be subject to disciplinary action as provided by the Police Department disciplinary policies.

SECTION 12. Promotional Eligibility List

- A. Upon the completion of the promotional process for the ranks of Sergeant, the department will establish and maintain a final ranking eligibility list, in descending order, of those candidates who successfully complete the assessment process, but were not the top performer. This list will be maintained for a period of twelve (12) months from the date of the completion of the assessment process.
- B. In the event that another opening in the rank of Sergeant comes open during that twelve (12) month period, the Employer agrees to promote the top person on the promotional eligibility list for that particular rank. Any person who is on the eligibility list (list maintained for twelve months) who has been placed on disciplinary probation or disciplinary suspension or has been reduced in rank for just cause during his/her eligibility period shall not be promoted. If, for any reason, the top person on the promotional eligibility list declines the offer of a promotion, the next on the list shall be offered the promotion. If the top person on the promotional eligibility list declines a promotion, he/she shall remain the top person for the remainder of the term of the eligibility list.
- C. If more than one opening becomes available in that rank during that twelve (12) month period, then those positions would be filled from the descending order from the promotional eligibility list for that particular rank.

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- D. On the tenth day following a vacancy, a notice will be posted announcing the vacancy and listing the study materials. The date of this posting shall determine the eligibility of any applicant for the vacancy and promotional eligibility list. Any vacancy occurring during the term of the current promotional eligibility list will be filled from that list.

ARTICLE 30

EDUCATION INCENTIVE PAY

SECTION 1. The Employer recognizes the benefits of improved employee performance and organizational effectiveness through continuing education. To assist the employee in achieving this improved performance the Employer agrees to allow the members of the bargaining unit to participate in the City's Tuition Reimbursement Program effective July 1, 2000. If the employee decides to participate in the tuition Reimbursement Program he/she will not be able to receive the College Incentive pay as outlined below. If the employee currently holds a degree and wishes to participate in the Tuition Reimbursement Program, he/she will not be eligible to receive the College Incentive pay at the next degree when completed.

SECTION 2. The Human Resources Director (or designee) and the president of FOP Lodge #127 (or designee) shall develop and post a list of Associate level degrees, Bachelor level degrees and Masters level degrees offered by or recognized by the Higher Education System of the State of Oklahoma that this committee has determined to be directly job related or of benefit to both the employee and the City. In the event a degree program is disputed by members of this committee, the City Manager shall decide the applicability of the degree program.

SECTION 3. Payment for attaining such a recognized degree or CLEET Certification shall be as follows:

Intermediate CLEET Cert.	\$50.00 per pay period
Advance CLEET Cert.	\$60.00 per pay period
Associate Degree	\$70.00 per pay period
Bachelors Degree	\$80.00 per pay period
Masters Degree	\$90.00 per pay period

If an Officer holds multiple degree(s) and/or CLEET certifications, the Officer shall receive the incentive for the highest held degree or CLEET certification, payment shall be included in the employee's base pay and paid per regular pay period.

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SECTION 4. The employee shall furnish a certified college transcript to the Personnel Department to be included in the employee's 201 file that indicates the award of said degree.

SECTION 5. All members of the bargaining unit employed prior to July 7, 1988 with college degrees accepted by the Higher Education System of the State of Oklahoma shall be compensated for such degree, regardless of program, by the terms of this article. All employees hired after July 1, 2002, submitting degrees for incentive pay must be approved as a "police related" degree determined by the Police Chief and FOP President.

SECTION 6. Payment shall be made solely on the highest degree attained.

ARTICLE 31

BULLETIN BOARD

SECTION 1. The City agrees to provide space for a reasonable number of bulletin boards for the posting of FOP informational notices. Such notices shall contain no political advertisement, slanderous or inflammatory matter, as these terms are commonly defined in this community.

Acceptable use of the bulletin board would include:

- A. Recreational and social affairs of the FOP.
- B. FOP meetings
- C. FOP elections
- D. Reports of FOP committees
- E. Rules or policies of the FOP
- F. Other notices as approved for posting by the Human Resources Director.

SECTION 2. The Employer reserves the right to remove any material from such bulletin boards which, in its opinion, does not conform to the purpose of this article.

SECTION 3. Only designated bulletin boards shall be used for posting any material on City property.

SECTION 4. The FOP president shall be the responsible party for posting all information on the bulletin board and material to be posted should be dated and materials shall be removed in a timely manner by the FOP president.

ARTICLE 32

DRUG FREE WORKPLACE ACT

The City will implement and conform to Public Law 100-690, The Drug Free Workplace Act of 1988. In accordance with the Act the City will:

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- Publish and distribute to workers a policy prohibiting illegal drugs in the workplace;
- Provide each employee a copy of the above policy;
- Establish "drug free awareness programs" to inform employees about the dangers of drug use in performance of their jobs; the penalties for using them at work; and the availability of drug- counseling programs;
- Require employees to notify the Employer if they are convicted of any drug related crime;
- Punish convicted employees for drug violations or require their successful completion of a drug rehabilitation program.

ARTICLE 33

HEALTH PHYSICAL

SECTION 1. The Employer agrees to provide at no cost to the employee a voluntary physical examination at;

Every 5 Yrs. For employees at age 21-39

Every 4 Yrs for employees at age 40-49

Every 3 Yrs. For employees at age 50+

- Medical History
- Physical Exam
- Audiometric Testing
- Comprehensive Metabolic Panel (14) to include CBC and Lipid Battery (chemistry profile)
- 12 Lead EKG and Exercise Treadmill Test
- Digital Prostate Exam and PSA (if over 40)
- Chest and spine X-ray at Employees Discretion
- Lumbar-sacral spine X-ray at Employees Discretion
- Hepatitis B and C Antibody Screening
- HIV Screening
- Pulmonary Function Exam
- Testicular exam for all male employees regardless of age
- Breast exam for all female employees regardless of age
- TDAP Immunization
- MMR Booster at the employees discretion
- Calcium Scoring Test for all employees over 40 Yrs. Of age

SECTION 2. Only the employee shall each receive a copy of the results of the medical evaluation.

SECTION 3. The physical examination will be administered during the employee's anniversary month.

SECTION 4. The examination shall be done with pay at a straight-time rate.

ARTICLE 34

UNIFORM PROCUREMENT

SECTION 1. The procurement of new uniforms will be the sole responsibility of the Officer. Officers will be responsible for upkeep of their equipment and uniforms as outlined in Police Department Policy.

SECTION 2. Duty uniforms shall be of a type and color approved by management and readily available from local vendors.

SECTION 3. The Employer agrees to provide each employee any additional uniform item required with the exception of uniform items currently provided by each employee, i.e. leather/web gear, footwear and handguns. The Employer further agrees that, in the event it makes the administrative decision to substantially change the type or color of the required duty uniform, it will provide the initial issue of the new uniform to the employees covered by this Agreement.

SECTION 4. The Employer agrees to purchase (1) pair of Motorcycle pants per physical year for officers assigned as Motorcycle Officers, beginning with the officer's assignment to the Motorcycle and each anniversary year thereafter. The employer further agrees to purchase (1) pair of approved Motorcycle boots for each Motorcycle Officer every two years (2) beginning with the officer's assignment to the Motorcycle and each anniversary year thereafter.

SECTION 5. The Employer shall repair or replace with like kind and quality timepieces, duty gear, Cell Phones, and garments damaged or destroyed in the line of duty up to a maximum of three hundred and twenty five dollars (\$325.00) per incident.

SECTION 6. The Employer agrees to replace prescription eyeglasses or contact lenses damaged or destroyed in the line of duty at full value, up to three hundred and twenty five dollars (\$325.00).

SECTION 7. An employee who accepts an assignment in the Investigations Division shall receive a one-time payment of \$350.00 upon being assigned. The payment shall be used to purchase required clothing items, allowing the employee to meet the dress code of that department. This section shall apply to any and all employees who are currently assigned and have not been compensated.

An employee who returns to Patrol Division assignment from the Investigations Division shall receive a one-time payment of \$350.00 upon being assigned. The payment shall be used to purchase required

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clothing items, allowing the employee to meet the dress code of the Patrol Division. This section shall apply to any and all employees who are currently assigned and have not been compensated.

ARTICLE 35

PUBLICATION OF COLLECTIVE BARGAINING AGREEMENT

SECTION 1. The Employer agrees to provide the Union an electronic copy of the Collective Bargaining Agreement (CBA) on a CD or Thumb drive, and a "Read Only" PDF to be sent to the FOP President each year at no cost to the Union. The FOP agrees to distribute to each of the unit's members an electronic copy of the CBA each year.

NOTE: the City agrees to provide no more than ten (10) printed copies of the CBA to the FOP at no cost.

ARTICLE 36

LIEUTENANT/CAPTAIN ASSIGNMENT

SECTION 1. Lieutenants and Captains shift assignments and duty assignments shall be for a minimum of twenty-four (24) months.

During the minimum time of the assignment, by mutual agreement of the affected officer and the Chief of Police, the time period may be set aside and the affected officer moved.

ARTICLE 37

SUBSTANCE ABUSE PROGRAM

SECTION 1. The Fraternal Order of Police, Lodge 127 recognizes the City's right and responsibilities to administer the City's Abuse Policy in accordance with state and Federal guidelines.

ARTICLE 38

SAVINGS CLAUSE

SECTION 1. If any provision of this Agreement, or the application of such provision, should be rendered or declared invalid by any court

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action or by reason of any existing or subsequently enacted legislation the remaining parts or portions of this Agreement shall remain in full force and effect.

SECTION 2. If any provision of this Agreement conflicts with a provision of the Merit System, or other personnel provisions of the City of Midwest City then, and in that event, the language of this contract shall have precedence and control.

ARTICLE 39

POLICE OFFICER RETIREMENT

Section 1. The City of Midwest City wishes to recognize and honor those officers who have honorably served twenty (20) years of continuous service to the citizens of Midwest City and the Midwest City Police Department by giving to the officer upon retirement their issued service weapon. This will occur when an officer retires in good standing, and pursuant to the requirements of the Oklahoma Police Pension and Retirement System.

Section 2. Employees covered by this agreement understand that this is a "Fringe Benefit," under the IRS Regulations, and therefore the fair market value of said service weapon is considered taxable.

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CONCLUSION

It is understood by the parties to this Agreement that the foregoing is an amendment of its terms and conditions during the contract period and it cannot be altered in any manner, except in accordance with Article 7, Section 1.

IN WITNESS WHEREOF, the parties set their hand this on the ~~27th~~ day of ~~July, 2022~~ August, 2024

CITY OF MIDWEST CITY

Matthew D. Dukes II Mayor

CITY CLERK

CORPORATE NEGOTIATOR
MIDWEST CITY FRATERNAL ORDER OF POLICE, LODGE #127

PRESIDENT

CORPORATE NEGOTIATOR
CITY OF MIDWEST CITY

HUMAN RESOURCES DIRECTOR

APPROVED AS TO FORM this the ~~27th~~ day of ~~July, 2022~~ August, 2024

CITY ATTORNEY

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**APPENDUM A
MIDWEST CITY POLICE PAY SCALE
EFFECTIVE JULY 1, 2022
(6.0% Increase for Fiscal Year 2022/2023)**

	A	B	C	D	E	F	G	H	I	J	K
Officer											
Yearly Payday	57,236.19	58,894.98	60,601.41	62,358.88	64,166.35	66,033.93					
Hour	2,201.47	2,265.19	2,330.82	2,396.42	2,462.05	2,527.77					
	27,5184	28,3149	29,1353	29,9902	30,8656	31,7471					
Sgt.											
Yearly Payday	66,782.27	68,660.51	70,559.68	72,513.23	74,522.59	76,588.82	78,714.20	80,895.26	83,148.47	85,460.70	87,838.78
Hour	2,566.55	2,640.79	2,713.83	2,788.97	2,866.25	2,945.72	3,027.47	3,099.36	3,198.02	3,266.95	3,378.41
	32,1869	33,0099	33,9229	34,8621	35,8282	36,8215	37,8434	38,7420	39,9752	41,0869	42,2302
Lt.											
Yearly Payday	92,125.95	94,608.16	97,154.43	99,770.68							
Hour	3,543.46	3,638.78	3,736.71	3,837.33							
	44,2932	45,4847	46,7089	47,9667							
Capt.											
Yearly Payday	105,660.67	108,476.78	109,949.95	112,904.16							
Hour	4,097.73	4,095.26	4,205.74	4,319.28							
	49,8466	51,1908	52,5718	53,9909							
Maj.											
Yearly Payday	118,166.19	115,883.33	118,729.99								
Hour	4,350.24	4,457.05	4,566.54								
	54,3779	55,7131	57,0817								

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**APPENDIX B
MIDWEST CITY POLICE PAY SCALE
EFFECTIVE JULY 1, 2023
(2.0% Increase for Fiscal Year 2023/2024)**

	A	B	C	D	E	F	G	H	I	J	K
Officer											
Yearly	56,382.95	60,072.88	61,813.44	63,606.06	65,452.74	67,354.61					
Payday	2,245.50	2,316.50	2,377.44	2,446.39	2,517.41	2,590.56					
Hour	28,068.7	28,881.2	29,718.0	30,579.8	31,467.7	32,382.0					
Sgt.											
Yearly	68,117.92	70,033.72	71,976.87	73,963.49	76,013.04	78,120.60	80,288.48	82,194.93	84,811.44	87,169.91	89,595.56
Payday	2,619.92	2,693.60	2,766.11	2,844.75	2,923.68	3,004.64	3,088.02	3,161.34	3,261.98	3,352.69	3,445.98
Hour	32,749.0	33,679.1	34,601.4	35,559.4	36,544.7	37,558.0	38,600.2	39,516.8	40,774.7	41,908.6	43,074.8
Lt.											
Yearly	93,972.55	96,500.32	99,097.52	101,766.09							
Payday	3,614.33	3,711.55	3,811.44	3,914.08							
Hour	45,179.1	46,394.4	47,643.0	48,926.0							
Capt.											
Yearly	105,754.49	108,606.32	111,566.34	114,547.18							
Payday	4,067.48	4,177.17	4,288.86	4,405.66							
Hour	50,843.5	52,214.6	53,623.2	55,070.8							
Major											
Yearly	115,368.25	118,201.00	121,104.59								
Payday	4,437.24	4,546.19	4,657.87								
Hour	55,465.5	56,827.4	58,223.4								

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ADDENDUM A
MIDWEST CITY POLICE PAY SCALE
EFFECTIVE JULY 1, 2024
(3.0% Increase for Fiscal Year 2024/2025)

	A	B	C	D	E	F	G	H	I	J	K
Officer											
Yearly	60,134.44	61,938.47	63,796.63	65,710.52	67,681.84	69,712.30					
Payday	2,312.66	2,382.25	2,453.72	2,527.33	2,603.15	2,681.24					
Hour	28,910.8	29,778.1	30,671.5	31,591.6	32,539.3	33,515.5					
Sgt.											
Yearly	71,803.66	73,957.77	76,176.51	78,461.80	80,815.66	83,240.13	85,737.33	88,309.45	90,958.73	93,687.50	96,498.12
Payday	2,761.68	2,844.53	2,929.87	3,017.76	3,108.29	3,201.54	3,297.59	3,396.52	3,498.41	3,603.37	3,711.47
Hour	34,521.0	35,556.6	36,623.3	37,722.0	38,853.7	40,019.3	41,219.9	42,456.5	43,730.2	45,042.1	46,393.3
Lt.											
Yearly	99,393.06	102,374.86	105,446.10	108,609.48							
Payday	3,822.81	3,937.49	4,055.62	4,177.29							
Hour	47,785.1	49,218.7	50,695.2	52,216.1							
Capt.											
Yearly	111,867.77	115,223.80	118,680.52	122,240.93							
Payday	4,302.61	4,431.68	4,564.64	4,701.57							
Hour	53,782.6	55,396.1	57,057.9	58,769.7							
Maj.											
Yearly	125,908.16	129,685.40	133,575.97								
Payday	4,842.62	4,987.90	5,137.54								
Hour	60,532.8	62,348.8	64,219.2								

NOTE: The City agreed to adjust the steps in the pay scale for all ranks, to be comprised of 3.0% in between steps, beginning with Officer Step 1. A 3% across the board increase was also applied to the pay scale after the 3% step separation.

(Will Insert the Pay Scale Pages)



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: August 27, 2024

RE: Discussion, consideration, and possible action regarding a 0.8% percent across the board increase to the base salary of City Employees not covered by a collective bargaining agreement, to be effective July 1, 2024.

Staff is recommending an across the board increase of 0.8 percent to the base salary of City Employees not covered by a collective bargaining agreement (including regular part-time employees), to be effective July 1, 2024. This is uniform with the proposed increase for Employees covered by the collective bargaining agreements with the FOP Lodge 127.

Troy Bradley, Human Resources Director



City Manager, Tim Lyon
100 N. Midwest Blvd
Midwest City, OK 73110
tlyon@midwestcityok.org
Office: 405-739-1204
www.midwestcityok.org

MEMORANDUM

To: Mayor and Members of the City Council

From: Tim Lyon, City Manager

Date: August 27, 2024

Subject: Discussion, consideration, and possible action of approving a Resolution of Necessity to acquire through condemnation proceedings 2813 and 2816 Parklawn Drive in Midwest City. (T. Lyon – City Manager).

2813 and 2816 Parklawn Drive are located in the Hospital District. These properties need to be acquired for a public trail and trailhead to enhance the Hospital District (now known as the Plaza 62 Project).

City staff has attempted on numerous occasions to effectively communicate with the owners of these properties regarding their acquisition, but no agreements to purchase the properties has been reached. The City had appraisals performed for both properties, which reported the following appraised values: 2813 Parklawn Drive \$265,000.00; 2816 Parklawn Drive \$765,000.00.

The Resolution of Necessity is a required step under Oklahoma Law prior to beginning a condemnation action in the District Court of Oklahoma County. The Resolution provides that a final attempt to purchase these properties will be made prior to filing a condemnation action.

Approval is at the discretion of the City Council.

Respectfully submitted,

Tim Lyon
City Manager

RESOLUTION NO. _____

RESOLUTION OF NECESSITY

RESOLUTION DECLARING THE NECESSITY FOR ACQUIRING CERTAIN REAL PROPERTY AT 2813 AND 2816 PARKLAWN DR. MIDWEST CITY, OKLAHOMA FOR THE PUBLIC PURPOSES OF A PUBLIC TRAIL AND TRAILHEAD, SUPPORTING FACILITIES, AND USES INCIDENTAL THERETO; AUTHORIZING AND DIRECTING THE ACQUISITION THEREOF; AND, IF SAID REAL PROPERTY CANNOT BE PURCHASED BY AGREEMENT WITH THE OWNERS THEREOF, AUTHORIZING CONDEMNATION PROCEEDINGS AGAINST THE OWNERS OF SAME PURSUANT TO THE POWER OF EMINENT DOMAIN FOR THE ABOVE PUBLIC PURPOSES.

WHEREAS, it is deemed necessary and advisable by the City of Midwest City, Oklahoma (“City”), to acquire certain real properties, and all rights associated therewith (collectively, “Properties”) located in Midwest City, Oklahoma County, Oklahoma for constructing, and establishing a public trail and trailhead, supporting facilities, and uses incidental thereto, for the benefit of the City (“Public Purposes”); and

WHEREAS, said Properties are owned by two or more owners and are located generally at the following separate locations, each in Midwest City, Oklahoma:

2813 Parklawn Dr., as further described by the attached and incorporated Exhibit A;

and

2816 Parklawn Dr., as further described by the attached and incorporated Exhibit B;

and

WHEREAS, said Properties are not owned by the City and it is deemed necessary for the City to acquire said Properties for the Public Purposes.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Midwest City, Oklahoma that the City, pursuant to its power of eminent domain, declares it necessary to acquire the Properties and authorizes and directs the City Manager and/or his designees to acquire the Properties for the Public Purposes.

BE IT FURTHER RESOLVED by the Council of the City of Midwest City, Oklahoma that in the event the City Manager is unable to purchase the Properties by agreement, or any parts thereof, the City Manager is hereby authorized, instructed and directed to cause to be instituted condemnation proceedings in the District Court of Oklahoma County against the owners of the

Properties pursuant to the power of eminent domain for the Public Purposes, and to take such further legal steps or proceedings as may, in his judgment, appear to be proper to acquire said Properties for the Public Purposes, and for the immediate possession thereof.

ADOPTED and **APPROVED** by the Council of the City of Midwest City, Oklahoma this 27th day of August 2024.

CITY OF MIDWEST CITY, OKLAHOMA

Mayor

ATTEST:

City Clerk

EXHIBIT A

A part of the Southeast Quarter (1/4) of Section Thirty-Four (34), Township Twelve North, (12N), Range Two West (2W), Oklahoma County, Oklahoma, more particularly described as follows: the North Sixty-Five Feet (65') of Lot Four (4) of Block One (1) in the Parklawn Addition, a subdivision of the City of Midwest City, Oklahoma County, Oklahoma containing 15,600 square feet, more or less; subject to easements, rights-of-way, restrictive covenants and mineral interests.

EXHIBIT B

Unplatted part of Section Thirty-Four (34), Township 12 North (12N), Range 2 West (2W), being a part of the South-East Quarter of Section 34, Township 12N, Range 2W, Beginning at a point Three Hundred and Forty Feet (340') East and Three Hundred and Seventy-Nine Feet (379') North of Lot One (1), Block Four (4), Ridgecrest Country Estates, then North One Hundred and Five Feet (105'), the East Two Hundred and Twenty-Five Feet (225'), then South One Hundred and Five Feet (105'), then West Two Hundred and Twenty-Five Feet (225') to the point of beginning, Subject to Easements, Restrictions, Mineral Conveyances and Reservations of Record, Oklahoma County, Oklahoma.



FURTHER INFORMATION





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: August 27, 2024
SUBJECT: Review of the City Manager's Report for the month of July 2024.

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

Capital Improvements (157) decreased because of the payment to:
OK Department of Transportation <\$718,762>

MWC Sewer Department (192) decreased due to the payments for:
Main control building roof remodel <\$126,447>
Tucks from Frontier Equipment Sales, LLC <\$350,000>

Risk Management (202) decreased because of the payments to:
Apex Insurance Agency LLC <\$219,950>
States Self-Insurers Risk Retention <\$164,626>
OK Municipal Assurance Group - Liability <\$255,769>
OK Municipal Assurance Group - Property <\$417,667>

MWC Hospital Authority (425) activities for July:
Compounded Principal (9010) - unrealized gain on investment \$895,714
- transfer to 9050 <\$1,697,612>
- transfer to 9080 <\$565,871>
Discretionary (9050) - unrealized gain on investment \$438,822
- transfer from 9010 \$1,697,612
H. A. Grants (9080) - transfer from 9010 \$565,871

Tiatia Cromar

Tiatia Cromar
Finance Director/ City Treasurer

City of Midwest City
Financial Summary by Fund
for Period Ending July, 2024

(Unaudited)

Fund Number	Fund Description	Assets	Liabilities	6/30/2024 Fund Balance	Revenues	Expenditures	Gain or (Loss)	Fund Balance
9	GENERAL GOVERNMENT SALES TAX	10,654,417	(317)	10,602,218	296,876	(244,994)	51,882	10,654,100
10	GENERAL	14,585,163	(153,896)	14,566,328	3,827,556	(3,962,617)	(135,061)	14,431,268
13	STREET AND ALLEY FUND	1,918,188	-	1,905,991	16,672	(4,475)	12,197	1,918,188
14	TECHNOLOGY FUND	717,980	-	702,378	21,522	(5,919)	15,603	717,980
15	STREET LIGHT FEE	973,083	-	926,093	52,528	(5,538)	46,990	973,083
16	REIMBURSED PROJECTS	1,794,551	(1,600)	1,830,255	18,794	(56,098)	(37,304)	1,792,951
20	MWC POLICE DEPARTMENT	15,694,179	(4,092)	15,762,781	1,655,352	(1,728,046)	(72,694)	15,690,087
21	POLICE CAPITALIZATION	2,177,806	(596)	2,042,168	176,090	(41,049)	135,041	2,177,210
25	JUVENILE FUND	113,536	-	107,039	9,498	(3,000)	6,497	113,536
30	POLICE STATE SEIZURES	122,600	-	122,201	399	-	399	122,600
31	SPECIAL POLICE PROJECTS	84,502	-	79,275	5,275	(48)	5,227	84,502
35	EMPLOYEE ACTIVITY FUND	10,548	-	11,482	768	(1,702)	(934)	10,548
36	JAIL	246,392	-	239,506	10,468	(3,582)	6,885	246,392
37	POLICE IMPOUND FEE	145,128	-	142,752	3,322	(946)	2,377	145,128
40	MWC FIRE DEPARTMENT	10,186,828	(4)	10,248,563	1,283,659	(1,345,398)	(61,739)	10,186,824
41	FIRE CAPITALIZATION	2,871,660	-	2,805,222	66,438	-	66,438	2,871,660
45	MWC WELCOME CENTER	625,787	-	610,847	26,167	(11,227)	14,940	625,787
46	CONV / VISITORS BUREAU	753,618	-	727,189	47,497	(21,068)	26,429	753,618
60	CAPITAL DRAINAGE IMP	469,649	-	458,571	40,876	(29,798)	11,078	469,649
61	STORM WATER QUALITY	1,695,281	-	1,664,376	79,076	(48,170)	30,906	1,695,281
65	STREET TAX FUND	2,541,536	-	2,497,454	56,617	(12,535)	44,082	2,541,536
70	EMERGENCY OPER FUND	1,665,851	-	1,636,319	92,708	(63,177)	29,532	1,665,851
75	PUBLIC WORKS ADMIN	1,093,401	-	1,178,989	122,240	(207,829)	(85,589)	1,093,401
80	INTERSERVICE FUND	493,949	-	499,625	228,830	(234,505)	(5,675)	493,949
81	SURPLUS PROPERTY	772,076	(594,975)	173,682	6,441	(3,022)	3,419	177,101
115	ACTIVITY FUND	537,156	(2,550)	533,225	19,960	(18,579)	1,381	534,606
123	PARK & RECREATION	2,531,413	(12,764)	2,355,834	180,341	(17,526)	162,815	2,518,649
141	COMM. DEV. BLOCK GRANT	6,029	-	6,029	53,012	(53,012)	-	6,029
142	GRANTS/HOUSING ACTIVITIES	171,966	-	173,118	7,650	(8,803)	(1,153)	171,966
143	GRANT FUNDS	80,601	(20,601)	60,000	18,014	(18,014)	-	60,000
157	CAPITAL IMPROVEMENTS	5,795,102	-	6,101,271	432,308	(738,478)	(306,170)	5,795,102
172	CAP. WATER IMP-WALKER	2,800,681	-	2,826,592	71,472	(97,383)	(25,911)	2,800,681

City of Midwest City
Financial Summary by Fund
for Period Ending July, 2024

(Unaudited)

Fund Number	Fund Description	Assets	Liabilities	6/30/2024 Fund Balance	Revenues	Expenditures	Gain or (Loss)	Fund Balance
178	CONST LOAN PAYMENT REV	5,180,128	(10,247)	5,028,768	141,320	(207)	141,114	5,169,882
184	SEWER BACKUP FUND	85,044	-	78,534	6,510	-	6,510	85,044
186	SEWER CONSTRUCTION	3,197,623	-	3,068,800	128,824	-	128,824	3,197,623
187	UTILITY SERVICES	1,148,362	(924)	1,170,665	63,734	(86,961)	(23,227)	1,147,438
188	CAP. SEWER IMP.-STROTH	2,231,854	-	2,160,141	71,851	(139)	71,713	2,231,854
189	UTILITIES CAPITAL OUTLAY	3,125,532	(108,327)	2,988,498	28,707	-	28,707	3,017,205
190	MWC SANITATION DEPARTMENT	7,805,610	-	7,561,319	790,048	(545,757)	244,291	7,805,610
191	MWC WATER DEPARTMENT	8,326,640	(3,081,730)	5,002,695	894,538	(652,323)	242,215	5,244,910
192	MWC SEWER DEPARTMENT	5,793,796	(65)	6,036,177	757,043	(999,489)	(242,446)	5,793,731
193	MWC UTILITIES AUTHORITY	1,346,455	-	1,342,942	3,513	-	3,513	1,346,455
194	DOWNTOWN REDEVELOPMENT	508,104	(1,172)	505,281	1,652	-	1,652	506,933
195	HOTEL/CONFERENCE CENTER	864,651	(1,394,803)	(410,137)	236,840	(356,855)	(120,015)	(530,153)
196	HOTEL 4% FF&E	877,990	-	868,516	9,474	-	9,474	877,990
197	JOHN CONRAD REGIONAL GOLF	1,327,960	(10,569)	1,219,818	218,598	(121,026)	97,572	1,317,390
201	URBAN RENEWAL AUTHORITY	164,424	-	163,889	535	-	535	164,424
202	RISK MANAGEMENT	599,644	(37)	1,572,367	136,452	(1,109,211)	(972,759)	599,608
204	WORKERS COMP	3,311,601	-	3,410,296	106,813	(205,508)	(98,695)	3,311,601
220	ANIMALS BEST FRIEND	133,195	(2,000)	129,659	8,106	(6,569)	1,537	131,195
225	HOTEL MOTEL FUND	-	-	-	80,436	(80,436)	-	-
230	CUSTOMER DEPOSITS	1,550,904	(1,550,904)	-	5,060	(5,060)	-	-
235	MUNICIPAL COURT	93,220	(93,220)	-	304	(304)	-	-
240	L & H BENEFITS	3,112,635	(63,955)	2,346,380	1,441,722	(739,422)	702,299	3,048,680
250	CAPITAL IMP REV BOND	1,815,388	(28,888,904)	(27,223,481)	1,016,136	(866,171)	149,965	(27,073,516)
269	2002 G.O. STREET BOND	46,536	-	47,057	150	(671)	(521)	46,536
270	2018 ELECTION G.O. BOND	5,393,165	-	5,387,671	27,039	(21,545)	5,494	5,393,165
271	2018 G.O. BONDS PROPRIETARY	432,197	(121,172)	309,618	1,407	-	1,407	311,025
272	2022 ISSUE G.O. BOND	987,728	-	1,034,513	3,215	(50,000)	(46,785)	987,728
310	DISASTER RELIEF	8,116,411	(196,589)	7,899,043	36,239	(15,459)	20,779	7,919,822
340	REVENUE BOND SINKING FUND	-	-	-	216,543	(216,543)	-	-
350	G. O. DEBT SERVICES	2,914,613	(14,576)	2,881,644	27,911	(9,517)	18,394	2,900,038
352	SOONER ROSE TIF	1,577,904	-	1,509,975	67,929	-	67,929	1,577,904
353	ECONOMIC DEV AUTHORITY	59,344,764	(50,080,574)	9,405,167	165,593	(306,570)	(140,977)	9,264,190
354	NORTHSIDE TIF	277,630	(267,076)	9,651	904	-	904	10,554
425-9010	MWC HOSP AUTH-COMP PRINCIPAL	111,852,228	(4,600)	113,169,594	983,013	(2,304,979)	(1,321,966)	111,847,628
425-9050	MWC HOSP AUTH-DISCRETIONARY	31,629,902	(1,336)	29,569,417	2,142,161	(83,010)	2,059,151	31,628,568
425-9060	MWC HOSP IN LIEU OF/ROR/MISC	10,650,959	(30,113)	10,687,830	2,517	(69,500)	(66,984)	10,620,846
425-9080	MWC HOSP AUTH GRANTS	745,939	-	180,068	565,871	-	565,871	745,939
	TOTAL	370,901,393	(86,714,289)	282,709,746	19,317,133	(17,839,772)	1,477,361	284,187,107

MINUTES OF MIDWEST CITY PLANNING COMMISSION MEETING

July 2nd, 2024 - 5:00 p.m.

This regular meeting of the Midwest City Planning Commission was held in the City Council Chambers, 100 North Midwest Boulevard, Midwest City, Oklahoma County, Oklahoma, on July 2nd, 2024 at 5:00 p.m., with the following members present:

Commissioners present: Russell Smith
 Jess Huskey
 Dean Hinton
 Jim Smith
 Dee Collins
 Rick Rice
 Rick Dawkins

Commissioners absent: None

Staff present: Matthew Summers, Planning and Zoning Director
 Emily Richey, Current Planning Manager
 Tami Anderson, Administrative Assistant
 Cameron Veal, Associate Current Planner
 Brandon Bundy, Director of Eng. & Const. Services
 Don Maisch, City Attorney

A. CALL TO ORDER

The meeting was called to order by Chairperson R. Smith at 5:01 p.m.

B. MINUTES

1. A motion was made by Jess Huskey seconded by Rick Dawkins, to approve the minutes of the June 4th, 2024 Planning Commission meeting as presented.

Voting aye: R. Smith, Huskey, Hinton, J. Smith, Collins, R. Rice and R. Dawkins.

Nay: none.

Motion carried.

C. NEW MATTERS

1. (PC-2180) Public hearing, discussion, consideration, and possible action to consider a Special Use Permit (SUP) to allow Moderate Impact Institutional Permitted in the (R-6) Single-Family Detached Residential District for the property described as a part of the Southwest Quarter (SW/4) of Section One (1), Township Eleven (11) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma, located at 9113-9125-9201 SE 15th St.

Emily Richey - Current Planning Manager, presented the staff report.

There was general discussion amongst the Commission.

The applicant, Carlos Adamson – 1501 SW 113th Pl. was present and addressed the Commission.

Commissioner Huskey asked if the school and teachers were accredited. The applicant informed the Commission that all teachers were accredited, and the school was in the process of receiving accreditation and should have it by August.

Brenda Holland – 1921 S Anderson Rd, inquired about how the City’s moratorium impacts this proposed use. Emily Richey clarified that the base zoning is R-6, but the applicant is filing for a special use permit in the existing structure, which is required for the church, but it will not include housing. Brenda Holland also shared concerns about traffic and the safety of the elderly in her community.

Keith Tucker – 1211 Boulder Ridge Way, inquired if the prep school would only be operating inside of existing building or if it would require additional outside construction or lighting. The applicant confirmed that the prep school would operate inside of the existing building and would not require outside lighting or construction.

A motion was made by Jess Huskey, seconded by Dee Collins to recommend approval of this item. Voting aye Huskey, Hinton, J. Smith, Collins, R. Rice and R. Dawkins.

Nay: None.

Abstain: Chairperson R. Smith

Motion Carried.

2. (PC-2168) Public hearing, discussion, consideration, and possible action of a resolution to amend the Comprehensive Plan to maintain Office/Retail Land Use and to add High Density Residential Land Use; and an ordinance to redistrict from Community Commercial District (“C-3”) to Planned Unit Development (“PUD”), for the property described as:

Parcel 1- Blocks five (5), six (6), seven (7), and eight (8) in Heritage Park Mall, a re-subdivision of Blocks 3, 4, and 5 of Miracle Mile Addition, an addition to Midwest City, Oklahoma County, Oklahoma, as shown by the recorded plat thereof, also addressed as 6707 E. Reno Ave., Midwest City, OK and;

Parcel 2- Lot three (3) in Heritage Park Mall, a re-subdivision of Blocks 3, 4, and 5 Miracle Mile Addition to Midwest City, Oklahoma County, Oklahoma, according to the recorded plat thereof, also addressed as 6707 E. Reno Ave., Midwest City, OK.

Matt Summers – Planning and Zoning Director, presented the staff report to the Commission and shared his analysis of their proposal. Staff recommended denial of the proposed amendment and redistricting, citing the findings in the staff report. He also stated that approval of this would not be consistent with the City’s Comprehensive Plan or Urban Renewal Plan.

There was general discussion amongst the Commission.

Kelly Work – 105 N Hudson, the applicant’s attorney, was present and addressed the Commission.

Chairperson Smith asked what percentage of the development would be residential. Kelly Work said that he could not give a definitive answer right now.

Alexandria Mu El – 1606 NW 33d St, spoke in support of the proposal as a business partner of the applicant in this project and provided additional detail on her company’s contribution to the project

should the rezone get approved.

Commissioner Jess Huskey asked what the timeline was for this project. Ms. Mu El said that she did not have a definitive answer, as it depended on other outside factors.

Commissioner Rick Rice shared concerns with the lack detail that was provided in the proposal, citing the applicant's history of promising development but not following through with any completed projects.

Ms. Mu El shared that there are multiple potential sources of funding to make their project happen.

Commissioner Dean Hinton shared that the plan sounds good, but there has been a history of promised development with no follow through

Ms. Mu El explained that there are also multiple agencies ready to help with technical assistance, but they cannot get electricity and utilities turned on to start that process. She also expressed the desire to be a mediator between the applicant and the City and make the proposed development happen

Kelly Work asked the Commission to return to the original question of rezoning, and to approve the rezoning application to help initiate the development of the project.

Commissioner Rick Rice shared that he is hesitant to vote in favor of the rezone due to the applicant previously impeding attempts by the city to develop the area.

Kelly Work shared that he understands the City's hesitancy to work with the applicant due to their history, but asked if they could move past that and allow this rezoning application to pass.

Kay Carol – 108 S Bell Dr, spoke in opposition to the proposal due to concerns about the burden on City infrastructure, potential noise issues, as well as other potential hazards that could come from the proposed development.

Brenda Holland – 1921 S Anderson Rd, asked if cannabis could be grown on the property if the amendment were approved. Staff informed her that the applicant would need additional permits for that to happen.

Jo Ray - 3001 N Idylwild Dr, spoke in opposition to the proposal. She shared that she would remain in opposition as long as the current owner is involved with the development, and that he has not maintained the property during this time.

Jeff Moore – 516 Cedar Dr, shared that the City could have bought the subject property in the past.

Chairperson Smith shared that the proposed PUD doesn't have enough detail for him to approve it in its current state. Would like more information as to how the parking lot will be maintained and where the proposed solar panels would be located. He also shared that he doesn't see how the residential aspect of the plan would be accomplished due to the expensive nature of building residential units inside of a building that lacks fire egress, windows, and other necessities. He will not be in favor of the proposal until there is significantly more detail.

Commissioner Rick Dawkins shared that there isn't enough detail or organization in the proposed

plan to approve.

Chairman Smith recommended that a motion be made to table this item to allow the applicant to make changes and add the details that the Commission and staff needed.

A motion was made by Rick Dawkins, seconded by Rick Rice to recommend denial of this item.

Voting aye: Huskey, J. Smith, Collins, R. Rice and R. Dawkins.

Nay: R. Smith, Hinton

Motion Carried.

D. COMMISSION DISCUSSION:

E. PUBLIC DISCUSSION:

F. FURTHER INFORMATION:

City Council Meeting will be held on Tuesday July 23, 2024, at 6:00pm.

Petya Stefanoff - Comprehensive Planner's last day with the City of Midwest City was Thursday, June 27.

G. ADJOURNMENT:

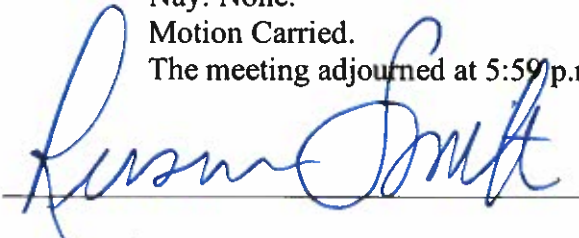
A motion to adjourn was made by Rick Dawkins, Seconded by Dee Collins.

Voting aye: R. Smith, Huskey, Hinton, J. Smith, Collins, R. Rice and R. Dawkins.

Nay: None.

Motion Carried.

The meeting adjourned at 5:59 p.m.



Chairman Russell Smith

(cv)



**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 : August 27th, 2024

SUBJECT : Monthly Residential and Commercial Building report for July 2024

Attached is the monthly building report. This report is used by multiple parties to track permits on an ongoing basis.

Internally, we use this permit to forecast workload on our staff.

Nationally, the trend is for new housing permits to be down year over year because of the elevated financing cost and the high cost of building materials. This is echoed regionally and in the metro with numerous other Cities seeing similar trends.

If there are any questions, please let me know.

Sincerely,

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



100 N Midwest Boulevard - Midwest City, OK 73110

Building Permits Summary - Issued 7/1/2024 to 7/31/2024

Building - Commercial & Industrial

<u>Count</u>	<u>Permit Type</u>	<u>Value</u>
2	Com Driveway Permit	\$0.00
12	Com General Electrical Permit	
7	Com General Mechanical Permit	
4	Com General Plumbing Permit	
1	Com New Certificate of Occupancy	\$500,000.00
5	Com Remodel Bldg Permit	\$415,500.00
1	Com Roofing Permit	\$0.00
2	Com Sign Permit	\$11,500.00
Total Value of Building - Commercial & Industrial:		927,000.00

Building - Residential

<u>Count</u>	<u>Permit Type</u>	<u>Value</u>
6	Res Accessory Bldg Permit	\$188,600.00
2	Res Carport Permit	\$1,500.00
4	Res Duplex New Const Bldg Permit	\$440,000.00
3	Res Fence Permit	\$17,000.00
20	Res General Electrical Permit	
23	Res General Mechanical Permit	
31	Res General Plumbing Permit	
8	Res New Const Electrical Permit	\$0.00
4	Res New Const Mechanical Permit	
6	Res New Const Plumbing Permit	
27	Res Roofing Permit	\$309,716.00
6	Res Solar Permit	\$148,889.62
6	Res Storm Shelter Permit	\$23,625.00
1	Res Swimming Pool / Hot Tub Permit	\$7,500.00
Total Value of Building - Residential:		1,136,830.62

Grand Total: \$2,063,830.62



100 N Midwest Boulevard - Midwest City, OK 73110

Building Permits by Type - Issued 7/1/2024 to 7/31/2024

Building - Commercial & Industrial

Com Driveway Permit

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
7/16/24	2211 AMERICA AVE, 73141	DELGADOS CONSTRUCTION	B-24-1872	\$0.00
7/16/24	2211 AMERICA AVE, 73141	DELGADOS CONSTRUCTION	B-24-1873	\$0.00
				\$0.00

Com New Certificate of Occupancy

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
7/9/24	1224 JET DR, 73110	John Linton	B-24-1647	\$500,000.00
				\$500,000.00

Com Remodel Bldg Permit

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
7/1/24	7199 SE 29TH ST, 101 MIDWEST CITY, OK, 0	Terri Blackstock	B-24-1205	\$250,000.00
7/11/24	828 S AIR DEPOT BLVD, 73110	MARTIN PROPER	B-24-1682	\$8,000.00
7/11/24	828 S AIR DEPOT BLVD, B OK, 73110	MARTIN PROPER	B-24-1683	\$5,000.00
7/15/24	351 N Air Depot Blvd, M Midwest City, OK 73110	Noah Bankston	B-24-0806	\$150,000.00
7/23/24	1105 N SOONER RD, OK, 73117	Justin Steward	B-24-1545	\$2,500.00
				\$415,500.00

Com Roofing Permit

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
7/19/24	213 ELM ST, MWC, OK, 73110	Rick Watts	B-24-1881	\$0.00
				\$0.00

Com Sign Permit

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
7/22/24	5845 SE 15TH ST, OKLAHOMA CITY, OK, 73128	Rachel Woodson	B-24-1808	\$10,000.00
7/22/24	1104 S AIR DEPOT BLVD, #2, OK, 73110	Industrial Signs & Neon	B-24-1776	\$1,500.00
				\$11,500.00

Building - Residential

Res Accessory Bldg Permit

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
7/1/24	1906 N MIDWEST BLVD, 73141	BROWN, SAM	B-24-1587	\$5,800.00
7/8/24	9077 NE 13TH ST, 73130	Preston Grove Community	B-24-1618	\$100,000.00
7/11/24	9413 NAWASSA DR, 73130	Chad Dugan	B-24-1456	\$72,000.00
7/19/24	1921 CREEKRIDGE DR, 73141	JONES, CHRISTOPHER	B-24-1694	\$3,000.00
7/22/24	824 HEDGE DR, MWC, OK, 73110	Bernadette Hinton	B-24-1853	\$2,800.00
7/29/24	609 S MIDWEST BLVD, 73110	MCDOWELL, RICK	B-24-1866	\$5,000.00

\$188,600.00**Res Carport Permit**

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
7/3/24	525 E NORTHRUP DR, 73110	SHEFFEY, DONALD	B-24-1687	\$1,500.00
7/18/24	8628 HILLRIDGE DR, 73141	ACOSTA, HELENA	B-24-1869	

\$1,500.00**Res Duplex New Const Bldg Permit**

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
7/29/24	9077 NE 13TH ST, Unit 13, 73130	Adam Stephens	B-24-1840	\$110,000.00
7/29/24	9077 NE 13TH ST, 14, 73130	Adam Stephens	B-24-1841	\$110,000.00
7/29/24	9077 NE 13th, Unit 15, 73130	Adam Stephens	B-24-1842	\$110,000.00
7/29/24	9077 NE 13TH ST, 16, 73130	Adam Stephens	B-24-1843	\$110,000.00

\$440,000.00**Res Fence Permit**

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
7/9/24	12710 FOREST TERR, 73020	Iron Tough LLC	B-24-1738	\$10,000.00
7/11/24	11515 COUNTRY LN, MWC, OK, 73130	Andrew Deviney	B-24-1791	\$3,000.00
7/31/24	933 KLARE LN, 73130	Wally Kerr	B-24-1920	\$4,000.00

\$17,000.00**Res Roofing Permit**

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
7/2/24	120 BROOK LN, 73130	LANES ROOFING & CONSTRUCTION	B-24-1742	\$16,000.00
7/2/24	3501 BELLA VISTA, OK, 73110	Rob Cosby	B-24-1659	\$0.00
7/5/24	11611 ZANDRA AVE, 73130	REROOF AMERICA CONTRACTORS OK	B-24-1786	
7/5/24	105 PRINCE GEORGE, MWC, OK, 73110	Rob Cosby	B-24-1772	\$0.00
7/5/24	2804 S POST RD, 73130	Parker Brothers Construction and Roofing Inc.	B-24-1787	\$13,000.00
7/5/24	1617 SYMPHONY LN, 73130	Parker Brothers Construction and Roofing Inc.	B-24-1788	\$14,000.00
7/5/24	9520 MONTCLAIRE DR, 73130	Parker Brothers Construction and Roofing Inc.	B-24-1789	\$20,000.00
7/8/24	1401 WESTMORELAND AVE	Erica Moody	B-24-1800	\$10,000.00
7/10/24	1401 WESTMORELAND AVE, 73130	RAMOS FAMILY ROOFING	B-24-1835	\$12,000.00
7/10/24	3616 GLENMANOR CIR, MWC, OK, 73110	Parker Brothers Construction and roofing inc.	B-24-1836	\$15,000.00
7/10/24	673 CRESCENT CIR, MWC, OK, 73110	Parker Brothers Construction and Roofing Inc.	B-24-1837	\$19,000.00
7/10/24	1208 LIVEOAK DR, MWC, OK, 73110	Parker Brothers Construction and Roofing Inc.	B-24-1838	\$15,000.00
7/11/24	3925 ROSEWOOD DR, 73110	Dalton cox	B-24-1830	\$15,000.00
7/12/24	825 HEDGE DR, MWC, OK, 73110	Jared Jackson	B-24-1845	\$25,000.00
7/12/24	825 HEDGE DR, MWC, OK, 73110	Jessica Rowe	B-24-1845	\$25,000.00
7/12/24	825 HEDGE DR, MWC, OK, 73110	THRIVE HOME SOLUTIONS	B-24-1845	\$25,000.00
7/17/24	1925 GERRIE ST, MWC, OK, 73130	Robert Maupin	B-24-1882	\$15,600.00
7/17/24	11409 QUEENSLAND CT, MWC, OK, 73130	Parker Brothers Construction and Roofing inc.	B-24-1893	\$17,000.00
7/18/24	429 W DOUGLAS DR, 73110	MHM construction Inc	B-24-1898	\$0.00
7/18/24	211 FOX DR, 73110	PALLADIUM ROOFING LLC	B-24-1897	\$14,000.00
7/23/24	12830 GLEN AEIRE RD, MIDWEST CITY, OK, 73020	RaDonna Williams	B-24-1912	\$18,000.00
7/23/24	621 W BLUERIDGE DR, MWC, OK, 73110	RaDonna Williams	B-24-1911	\$15,000.00

7/24/24	3021 SHADYBROOK DR, 73110	Parker Brothers Construction and Roofing Inc.	B-24-1923	\$17,901.00
7/25/24	320 RICHARDS AVE, MWC, OK, 73130	Doug Urie	B-24-1928	\$11,000.00
7/29/24	10601 SONGBIRD LN, MWC, OK, 73130	Kirk Maynard	B-24-1936	\$0.00
7/30/24	10525 WILLOW RIDGE DR, MWC, OK, 73130	sandra heintzelman	B-24-1929	\$0.00
7/30/24	1117 TWILIGHT DR, MWC, OK, 73110	HEINTZELMAN CONSTRUCTION & ROOFING LLC	B-24-1974	\$20,215.00
7/30/24	9310 ORCHARD BLVD, 73130	HEINTZELMAN CONSTRUCTION & ROOFING LLC	B-24-1975	\$0.00
7/31/24	536 CARDINAL PL, MWC, OK, 73130	URIE FAMILY ROOFING & CONST	B-24-1989	\$7,000.00

\$359,716.00

Res Solar Permit

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
7/10/24	700 OLD COLONY RD, 73130	Jason Harden	B-24-1525	\$20,500.00
7/10/24	9721 NE 3RD ST, 73130	Jason Harden	B-24-1526	\$20,500.00
7/23/24	9313 SHERWELL DR, MWC, OK, 73130	Spencer Electric	B-24-1831	\$42,576.58
7/23/24	1613 SHANNON DR, MWC, OK, 73130	Wesley Swain	B-24-1829	\$31,037.04
7/25/24	812 SAINT PAUL AVE, MIDWEST CITY, OK, 73130	Jeremy Turner NIVO SOLAR	B-24-1630	\$19,475.00
7/25/24	6108 SE 10TH ST, MWC, OK, 73110	Jeremy Turner NIVO SOLAR	B-24-1834	\$14,801.00

\$148,889.62

Res Storm Shelter Permit

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
7/1/24	2801 OUTPOST DR, 73141	rosa aguirre	B-24-1548	\$4,000.00
7/2/24	2120 WEBSTER ST, 73130	ELYSE CUMMINGS	B-24-1705	\$3,500.00
7/10/24	10513 GOLDENROD LN, 73130	Tanner Hoss	B-24-1763	\$3,500.00
7/11/24	1113 LYNN FRY BLVD, 73130	Natalie Lambert	B-24-1816	\$4,125.00
7/15/24	9704 KENT DR, 73130	Jonathan Baldwin	B-24-1826	\$3,700.00
7/29/24	2336 CELINA DR, 73130	wendell gomez	B-24-1774	\$4,800.00

\$23,625.00

Res Swimming Pool / Hot Tub Permit

<u>Issued</u>	<u>Location</u>	<u>Applicant</u>	<u>Case #</u>	<u>Value</u>
7/3/24	609 HOLMAN PL, MWC, OK, 73110	Jeremiah Cook	B-24-1716	\$7,500.00

\$7,500.00

Grand Total: \$2,113,830.62



100 N Midwest Boulevard - Midwest City, OK 73110

Inspections Summary - Inspected 7/1/2024 to 7/31/2024

<u>Inspection Description</u>	<u>Count</u>
Accessory Bldg Inspection	2
Building/Electrical General Inspection	8
Buildings - CO Inspection & Sign Off	5
Com Building Final Inspection	2
Com Driveway Inspection	3
Com Electrical Ceiling Inspection	5
Com Electrical Final Inspection	4
Com Electrical Final Reinspection	2
Com Electrical Ground Inspection	5
Com Electrical Rough-in Inspection	8
Com Electrical Service Inspection	3
Com Electrical Wall Inspection	4
Com Fire Alarm Final Inspection	1
Com Fire Alarm Rough Inspection	1
Com Fire Sprinkler Final Inspection	1
Com Fire Sprinkler Rough Inspection	1
Com Footing & Building Setback Inspection	4
Com Framing Inspection	5
Com Gas Meter Reinspection	1
Com Gas Piping Inspection	3
Com Grease Trap Rough Reinspection (Building)	1
Com Grease Trap Rough Reinspection (Line Maintenance)	1
Com Hood Suppression Inspection	1
Com Hood Suppression Reinspection	1
Com Mechanical Ceiling Inspection	2
Com Mechanical Final Inspection	1
Com Mechanical Rough-in Inspection	2
Com Oil Separator Rough Inspection (Building)	1
Com Oil Separator Rough Inspection (Line Maintenance)	1
Com Oil Separator Rough Reinspection (Building)	1
Com Oil Separator Rough Reinspection (Line Maintenance)	1
Com Plumbing Final Inspection	2
Com Plumbing Ground Inspection	1
Com Plumbing Rough-in Inspection	3
Com Plumbing Rough-in Reinspection	1
Com Roofing Inspection	1
Com Vent Hood Final Reinspection (Building)	1
Com Vent Hood Rough Inspection	1
Commercial Meter Tap Inspection	1
Electrical Generator Inspection	1
Fire - CO Inspection & Sign Off	8
Fire - CO Reinspection & Sign Off	1
Fire Marshal General Inspection	1
General Inspection	1
Hot Water Tank Inspection	16

Hot Water Tank Reinspection	5
Line Maintenance General Inspection	1
Mechanical Change Out Inspection	20
Mechanical Change Out Reinspection	2
OMMA CC Inspection - Buildings	1
OMMA CC Inspection - ComDev Utilities	1
OMMA CC Inspection - Fire	1
OMMA CC Inspection - Planning	1
OMMA CC Inspection - PWA Utilities	1
OMMA CC Inspection - Stormwater	1
Planning - CO Inspection & Sign Off	13
Planning - CO Reinspection & Sign Off	1
Planning General Inspection	1
Plumbing/Mechanical General Inspection	8
Pre-Con Site Inspection/Meeting	6
Res Building Final Inspection	9
Res Building Final Reinspection	4
Res Drainage1 Inspection	6
Res Drainage2 Inspection	6
Res Drainage3 Inspection	2
Res Drainage3 Reinspection	1
Res Drainage4 Inspection	2
Res Drainage4 Reinspection	1
Res Drainage5 Inspection	3
Res Driveway Inspection	4
Res Electrical Final Inspection	12
Res Electrical Final Reinspection	5
Res Electrical Ground Inspection	2
Res Electrical Rough-in Inspection	5
Res Electrical Rough-in Reinspection	6
Res Electrical Service Inspection	35
Res Electrical Service Reinspection	21
Res Fence Inspection	2
Res Footing & Building Setback Inspection	4
Res Footing & Building Setback Reinspection	1
Res Framing Inspection	6
Res Framing Reinspection	7
Res Gas Meter Inspection	3
Res Gas Meter Reinspection	2
Res Gas Piping Inspection	7
Res Insulation Inspection	3
Res Insulation Reinspection	2
Res Mechanical Final Inspection	4
Res Mechanical Final Reinspection	3
Res Mechanical Rough-in Inspection	7
Res Plumbing Final Inspection	9
Res Plumbing Final Reinspection	7
Res Plumbing Ground Inspection	6
Res Plumbing Ground Reinspection	1
Res Plumbing Rough-in Inspection	5
Res Retaining Wall Final Inspection	2
Res Retaining Wall Inspection	2
Res Retaining Wall Reinspection	1
Res Roofing Inspection	7
Res Sewer Service Inspection	18
Res Sewer Service Reinspection	8
Res Solar Final	4

Res Solar Final Reinspection	1
Res Storm Shelter Inspection	5
Res Temporary Electrical Pole Inspection	4
Res Temporary Electrical Pole Reinspection	2
Res Termite Inspection	4
Res Water Service Line Inspection	18
Res Water Service Line Reinspection	1
Residential Meter Tap Inspection	12
Sewer Cap Inspection	4
Swimming Pool/Hot Tub Inspection	1
Utilities - CO Inspection & Sign Off	9
<hr/>	
Total Number of Inspections:	489



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: August 27, 2024
RE: Monthly report on the City of Midwest City Employees' Health Benefits Plan by the City Manager.

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 July 2024, which is the first (1) period of FY 2024/2025.

Troy Bradley, Human Resources Director

FISCAL YEAR 2024-2025	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24	Dec-24	Jan-25	Feb-25	Mar-25	Apr-25	May-25	Jun-25
PLAN INCOME												
Projected Budgeted (MTD)	963,681	963,681	963,681	963,681	963,681	963,681	963,681	963,681	963,681	963,681	963,681	963,681
Actual (MTD)	1,438,404											
Projected Budgeted (YTD)	963,681	1,927,362	2,891,043	3,854,724	4,818,405	5,782,086	6,745,767	7,709,448	8,673,129	9,636,810	10,600,491	11,564,172
Actual (YTD)	1,438,404											
PLAN CLAIMS/ADMIN COSTS	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24	Dec-24	Jan-25	Feb-25	Mar-25	Apr-25	May-25	Jun-25
Projected Budgeted (MTD)	1,066,931	853,545	1,066,931	853,545	853,545	1,066,931	853,545	853,545	1,066,931	853,545	853,545	1,066,931
Actual (MTD)	739,422											
Projected Budgeted (YTD)	1,066,931	1,920,476	2,987,407	3,840,952	4,694,497	5,761,428	6,614,973	7,468,518	8,535,449	9,388,994	10,242,539	11,309,470
Actual (YTD)	739,422											
EXCESS INCOME vs. EXPENDITURES	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24	Dec-24	Jan-25	Feb-25	Mar-25	Apr-25	May-25	Jun-25
Projected Budgeted (MTD)	-103,250	110,136	-103,250	110,136	110,136	-103,250	110,136	110,136	-103,250	110,136	110,136	-103,250
Actual (MTD)	698,982	0	0	0	0	0	0	0	0	0	0	0
Projected Budgeted (YTD)	-103,250	6,886	-96,364	13,772	123,908	20,658	130,794	240,930	137,680	247,816	357,952	254,702
Actual (YTD)	698,982	0	0	0	0	0	0	0	0	0	0	0
FISCAL YEAR 2023-2024	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24
PLAN INCOME												
Projected Budgeted (MTD)	908,962	908,962	908,962	908,962	908,962	908,962	908,962	908,962	908,962	908,962	908,962	908,962
Actual (MTD)	842,448	830,192	859,381	837,643	1,121,966	605,683	925,894	819,806	872,511	868,550	872,489	864,639
Projected Budgeted (YTD)	908,962	1,817,924	2,726,886	3,635,848	4,544,810	5,453,772	6,362,734	7,271,696	8,180,658	9,089,620	9,998,582	10,907,544
Actual (YTD)	842,448	1,672,640	2,532,021	3,369,664	4,491,630	5,097,313	6,023,207	6,843,013	7,715,524	8,584,074	9,456,563	10,321,202
PLAN CLAIMS/ADMIN COSTS	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24
Projected Budgeted (MTD)	1,006,148	804,918	804,918	1,006,148	804,918	804,918	1,006,148	804,918	804,918	1,006,148	804,918	804,918
Actual (MTD)	955,777	772,922	874,065	858,857	1,012,243	778,430	1,122,190	803,629	753,491	849,456	802,326	961,942
Projected Budgeted (YTD)	1,006,148	1,811,066	2,615,984	3,622,132	4,427,050	5,231,968	6,238,116	7,043,034	7,847,952	8,854,100	9,659,018	10,463,936
Actual (YTD)	955,777	1,728,699	2,602,764	3,461,621	4,473,864	5,252,294	6,374,484	7,178,113	7,931,604	8,781,060	9,583,386	10,545,328
EXCESS INCOME vs. EXPENDITURES	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24
Projected Budgeted (MTD)	-97,186	104,044	104,044	-97,186	104,044	104,044	-97,186	104,044	104,044	-97,186	104,044	104,044
Actual (MTD)	-113,329	57,270	-14,684	-21,214	109,723	-172,747	-196,296	16,177	119,020	19,094	70,163	-97,303
Projected Budgeted (YTD)	-97,186	6,858	110,902	13,716	117,760	221,804	124,618	228,662	332,706	235,520	339,564	443,608
Actual (YTD)	-113,329	-56,059	-70,743	-91,957	17,766	-154,981	-351,277	-335,100	-216,080	-196,986	-126,823	-224,126

July 1/FY 2025: \$3,040,097
 July 1/FY 2024: \$2,451,913
 July 1/FY 2023: \$2,582,040
 July 1/FY 2022: \$1,562,689

*** HAD FIVE MONDAYS WITH REPORTED MEDICAL CLAIMS PAID***
 *** July 2024 includes a 500,000 transfer in from other funds***



MUNICIPAL AUTHORITY AGENDA

City Hall - Midwest City Council Chambers, 100 N. Midwest Boulevard

August 27, 2024 – 6:01 PM

Presiding members: Chairman Matthew Dukes	City Staff:	
Trustee Susan Eads	Trustee Marc Thompson	General Manager Tim Lyon
Trustee Pat Byrne	Trustee Sara Bana	Secretary Sara Hancock
Trustee Rita Maxwell	Trustee Rick Favors	Authority 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 there is not a unanimous consent, then the item(s) will be removed and heard in regular order.

1. Discussion, consideration, or possible action to approve the July 23, 2024 meeting minutes. (Secretary - S. Hancock)
2. Discussion, consideration and possible action of approving supplemental budget adjustments to the following funds for FY 2024-2025, increase: Capital Drainage Imp Fund, expenditures/Drainage Improvements (72) \$50,957. Cap Water Imp – Walker Fund, expenditures/Capital Water Imp (49) \$438,487. Const Loan Payment Rev Fund, expenditures/Water Department (42) \$3,059,783. Sewer Construction Fund, expenditures/Sewer Construction (46) \$509,603. Utility Services Fund, expenditures/Utility Services (50) \$29,207. Cap. Sewer Imp. – Stroth Fund, expenditures/Sewer Improvements (44) \$379,078. MWC Sanitation Department Fund, expenditures/Sanitation Department (41) \$630,116. MWC Sewer Department Fund, expenditures/Sewer Department (43) \$260,559. FF&E Reserve Fund, expenditures/Hotel/Conf Center (40) \$205,049. John Conrad Regional Golf Fund, expenditures/John Conrad Regional Golf (47) \$50,000. Storm Water Quality Fund, revenues/Intergovernmental (00) \$20,444; expenditures/Storm Water (61) \$448,729. MWC Water Department Fund, revenues/Transfer In (00) \$1,300,000; expenditures/Water Department (42) \$1,342,372. (Finance - T. Cromar)
3. Discussion, consideration and possible action of approving supplemental budget adjustments to the following funds for FY 2024-2025, increase: Stormwater Fund, revenue/Transfers In (00) \$325,000. Wastewater Fund, revenue/Transfers In (00) \$343,694. Capital Water Improvements Fund, expenditures/Capital Water Improvements (49) \$6,900. (Finance - T. Cromar)

4. Discussion, consideration, and possible action of renewing the subscription of Microsoft licensing with Softchoice Corporation, which holds the Oklahoma Statewide Contract for Microsoft Software Products/Services # SW1079, in the amount of \$137,100.15. (Information Technology - A. Stephenson)
- 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



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

Midwest City Municipal Authority Minutes

July 23, 2024

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

Vice Chairman Pat Byrne called the meeting to order at 9:14 PM with the following member present:

Trustee Susan Eads	Trustee Marc Thompson	General Manager Tim Lyon
Trustee Rita Maxwell	Trustee Rick Favors	Secretary Sara Hancock
		Authority Attorney Don Maisch

Absent: Mayor Dukes and Trustee Bana

CONSENT AGENDA. Eads made a motion to approve the consent agenda, seconded by Favors. Voting Aye: Eads, Byrne, Maxwell, Thompson, and Favors. Nay: None. Absent: Bana and Dukes. Motion Carried.

1. Discussion, consideration, or possible action to approve the June 25, 2024 meeting minutes.
2. Discussion, consideration and possible action of approving Resolution MA2024-05 for the Midwest City Municipal Authority, a public trust, to release unappropriated fund balances in the amount of \$8,723,644 at the close of day June 30, 2024 to be made available for fiscal year 2024-2025; and amending the budget for fiscal year 2024-2025 to include the released appropriations from the fiscal year 2023-2024 budgets as supplemental appropriations; and effective July 1, 2024, renewing encumbrance commitments canceled at the close of day June 30, 2024.
3. Discussion, consideration and possible action of approving supplemental budget adjustments to the following funds for FY 2024-2025, increase: Stormwater Fund, expenditures/Stormwater (61) \$474,000. Water Fund, expenditures/Water (42) \$3,003,216.
4. Discussion, consideration and possible action of approving supplemental budget adjustments to the following fund for FY 2023-2024, increase: Water Fund, expenditures/Water (42) \$78,500.
5. Discussion, consideration, and possible action of renewing contracts for FY 2024/2025 with Brenntag Southwest, Inc., Mid America Hydro Tech, and Sierra Container without modifications; Cabot Norit Americas, Inc., with a 4% price increase; and Republic Services of Oklahoma with a 3.5% price increase.
6. Discussion, consideration, and possible action of extending contracts without modifications with UniFirst Holdings, Inc., for uniforms and supplies and with Midstate Traffic Control, Inc., for traffic signal maintenance for FY 2024/2025.

7. Discussion, consideration, and possible action of entering into a contract with Plummer Associates, Inc., in the amount of \$139,236.00 for design of the Hiwassee Lift Station Improvements, Phase I.

DISCUSSION ITEMS.

1. **Discussion, consideration, and possible action of awarding the bid to and entering into a contract with H&H Plumbing & Utilities, Inc. for \$2,230,775 to construct the North Side Utilities Water Project. Trustees delegates the Chairman to sign and execute the contract.**

Eads made a motion to approve, seconded by Favors. Voting Aye: Eads, Byrne, Maxwell, Thompson, and Favors. Nay: None. Absent: Bana and Dukes. Motion Carried

2. **Discussion, consideration, and possible action of approving a Professional Services Agreement with Freese and Nichols, Inc., in the amount of \$799,000.00 to develop a citywide stormwater master plan.**

Favors made a motion to approve the agreement, seconded by Maxwell. Voting Aye: Byrne, Maxwell, Thompson, and Favors. Nay: None. Abstain: Eads. Absent: Bana and Dukes. Motion Carried

NEW BUSINESS/PUBLIC DISCUSSION. There was no new business or public discussion.

FURTHER INFORMATION.

1. Review of the monthly report on the current financial condition of the Delta Hotel at the Reed Center for the period ending June 30, 2024.

Eads and Thompson spoke.

ADJOURNMENT.

There being no further business, Vice Chairman Byrne adjourned the meeting at 9:20 PM.

ATTEST:

PAT BYRNE, Vice Chairman

SARA HANCOCK, Secretary



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

TO: Honorable Chairman and Trustees
Midwest City Municipal Authority

FROM: Tiatia Cromar, Finance Director

DATE: August 27, 2024

SUBJECT: Discussion, consideration and possible action of approving supplemental budget adjustments to the following funds for FY 2024-2025, increase: Capital Drainage Imp Fund, expenditures/Drainage Improvements (72) \$50,957. Cap Water Imp – Walker Fund, expenditures/Capital Water Imp (49) \$438,487. Const Loan Payment Rev Fund, expenditures/Water Department (42) \$3,059,783. Sewer Construction Fund, expenditures/Sewer Construction (46) \$509,603. Utility Services Fund, expenditures/Utility Services (50) \$29,207. Cap. Sewer Imp. – Stroth Fund, expenditures/Sewer Improvements (44) \$379,078. MWC Sanitation Department Fund, expenditures/Sanitation Department (41) \$630,116. MWC Sewer Department Fund, expenditures/Sewer Department (43) \$260,559. FF&E Reserve Fund, expenditures/Hotel/Conf Center (40) \$205,049. John Conrad Regional Golf Fund, expenditures/John Conrad Regional Golf (47) \$50,000. Storm Water Quality Fund, revenues/Intergovernmental (00) \$20,444; expenditures/Storm Water (61) \$448,729. MWC Water Department Fund, revenues/Transfer In (00) \$1,300,000; expenditures/Water Department (42) \$1,342,372.

The first through tenth supplements are needed to roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. The eleventh supplement is needed to roll forward the DEQ Adopt-A-Spot Grant Revenue balance of \$20,444 and capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. The twelfth supplement is needed to roll forward the Transfer In from Fund 143 Grants for Water Master Plan \$300,000 & Northside Water Improv \$1,000,000 and capital outlay project budgets from fiscal year 2023-2024 to current fiscal year.

Tiatia Cromar

Tiatia Cromar
Finance Director

SUPPLEMENTS

August 27, 2024

Fund CAPITAL DRAINAGE IMP (060)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
72	Drainage Improvements			50,957	
		<u>0</u>	<u>0</u>	<u>50,957</u>	<u>0</u>

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund CAP WATER IMP - WALKER (172)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
49	Capital Water Imp			438,487	
		<u>0</u>	<u>0</u>	<u>438,487</u>	<u>0</u>

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund CONST LOAN PAYMENT REV (178)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
42	Water Department			3,059,783	
		<u>0</u>	<u>0</u>	<u>3,059,783</u>	<u>0</u>

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund SEWER CONSTRUCTION (186)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
46	Sewer Construction			509,603	
		<u>0</u>	<u>0</u>	<u>509,603</u>	<u>0</u>

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

SUPPLEMENTS

August 27, 2024

Fund UTILITY SERVICES (187)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
50	Utility Services			29,207	
		<u>0</u>	<u>0</u>	<u>29,207</u>	<u>0</u>

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund CAP. SEWER IMP. - STROTH (188)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
44	Sewer Improvements			379,078	
		<u>0</u>	<u>0</u>	<u>379,078</u>	<u>0</u>

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund MWC SANITATION DEPARTMENT (190)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
41	Sanitation Department			630,116	
		<u>0</u>	<u>0</u>	<u>630,116</u>	<u>0</u>

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund MWC SEWER DEPARTMENT (192)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
43	Sewer Department			260,559	
		<u>0</u>	<u>0</u>	<u>260,559</u>	<u>0</u>

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

SUPPLEMENTS
August 27, 2024

Fund FF&E RESERVE (196)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
40	Hotel/Conf Center			205,049	
		0	0	205,049	0

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund JOHN CONRAD REGIONAL GOLF (197)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
47	John Conrad Regional Golf			50,000	
		0	0	50,000	0

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund STORM WATER QUALITY (061)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
00	Intergovernmental	20,444			
61	Storm Water Quality			448,729	
		20,444	0	448,729	0

Explanation:
To roll forward the DEQ Adopt-A-Spot (612403) Grant Revenue balance and capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.

Fund MWC WATER DEPARTMENT (191)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
00	Transfer In	1,300,000			
42	Water Department			1,342,372	
		1,300,000	0	1,342,372	0

Explanation:
To roll forward the Transfer In from Fund 143 Grants for Water Master Plan (4224A1) \$300,000 & Northside Water Improv (4224A2) \$1,000,000 and capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. 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

FROM: Tiatia Cromar, Finance Director

DATE: August 27, 2024

SUBJECT: Discussion, consideration and possible action of approving supplemental budget adjustments to the following funds for FY 2024-2025, increase: Stormwater Fund, revenue/Transfers In (00) \$325,000. Wastewater Fund, revenue/Transfers In (00) \$343,694. Capital Water Improvements Fund, expenditures/Capital Water Improvements (49) \$6,900.

The first and second supplements are needed to roll forward remaining budgets for transfers in from Grants Fund to Stormwater and Wastewater Funds from fiscal year 2023-2024 to current fiscal year. The third supplement is needed to budget additional geotechnical work related to Timber Ridge Water Tower Project.

Tiatia Cromar

Tiatia Cromar
Finance Director

SUPPLEMENTS

August 27, 2024

Fund STORMWATER (061)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
0	Transfers In	325,000			
		325,000	0	0	0
Explanation:					
To roll forward remaining budget for transfer in from Grants Fund from fiscal year 2023-2024 to current fiscal year.					

Fund WASTEWATER (192)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
0	Transfers In	343,694			
		343,694	0	0	0
Explanation:					
To roll forward remaining budget for transfer in from Grants Fund from fiscal year 2023-2024 to current fiscal year.					

Fund CAPITAL WATER IMPROVEMENTS (172)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		Estimated Revenue		Budget Appropriations	
<u>Dept Number</u>	<u>Department Name</u>	<u>Increase</u>	<u>Decrease</u>	<u>Increase</u>	<u>Decrease</u>
49	Capital Water Improv.			6,900	
		0	0	6,900	0
Explanation:					
To budget additional geotechnical work for the Timber Ridge Water Tower Project. Funding to come from fund balance.					



Information Technology
100 N. Midwest Boulevard
Midwest City, OK 73110
Office 405.739.1374
Fax 405.869.8602

MEMORANDUM

TO: Honorable Chair and Members of the Municipal Authority

FROM: Allen Stephenson, Information Technology Director

DATE: August 27, 2024

SUBJECT: Discussion, consideration, and possible action of renewing the subscription of Microsoft licensing with Softchoice Corporation, which holds the Oklahoma Statewide Contract for Microsoft Software Products/Services # SW1079, in the amount of \$137,100.15.

Discussion, consideration, and possible action of renewing the subscription of Microsoft licensing with Softchoice Corporation, which holds the Oklahoma Statewide Contract for Microsoft Software Products/Services # SW1079, in the amount of \$137,100.15.

Over the past year, our organization has significantly benefited from the transition to Microsoft's suite of products. This shift has addressed many of the reliability issues we previously faced, including limited support, increased downtime, and unforeseen disruptions with our prior email solution. The comprehensive nature of Microsoft's services has enhanced our operational efficiency and provided a stable and reliable email infrastructure.

Specifically, the Microsoft 365 G3 subscription allows for access to Word, Excel, PowerPoint, Publisher, OneDrive, Exchange, Teams, OneNote, eDiscovery, Legal Hold, Multifactor Authentication, and Active Directory integration. These products offer us advanced security, device management, and sophisticated compliance capabilities, ensuring that our organization maintains the highest levels of data protection.

Sincerely,

Allen Stephenson, Information Technology Director



Softchoice Corporation
 314 W Superior St #400
 Chicago, IL 60654

Sales/Order desk
 Phone: (800) 268-7638
 Fax: (800) 268-7639

Quote	Q-2017473
Date	24-Jul-2024

Quote

Ship To :
 Matthew Schratwieser
 City of Midwest City
 100 N MIDWEST BLVD
 MIDWEST CITY, OK 73110

Quote Prepared For	Matthew Schratwieser City of Midwest City Phone: 4057391240 Email: mschratwieser@midwestcityok.org
Quote Sent By	Jaspreet Monga jaspreet.monga@softchoice.com Phone: Fax:
Anniversary Date	24-Aug-2024
Authorization Number	81353143
Agreement End Date	31-Aug-2026
Comments	

SLG EA - Year 2 Scheduled Billing - Enr: 81353143

Item #	Mfg SKU #	Description	Qty	Billing Frequency	Start Date	End Date	Usage Country	License Type	Unit Price	Extended Price
2000410715	AAA-11894	O365GCCE3 ShrdSvr ALNG SubsVL MVL PerUsr	450	Upfront	01-Sep-2024	31-Aug-2025	United States	Subscription	\$246.72	\$111,024.00
2000575346	MQM-00001	AzureActiveDrctryPremP1GCC ShrdSvr ALNG	450	Upfront	01-Sep-2024	31-Aug-2025	United States	Subscription	\$56.04	\$25,218.00

2000674814	NYH-00001	AUDIO CONFERENCING SELECT DIAL OUT GCC SUB ADD-ON	450	Upfront	01-Sep-2024	31-Aug-2025	United States	Subscription	\$0.00	\$0.00
2000410262	T2N-00005	O365GCCE5 ShrdSvr ALNG SU MVL O365GCCE3	5	Upfront	01-Sep-2024	31-Aug-2025		Subscription	\$171.63	\$858.15
GROUP TOTAL										\$137,100.15

SUBTOTAL										\$137,100.15
DELIVERY: Ground - 3 to 5 days										\$0.00
State Tax										\$0.00
Local Tax										\$0.00
All currency in this quote is in (USD).										
TOTAL										\$137,100.15

Estimated Monthly Lease Payment \$4,329.62 per month*

*Please note that the estimated monthly payment shown above is an option based on a 36 month term with a USD\$1.00 buyout at the end of the term. Fair market value buyout and monthly payments may vary depending on your creditworthiness as determined by Softchoice. 1 and 2 year Service Agreements, Subscriptions, License and Support contracts are not eligible for 36 month payment plans; 12 or 24 month payment options may be available upon request. Shipping and applicable taxes are not included in the above estimate. Payment options in the United States of America are in US Dollars and not billable in other currencies. All monthly lease payment options are subject to credit approval and execution of a lease contract.

Payment options are only available in listed currency and not billable in other currencies. Pricing, availability, and special offers are subject to change at any time. This document and the transaction(s) to which it pertains are governed by Softchoice's online terms of sale, unless a separate purchase agreement was signed by both your company and Softchoice, in which case, that separate agreement will govern. Softchoice's terms of sale can be found <http://www.softchoice.com/softchoice-terms-and-conditions-for-products>

As noted in the Microsoft Enterprise Agreement, any online subscription services within this quote will automatically renew annually unless Softchoice is notified in writing at least 30 days prior to your anniversary. If you are within the final year of your agreement the previous statement does not apply; new products and quantities will be reviewed in your renewal process.

Signature :

Name :

Title :

Date :

PO# : {{(PO_es :signer1)}}

US - Oklahoma Statewide OMES Microsoft -

Please note all products priced in accordance to Oklahoma Statewide Microsoft Contract SW1079.

Cage Code: 3DH15

DUNs: 929022028

TIN: 13-3827773

Enterprise Update Statement

Enterprise Agreement Number 9065182

Enrollment Number 81353143

Company Name City of Midwest City

In accordance with the terms of entity's Enterprise Agreement and Enrollment, a true-up order must be submitted for each Enrollment's anniversary (including at Enrollment expiration and prior to any renewal) to account for License quantity increases for:

- a. Qualified Desktops/Devices or Qualified Users
- b. Online Services (where permitted)
- c. Previously ordered Additional Products
- d. Products included in the Server and Cloud Enrollment or Enrollment for Core Infrastructure
- e. Products included in the Enrollment for Application Platform. Products selected with the three year true-up option must place the true-up order only upon enrollment expiration and prior to renewal.

If entity has ordered any additional quantities since its last Enrollment anniversary, this annual true-up order is still required. Entity must submit an Enterprise Update Statement for each anniversary when there has been no increase in required License quantities as described above.

- In checking this box, entity confirms that under the above referenced Enrollment, there has been no increase in the number of required Licenses not already ordered in a prior placed True Up Orders. Entity understands that it is the responsibility of the entity to ensure that all licenses installed are used according to the Enterprise Agreement and Enrollment referenced above.

Select applicable year for this Update statement: Year 1

Customer/Government Partner (as applicable)
Name of Entity* City of Midwest City
Signature*
Printed Name*
Printed Title*
Signature Date*

* indicates required fields



NEW BUSINESS/
PUBLIC DISCUSSION





MEMORIAL HOSPITAL AUTHORITY AGENDA

City Hall - Midwest City Council Chambers, 100 N. Midwest Boulevard

August 27, 2024 – 6:02 PM

Presiding members: Chairman Matthew Dukes	City Staff:
Trustee Susan Eads	General Manager Tim Lyon
Trustee Pat Byrne	Secretary Sara Hancock
Trustee Rita Maxwell	Authority Attorney Don Maisch
Trustee Marc Thompson	
Trustee Sara Bana	
Trustee Rick Favors	

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/s will be removed and heard in regular order.

1. Discussion, consideration, or possible action to approve the July 23, 2024 meeting minutes. (Secretary - S. Hancock)
2. Discussion, consideration and possible action of approving supplemental budget adjustments to the following fund for FY 2024-2025, increase: Hospital Authority Fund, expenses/Hospital Authority (90) \$28,816,456. (Finance - T. Cromar)

C. DISCUSSION ITEMS.

1. Discussion, consideration, and possible action of entering into an agreement for Construction Manager at Risk (CMAR) services for the Plaza 62 revitalization district with Willowbrook, Inc. in the amount of 1% of the construction budget for Preconstruction Phase Services and 5% of the total Construction Cost of Work. (Engineering & Construction Services - B. Bundy)
2. Discussion, consideration, and possible 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 meeting was filed for the calendar year with the City Clerk of Midwest City. Public notice of this meeting was accessible at 24 hours before this meeting at City Hall and on the Midwest City website (www.midwestcityok.org).

Midwest City Memorial Hospital Authority Minutes

July 23, 2024

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

Vice Chairman Pat Byrne called the meeting to order at 9:20 PM with following members present:

Trustee Susan Eads	Trustee Marc Thompson	General Manager Tim Lyon
Trustee Rita Maxwell	Trustee Rick Favors	Secretary Sara Hancock
		Authority Attorney Don Maisch

Absent: Chairman Dukes and Trustee Sara Bana.

CONSENT AGENDA. Eads made a motion to approve the consent agenda, seconded by Favors. Voting Aye: Eads, Byrne, Maxwell, Thompson and Favors. Nay: None. Absent: Bana and Dukes. Motion Carried.

1. Discussion, consideration, or possible action to approve the June 25, 2024 meeting minutes.
2. Discussion, consideration and possible action for adoption of Resolution HA2024-03 for the Midwest City Memorial Hospital Authority, a public trust, to release unappropriated fund balance in the amount of \$1,508,819 at the close of day June 30, 2024 to be made available for fiscal year 2024-2025; and amending the budget for fiscal year 2024-2025 to include the released appropriations from the fiscal year 2023-2024 budget as supplemental appropriations; and effective July 1, 2024, renewing encumbrance commitments canceled at the close of day June 30, 2024.
3. Discussion, consideration and possible action of approving supplemental budget adjustments to the following fund for FY 2023-2024, increase: Hospital Authority Fund, expenditures/Hospital Authority (90) \$10,469,070.
4. Discussion, consideration and possible action of approving supplemental budget adjustments to the following fund for FY 2024-2025, increase: Hospital Authority Fund, expenditures/Hospital Authority (90) \$9,530,930.
5. Discussion, consideration and possible action of approving the management representation letter to Grant Thornton LLP and accepting the draft final report for Sooner Town Center II, LLC for calendar years ending December 31, 2023 and 2022.

DISCUSSION ITEMS.

1. **Discussion, consideration, and possible action of awarding the bid to and entering into a contract with Wynn Construction Co., Inc. for \$1,614,883 and 210 Calendar Days for the Mid-**

America Park Phase 1 Project, a 2018 GO Bond project. Trustees delegate the Chairman to sign and execute the contract.

Favors made a motion to approve, seconded by Maxwell. Voting Aye: Byrne, Maxwell, Thompson, and Favors. Nay: Eads. Absent: Bana and Dukes. Motion Carried.

NEW BUSINESS/PUBLIC DISCUSSION. There was no new business or public discussion.

ADJOURNMENT.

There being no further business, Vice Chairman Byrne adjourned the meeting at 9:21 PM.

ATTEST:

PAT BYRNE, Vice Chairman

SARA HANCOCK, Secretary



Finance

100 N. Midwest Boulevard
Midwest City, OK 73110
Office: (405) 739-1245
tcromar@MidwestCityOK.org
www.midwestcityok.org

MEMORANDUM

TO: Honorable Chairman and Trustees of the
Memorial Hospital Authority

FROM: Tiatia Cromar, Finance Director

DATE: August 27, 2024

SUBJECT: Discussion, consideration and possible action of approving supplemental budget adjustments to the following fund for FY 2024-2025, increase: Hospital Authority Fund, expenses/Hospital Authority (90) \$28,816,456.

This supplement is needed to roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year.

Tiatia Cromar

Finance Director

SUPPLEMENTS

August 27, 2024

Fund MWC HOSPITAL AUTHORITY (425)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
		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	Hospital Authority			28,816,456	
		<u>0</u>	<u>0</u>	<u>28,816,456</u>	<u>0</u>

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.



DISCUSSION ITEMS



TO : Chairman and Trustees of the Memorial Hospital Authority

FROM : Brandon Bundy, P.E., Director

DATE : August 27, 2024

SUBJECT : Discussion, consideration, and possible action of entering into an agreement for Construction Manager at Risk (CMAR) services for the Plaza 62 revitalization district with Willowbrook, Inc. in the amount of 1% of the construction budget for Preconstruction Phase Services and 5% of the total Construction Cost of Work.

The Plaza 62 revitalization district is going to be a complex infrastructure project comprising of multiple different types of construction while working around the Hospital. Items included in Plaza 62:

- Reconstruction of National Ave and Parklawn Dr with lighting, trail/sidewalk, and landscaping
- New Waterline
- New Sanitary Sewer
- New Stormwater inlets and pipes
- Reconstruction and addition of existing stormwater facilities
- Complex Park located at the intersection of National Ave and Parklawn Dr

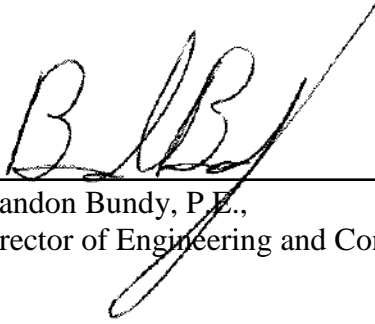
With the complexities involved; City Staff recommended a Construction Manager at Risk (CMAR) delivery method to fully build out the infrastructure. The CMAR allows for the City to partner with an experienced Construction Manager early in the process to work through phasing, constructability, and budgetary issues that can come about during design development. The Construction Manager then stays on during construction assisting with Project Management, Bid Services, and Contract Administration. The City's experience with this delivery method includes both phases of the Multi-Athletic Complex and the Delta Hotel renovation.

A request for qualifications (RFQ) was issued in February 2024 and the City received three (3) responses; of which all were interviewed on April 15-April 17. Of the three (3) interviewed, the selection committee unanimously selected Willowbrook, Inc. as the preferred candidate.

Willowbrook, Inc., previously known as CMS Willowbrook, did work for the City on the Delta Hotel renovation and has been the frequent contractor of both Mid-Del Schools and SSM Health.

Development of construction plans are currently underway and we expect to begin construction early 2025.

This contract will be funded in the current budget through project Fund 425, #902301.

A handwritten signature in black ink, appearing to read 'B. Bundy', is written over a horizontal line. The signature is stylized and cursive.

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

CC: Matthew Summers, Director of Planning and Zoning

Attachment



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

AGREEMENT made as of the 27th day of August in the year 2024.
(In words, indicate day, month, and year.)

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

Midwest City Memorial Hospital Authority
100 N. Midwest Blvd.
Midwest City, OK 73110

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

Willowbrook, Inc.
620 NE 36th Street
Oklahoma City, OK 73105

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

Parklawn Drive – National Avenue Revitalization District (Plaza 62)
2525 Parklawn Drive
Midwest City, OK 73110

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

TSW
110 S Hartford Ave Suite 2501
Tulsa, OK 74120

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™–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.

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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.)

This information is summarized in the City of Midwest City Request for Qualifications released on February 14, 2024, which is attached hereto and incorporated by reference.

§ 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.)

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The Authority has a construction budget of \$15,500,000 to \$17,000,000 depending on final scope of the construction of the District.

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

- .1 Design phase milestone dates, if any:
- .2 Construction commencement date:
- .3 Substantial Completion date or dates:
- .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.)

§ 1.1.7 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.)

Brandon Bundy, City of Midwest City - Engineering and Construction Services Department
100 N Midwest Blvd.
Midwest City, OK 73110
405-739-1213
bbundy@midwestcityok.org

§ 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:
Johnson & Associates
1 E Sheridan Ave, STE 200
Oklahoma City, OK 73104
- .3 Other, if any:

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(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.)

Katie O'Meilia
110 S Hartford Ave Suite 2501
Tulsa, OK 74120
komeilia@tsw-design.com
918-236-5468

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

Chris Gray, Preconstruction Director
620 NE 36th Street
Oklahoma City, OK 73105
Chris.gray@willowbrook.build
405-408-0377

§ 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.)

Cristy Callins, VP of Preconstruction
Erik Williams, Estimator
Hilary Peters, Preconstruction Manager
Chris Gray, Preconstruction Director

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

Per Oklahoma State Statutes

§ 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.

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

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, all attachments to 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

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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

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

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, 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

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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

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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 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 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.

§ 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.

§ 4.1.3 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, provided such materials have not been deemed confidential pursuant to the Oklahoma Open Records Act, Title 51 of the Oklahoma Statutes, Section 24A.1.

§ 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.

§ 4.2 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. The Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 4.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities 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.)

1% of the Construction Budget

§ 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 Construction Manager is an independent contractor and will act exclusively as an independent contractor is not an agent or employee of the Owner 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 Construction Manager pursuant to this Agreement shall be due and payable in the State of Oklahoma, even if services of Construction Manager are performed outside the State of Oklahoma.

B. The Owner 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 Construction Manager as Construction Manager is an independent contractor and the members of its Construction Manager’s Team, assigned to work on the Project for the Owner are not employees of the Owner. Any such taxes, if due, are the responsibilities of Construction Manager and will not be charged to the Owner.

C. Construction Manager acknowledges that as an independent contractor it and Construction Manager’s Project Team, assigned to work on the Project for the Owner are not eligible to participate in any health, welfare or retirement benefit programs provided by the Owner or its employees.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within () 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 () 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.)

All payments per Oklahoma State Statutes

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.)

Percentage fee of 5% of the Cost of the Work.

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

6%

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

10% Overhead + 5% Profit = 15% Total

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed one hundred percent (100%) of the standard rental rate paid at the place of the Project.

§ 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.)

§ 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.

§ 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 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.

§ 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.

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§ 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.

§ 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.

§ 7.6.5 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 Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval.

§ 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 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, the Owner shall pay for those items in which the Owner has control, the Construction Manager shall pay those costs that are attributed to the Construction Manager. Joint Fees and costs shall be borne equally between the Construction Manager and the Owner.

§ 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.

§ 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

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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, 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, 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 shall approve the use of any subcontractor by the Construction Manager. The Owner shall not unduly withhold the approval of any subcontractor. 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:

As per Oklahoma State Statutes

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the twenty-fifth day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the last day of the following 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 thirty (30) 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 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;
- .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;
- .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.) Retainage Amounts will need to be added here.

Retainage per Oklahoma State Statutes

§ 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.)

General Conditions, General Requirements, Insurance, Bonds, Preconstruction Fee, Permit Fees

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

(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.)

Retainage per Oklahoma State Statutes

§ 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.)

Retainage per Oklahoma State Statutes

§ 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 the terms and conditions set forth in this contract.

§ 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.

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§ 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. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 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:

Per Oklahoma State Statutes

§ 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.

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved initially through discussions between the Parties. If discussions between the Parties does not resolve the claim, either Party may request mediation. 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, and Section 12.1.2 of this Agreement shall not apply.

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.

§ 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.

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§ 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 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

§ 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

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If the Owner, by giving thirty (30) days written notice to the Construction Manager. 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.)

In the amount of the construction manager has expended on the project at the date of the termination, plus Construction Manager fee.

§ 13.3 Suspension

The Work may be suspended by the Owner.

ARTICLE 14 MISCELLANEOUS PROVISIONS

(Paragraph deleted)

§ 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. 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 (\$1,000,000.00) for each occurrence and (\$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 (\$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 (\$1,000,000.00) each accident, (\$1,000,000.00) each employee, and (\$) 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 (\$1,000,000.00) per claim and (\$1,000,000.00) in the aggregate.

§ 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
Personal & Advertising Injury	\$1,000,000.00
General Aggregate	\$2,000,000.00

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Products-Completed Operations Aggregate
Builders' Risk

\$2,000,000.00
TBD based on project details

§ 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 policies 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.

§ 14.5 Other provisions:

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 as revised by the Parties
- .2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed
- .3 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .4 Midwest City's Supplemental General Conditions

§ 15.3 The Parties acknowledge and agree that if anything in this Agreement or the A201 General Conditions, as revised by the Parties, is inconsistent with Midwest City's Supplemental General Conditions, Midwest City's Supplemental General Conditions shall govern.

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

OWNER (Signature)

Matt Dukes, Chairman
(Printed name and title)



CONSTRUCTION MANAGER (Signature)

Weston DeHart, President
(Printed name and title)

Init.

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Midwest City's Supplemental General Conditions

INDEPENDENT CONTRACTOR STATUS

The parties hereby acknowledge and covenant that:

A. **Construction Manager** is an independent contractor and will act exclusively as an independent contractor is not an agent or employee of the **Owner** in performing the duties in The 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 **Construction Manager** pursuant to the Agreement shall be due and payable in the State of Oklahoma, even if services of **Construction Manager** are performed outside the State of Oklahoma.

B. The **Owner** 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 **Construction Manager** as **Construction Manager** is an independent contractor and the members of its **Construction Manager's Team**, assigned to work on the Project for the **Owner** are not employees of the **Owner**. Any such taxes, if due, are the responsibilities of **Construction Manager** and will not be charged to the **Owner**.

C. **Construction Manager** acknowledges that as an independent contractor it and **Construction Manager's Project Team**, assigned to work on the Project for the **Owner** are not eligible to participate in any health, welfare or retirement benefit programs provided by the **Owner** or its employees.

TERM, TERMINATION AND STOP WORK

A. The Agreement shall commence upon execution by the last party hereto and shall continue until completion of the project work, unless terminated by either party as provided for herein. The 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 **Owner** issue notices of termination or suspension to the **Construction Manager**. The Agreement may be terminated, with or without cause, upon written notice, at the option of **Owner**.

1. Upon receipt of a notice of termination for the *convenience* from the **Owner**, the **Construction Manager** shall immediately discontinue all services and activities (unless the notice directs otherwise), and

2. Upon payment for products or services fully performed and accepted, **Construction Manager** shall deliver to the **Owner** 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 the Agreement, whether same are complete or incomplete, unless the notice directs otherwise. Upon termination for the *convenience* by the **Owner**, the **Owner** shall pay **Construction Manager** 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 the Agreement.

3. Upon notice of termination for *cause* from the **Owner**, the **Construction Manager** shall not be entitled to any prior or future payments, including, but not limited to, any services, performances, work, products, deliverables, solutions, costs, or expenses. The **Owner** 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 **Owner** by reason of **Construction Manager's** breach or other cause. Provided, however, upon notice of termination for cause, the **Construction Manager** shall deliver to the **Owner** 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 the Agreement, whether complete or incomplete, unless the notice directs otherwise.

4. The rights and remedies of the **Owner** 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 **Construction Manager** under the Agreement.

C. Upon notice to **Construction Manager**, the **Owner** may issue a stop work order suspending any Projects, services, performances, work, products, Deliverables, or solutions under the Agreement. Any stop work order shall not terminate or suspend any warranty, indemnification, insurance, or confidentiality required to be provided by **Construction Manager** under the Agreement. In the event the **Owner** issues a stop work order to **Construction Manager**, the **Owner** will provide a copy of such stop work order to the **Construction Manager**. Upon receipt of a stop work order issued from the **Owner**, the **Construction Manager** shall suspend all work, services and activities except such work, services, and activities expressly directed by the **Owner** in the stop work order. Upon notice to the **Construction Manager**, the Agreement, and any or all work, services, and activities thereunder, may be suspended up to thirty (30) calendar days by the **Owner**, without cause and without cost to the **Owner**; provided however, the **Construction Manager** 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 the Agreement is terminated for convenience hereunder, the **Owner** shall pay **Construction Manager** for such properly documented invoices, if any, in accordance with the provisions of The Agreement above, through the date of termination for *convenience* and the period set forth in the notice, and thereafter the **Owner** shall have no further liability under the Agreement to **Construction Manager** and **Construction Manager** shall have no further obligations to the **Owner**.

2. Upon termination for *convenience* of the Project and the providing to the **Owner** of all Deliverables for the Project and payment of the invoice for the Project to **Construction Manager**, the **Owner** shall own all rights and license for the Deliverables and other work products related to that Project.

WARRANTIES

A. **Construction Manager** warrants that the Projects performed and Deliverables provided under the Agreement shall be performed consistent with generally prevailing professional standards and expertise. **Construction Manager** shall maintain during the course of the Agreement said standard of care, expertise, skill, diligence and professional competency for any and all such services, products, solutions and deliverables. **Construction Manager** agrees to require all members of the **Construction Manager'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 **Construction Manager**.

B. During the term of the Agreement, the **Owner's** initial remedy for any breach of the above warranty shall be to permit **Construction Manager** one additional opportunity to perform the work, services, and activities or provide the Projects and Deliverables without additional cost to the **Owner**. 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 the Agreement within thirty (30) calendar days of the original performance date, the **Owner** shall be entitled to recover, should the **Owner** so determine to be in their best interest, any fees paid to the **Construction Manager** for previous payments, including, but not limited to, work, services, activities services, Projects and Deliverables and **Construction Manager** shall make reimbursement or repayment within thirty (30) calendar days of a demand by the **Owner**. Should the **Construction Manager** fail to reimburse the **Owner** within thirty (30) calendar days of demand, the **Owner** shall also be entitled to interest at 1.5% percent per month on all outstanding reimbursement and repayment obligations.

C. The **Construction Manager** 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 the Agreement and may not be waived by any other provision, expressed or implied, in the Agreement or in any **Attachment** hereto.

INSURANCE

A. **Construction Manager** must provide and maintain at all times throughout the term of the 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 **Owner** from claims for bodily injury (*including death*) and or property damage arising out of or resulting from the **Construction Manager**, and its employees, use and occupancy of the premises and the activities conducted thereon. The insurance coverage required in this paragraph must include the **Owner** as additional insureds as their interest may appear under the Agreement under the policy or policies.

B. A certificate of insurance evidencing the coverage required herein shall be provided

to the **Owner** within five (5) days of the execution of the Agreement.

C. **Construction Manager** shall require any contractor or subcontractor to obtain and maintain substantially the same coverage as required of **Construction Manager** including the **Owner** as an additional insured as their interest may appear under the Agreement.

D. The insurance requirements set forth herein must not be deemed to limit, affect, waive, or define any obligations of the **Construction Manager** in any other paragraph of the Agreement or any indemnification or insurance requirement in any other paragraph of the Agreement. This paragraph must continue in full force and affect for any act, omission, incident or occurrence occurring or commencing during the term of the Agreement. Further, the insurance coverage required by this paragraph will survive revocation, non-renewal, termination and expiration of the 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 **Construction Manager** is services under the **Agreement**.

E. Provided, however, should the **Construction Manager** 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 **Owner** 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, the Agreement may be terminated. Termination of the Agreement pursuant to this paragraph must take precedence and supersede any other paragraph establishing the term of the 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 **Owner** 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 the Agreement.

INDEMNIFICATION

A. **Construction Manager** agrees to indemnify, defend, and hold harmless the **Owner** 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 **Construction Manager**, 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 **Construction Manager** must give the **Owner** 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 **Owner**, 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 **Owner** under any other paragraph, including but not limited to any insurance provision or requirement in the Agreement.

B. The provisions of this paragraph shall survive the expiration of the 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 the Agreement.

CONFIDENTIALITY

Construction Manager acknowledges that in the course of training and providing other services to the **Owner**, the **Owner** may provide **Construction Manager** with access to valuable information of a confidential and proprietary nature including but not limited to information relating to the **Owner's** employees, customers, marketing strategies, business processes and strategies, security systems, data and technology. **Construction Manager** agrees that during the time period the Agreement is in effect, and thereafter, neither **Construction Manager** nor **Construction Manager's Team**, without the prior written consent of the **Owner**, shall disclose to any person, other than to the **Owner**, any information obtained by **Construction Manager**. **Construction Manager** shall require and maintain adequate confidentiality agreements with its employees, agents, contractors, and subcontractors.

NOTICES

A. Notices and other communications to the **Owner** 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 Owner of Midwest Owner, Owner Clerk
100 N. Midwest Boulevard
Midwest Owner, OK 73110

respectively, and notices or other communication to the **Construction Manager** 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:

Mr. Chris Gray

Willowbrook, Inc.

620 NE 36th St

Oklahoma City, OK 73105

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 the Agreement, notice will be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to this paragraph.

ABIDES BY LAW

The **Construction Manager** must abide by the conditions of the Agreement, the ordinances of the **Owner**, and all laws and regulations of the State of Oklahoma and the United States of America (“Laws”), applicable to **Construction Manager’s** activities. **Construction Manager** will be responsible for securing any license, permits and/or zoning which may be required prior to commencement of the Project.

ASSIGNMENT AND SUBLEASE

Construction Manager may not assign or sublease its interest under the Agreement without the prior written consent of the **Owner**. Any assignment or sublease shall become effective upon receipt of a request signed by authorized and empowered officers/agents of the **Construction Manager** and sublessee and provision by the sublessee of a certificate of insurance evidencing the insurance required by the Agreement and upon approval of such sublease by **Owner**. The **Owner** may, but not required, to execute a letter approving either the assignment or sublease as provided herein on behalf of **Owner**. Upon approval of such assignment or sublease, **Construction Manager** will not be relieved of future performance, liabilities, and obligations under the Agreement. **Owner** shall be provided with a copy of each written sublease agreement, and all amendments thereto, entered into by **Construction Manager** within forty-five (45) days after the entering into of same.

TIME OF ESSENCE

For the purposes of the Agreement, time shall be deemed to be of the essence.

MULTIPLE ORIGINALS

The Agreement shall be executed in multiple counterparts, each of which shall be deemed an original.

ANTI-COLLUSION

Construction Manager 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 **Owner** as to the terms or conditions of the 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 **Owner**, either directly or indirectly, in procuring and execution of the Agreement.

BREACH AND DEFAULT

A. A breach of any provision of the 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, the 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 **Owner** breach the Agreement, **Construction Manager** may only recover that proportion of services provided prior to the breach. **Construction Manager** may not collect or recover any other or additional damages, losses, or expenses.

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 the Agreement. The Agreement is solely for the benefit of the **Construction Manager** and the **Owner**, and none of the provisions hereof are intended to benefit any third parties.

VENUE AND CHOICE OF LAW

All parties hereto expressly agree that the venue of any litigation relating to or involving the 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 the 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.

DISPUTE RESOLUTION

Either **Party** may commence the dispute resolution process pursuant to this provision, by providing the other **Party** written notice of the dispute between the **Parties** concerning any term of the Agreement or attachment hereto. The notice shall contain:

- (i) a statement setting forth the position of the party giving such notice and a summary of arguments supporting such position and
- (ii) the name and title of **Party** Representative and any other Persons who will accompany the Representative at the meeting at which the parties will attempt to settle the Dispute.

Within ten (10) days of receipt of the notice, the other **Party** shall respond with

- (i) a statement setting forth the position of the party giving such notice and a summary of arguments supporting such position and
- (ii) the name and title of **Party** Representative and any other Persons who will accompany the Representative at the meeting at which the parties will attempt to settle the Dispute.

The **Parties** shall make good faith attempts to negotiate a settlement between their appointed representatives. If the **Parties** are unable to settle the dispute themselves, the **Parties** shall be required to mediate the dispute, with the **Parties** equally sharing in the cost of said mediation. Mediation shall last at least six (6) hours and be attempted before any litigation shall be filed.

VALIDITY

The invalidity or unenforceability of any provision of the Agreement shall not affect the validity or enforceability of any other provisions of the Agreement, which shall remain in full force and effect.

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 the Agreement, or waiver by any party of strict performance of any of the terms or conditions of the 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.

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 **Owner** unless such services, work, product, solution, or deliverable is first requested and approved in writing by the **Owner** through a purchase order.

AMENDMENT

The Agreement may be amended by mutual agreement of the **Parties**, in writing and signed by both **Parties**. The **Owner** hereby delegates to the Owner Manager all amendments to the Agreement for approval and execution, unless the amendment would increase the contracted amount by more than ten percent (10%).

General Conditions of the Contract for Construction

for the following PROJECT:

Parklawn Drive – National Avenue Revitalization District (Plaza 62)
2525 Parklawn Drive
Midwest City, OK 73110

THE OWNER:

Midwest City Memorial Hospital Authority
100 N. Midwest Blvd.
Midwest City, OK 73110

THE ARCHITECT:

TSW
110 S Hartford Ave Suite 2501
Tulsa, OK 74120

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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.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503[™], Guide for Supplementary Conditions.

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User Notes:

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

(Paragraphs deleted)

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and

enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use 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.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

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ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 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 Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These

obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

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§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional,

whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work,

provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the

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Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

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- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

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§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;

- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities

proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the

procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

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The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor 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 13.2.2, 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.

§ 13.2.2 The Owner may, without consent of the Contractor, 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 Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and

approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

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

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

(Paragraphs deleted)

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.



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

MEMORANDUM

To: Honorable Chairman and Trustees

From: Tiatia Cromar, Finance Director

Date: Augst 27, 2024

Subject: Discussion, consideration, and possible action to reallocate assets, change fund managers or make changes in the Statement of Investment Policy, Guidelines and Objectives.

This item is 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





SPECIAL ECONOMIC DEVELOPMENT AUTHORITY AGENDA
City Hall - Midwest City Council Chambers, 100 N. Midwest Boulevard

August 27, 2024 – 6:03 PM

Presiding members: Chairman Matthew Dukes	City Staff:	
Trustee Susan Eads	Trustee Marc Thompson	General Manager Tim Lyon
Trustee Pat Byrne	Trustee Sara Bana	Secretary Sara Hancock
Trustee Rita Maxwell	Trustee Rick Favors	Authority 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, consideration, or possible action to approve the July 23, 2024 special meeting minutes. (Secretary - S. Hancock)

2. Discussion, consideration, and possible action of approving a Memorandum of Understanding (MOU) between the City of Midwest City, the Midwest City Economic Development Authority and the Midwest City Utilities Authority for the engineering, design and construction of a rail spur for the Soldier Creek Industrial Park (SCIP). (R. Coleman – Economic Development Director).

3. Discussion, consideration and possible action of approving supplemental budget adjustments to the following fund for FY 2024-2025, increase: Economic Development Authority Fund, expenditures/EDA (95) \$3,326,515. (Finance - T. Cromar)

C. PUBLIC DISCUSSION. 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



Notice for the Economic Development Authority special meeting 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 the meeting at City Hall and on the Midwest City website. (www.midwestcityok.org)

Midwest City Economic Development Authority Minutes

July 23, 2024

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

Vice Chairman Bat Byrne called the meeting to order at 9:21 PM with following members present:

Trustee Susan Eads	Trustee Marc Thompson	General Manager Tim Lyon
Trustee Rita Maxwell	Trustee Rick Favors	Secretary Sara Hancock
		Authority Attorney Don Maisch

Absent: Chairman Dukes and Trustee Bana

CONSENT AGENDA. Eads made a motion to approve the consent agenda, seconded by Favors. Voting Aye: Eads, Byrne, Maxwell, Thompson, and Favors. Nay: None. Absent: Bana and Dukes. Motion Carried.

1. Discussion, consideration, or possible action to approve the June 25, 2024 special meeting minutes.
2. Discussion, consideration and possible action of approving supplemental budget adjustments to the following fund for FY 2024-2025, increase: Economic Development Authority Fund, revenue/Transfers In (00) \$25,000; expenditures/Economic Development Authority (95) \$25,000.
3. Discussion, consideration and possible action of approving the management representation letter to Grant Thornton LLP and accepting the final draft report for Sooner Town Center II, LLC for calendar years ending December 31, 2023 and 2022.
4. Discussion, consideration and possible action of approving Resolution EDAD2024-02 for the Midwest City Economic Development Authority, a public trust, to release unappropriated fund balances in the amount of \$1,055,338 at the close of day June 30, 2024 to be made available for fiscal year 2024-2025; and amending the budget for fiscal year 2024-2025 to include the released appropriations from the fiscal year 2023-2024 budgets as supplemental appropriations; and effective July 1, 2024, renewing encumbrance commitments canceled at the close of day June 30, 2024.

PUBLIC DISCUSSION. There was no public discussion.

ADJOURNMENT.

There being no further business, Vice Chairman Byrne adjourned the meeting at 9:22 PM.

ATTEST:

PAT BYRNE, Vice Chairman

SARA HANCOCK, Secretary



City Attorney, Donald D. Maisch

100 N. Midwest Boulevard
Midwest City, OK 73110
DMaisch@midwestcityok.org
Office: 405.739.1203
www.midwestcityok.org

MEMORANDUM

To: Chair and Trustees of the Midwest City Economic Development Authority

From: Robert Coleman, Midwest City Economic Development Director

Date: August 27, 2024

RE: Discussion, consideration, and possible action of approving a Memorandum of Understanding (MOU) between the City of Midwest City, the Midwest City Economic Development Authority and the Midwest City Utilities Authority for the engineering, design and construction of a rail spur for the Soldier Creek Industrial Park (SCIP). (R. Coleman – Economic Development Director).

The MOU between the City of Midwest City, the Midwest City Economic Development Authority and the Midwest City Utilities Authority specifies the duties, responsibilities and relationship between the parties for the engineering, design and construction of a rail spur for the SCIP. The rail spur will serve American Glass and other future occupants of SCIP.

The MOU acknowledges ownership of SCIP, ownership of the location of the rail spur, which entity will pay for the engineering of the rail spur and which entity will be working with a contracted consultant to obtain a federal grant to cover the construction of the rail spur.

Approval is at the discretion of the Trustees of the Economic Development Authority.

MEMORANDUM OF AGREEMENT
Between
CITY OF MIDWEST CITY
And
THE MIDWEST CITY ECONOMIC DEVELOPMENT AUTHORITY
AND
THE MIDWEST CITY UTILITIES AUTHORITY

This Memorandum of Agreement (“MOU”) is made and entered into by and between the City of Midwest City (“City”), a municipal corporation organized pursuant to the laws of the State of Oklahoma, the Midwest City Economic Development Authority (“EDA”), a public trust for the benefit of the Citizens of Midwest City, organized pursuant to the laws of the State of Oklahoma, and Midwest City Utilities Authority (“UA”), a public trust for the benefit of the Citizens of Midwest City, organized pursuant to the laws of the State of Oklahoma, all three (3) together hereinafter referred to as “Parties”.

WHEREAS, the UA owns property in the Soldier Creek Industrial Park (“SCIP”); and

WHEREAS, in 2023, the UA sold a portion of the property it owns in SCIP to American Glass, Inc. (“AGI”) for the construction of an industrial facility; and

WHEREAS, pursuant to the AGI Economic Development Agreement, the EDA agreed to have a rail spur constructed for use by the AGI facility; and

WHEREAS, in 2024, the EDA entered into an agreement with Garver Engineering for the engineering and design of the rail switch and industry track; and

WHEREAS, in 2024, the City and Garver Engineering negotiated an agreement for Garver Engineering to assist the City in the administration of a United States Railroad Administration Consolidated Rail Infrastructure and Safety Improvement (“CRISI”) grant (“FRA Grant”) for the construction of the rail rail switch and industry track; and

WHEREAS, the proposed site for the industry track is on property the UA owns within SCIP; and

NOW, THEREFORE, in consideration of the mutual benefit to the Parties the following terms and conditions are hereby agreed upon:

That the UA hereby agrees that the industry track may be constructed within the railroad right-of-way on property owned by the UA within SCIP; and

That the City hereby agrees to own and maintain the industry track for the benefit of any and all owners or lessees within SCIP, including the railroad right-of-way adjacent to AGI; and

MEMORANDUM OF AGREEMENT
Between
CITY OF MIDWEST CITY
And
THE MIDWEST CITY ECONOMIC DEVELOPMENT AUTHORITY
AND
THE MIDWEST CITY UTILITIES AUTHORITY

That the EDA hereby agrees to enter into a contract with an engineering firm and to finance the engineering and design of the rail spur; and

That City hereby agrees to enter into an agreement with a firm to assist in the administration of a federal grant for the construction of the rail spur; and

That City hereby agrees to use any and all federal funding received for the construction of a rail spur to be located within SCIP; and

The City shall operate, maintain and when necessary inspect and repair the industry track, as needed for the life of the industry track.

The effective date of this MOU shall be September 1, 2024.

This MOU may not be amended except by express written agreement of all parties hereto.

Should it be determined that any provision or the application of any provision of this MOU to any party is prohibited by law such prohibition shall not affect the validity of the remaining provisions of this Agreement or its effectiveness against the remaining parties.

This MOU is hereby approved by the City of Midwest City and signed by the Mayor for the City of Midwest City this ____ day of _____, 2024.

MATTHEW D. DUKES, II
MAYOR

Sara Hancock, City Clerk

Approved as to form and legality:

Donald D. Maisch, City Attorney

MEMORANDUM OF AGREEMENT
Between
CITY OF MIDWEST CITY
And
THE MIDWEST CITY ECONOMIC DEVELOPMENT AUTHORITY
AND
THE MIDWEST CITY UTILITIES AUTHORITY

This MOU is hereby approved by the Midwest City Economic Development Authority and signed by the Chair for the Development Authority this ____ day of _____, 2024.

MATTHEW D. DUKES, II
CHAIR

Sara Hancock, Secretary

Approved as to form and legality:

Donald D. Maisch, Authority Attorney

This MOU is hereby approved by the Midwest City Utilities Authority and signed by the Chair for the Utilities Authority this ____ day of _____, 2024.

MATTHEW D. DUKES, II
CHAIR

Sara Hancock, Secretary

Approved as to form and legality:

Donald D. Maisch, Authority Attorney



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

TO: Honorable Chairman and Trustees
Economic Development Authority

FROM: Tiatia Cromar, Finance Director

DATE: August 27, 2024

SUBJECT: Discussion, consideration and possible action of approving supplemental budget adjustments to the following fund for FY 2024-2025, increase: Economic Development Authority Fund, expenditures/EDA (95) \$3,326,515.

This supplement is needed to roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year.

Tiatia Cromar

Finance Director

Attachment: Proposed Resolution

SUPPLEMENTS
August 27, 2024

Fund ECONOMIC DEVELOPMENT AUTHORITY (353)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
<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>
95	EDA			3,326,515	
		<u>0</u>	<u>0</u>	<u>3,326,515</u>	<u>0</u>

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.



NEW BUSINESS/
PUBLIC DISCUSSION





MIDWEST CITY SPECIAL UTILITIES AUTHORITY AGENDA
City Hall - Midwest City Council Chambers, 100 N. Midwest Boulevard

August 27, 2024 – 6:04 PM

Presiding members: Mayor Matthew Dukes	City Staff:
Trustee Susan Eads	General Manager Tim Lyon
Trustee Pat Byrne	Secretary Sara Hancock
Trustee Rita Maxwell	Authority Attorney Don Maisch
Trustee Marc Thompson	
Trustee Sara Bana	
Trustee Rick Favors	

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, consideration, or possible action to approve the June 11, 2024 meeting minutes. (Secretary - S. Hancock)
2. Discussion, consideration and possible action of approving supplemental budget adjustments to the following funds for FY 2024-2025, increase: Utilities Authority Fund, expenses/Economic (87) \$928,548. (Finance - T. Cromar)
3. Discussion, consideration, and possible action of approving a Memorandum of Understanding (MOU) between the City of Midwest City, the Midwest City Economic Development Authority and the Midwest City Utilities Authority for the engineering, design and construction of a rail spur for the Soldier Creek Industrial Park (SCIP). (R. Coleman – Economic Development Director).
4. Discussion, consideration, and possible action of granting a Permanent Easement to the City of Midwest City across a parcel of land located within the corporate boundaries of Midwest City in Section 27, Township 12 North, Range 2 West of the Indian Meridian, Oklahoma County, Oklahoma. (Engineering & Construction Services - P. Menefee)

C. PUBLIC DISCUSSION. 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



Notice for the Midwest City Utilities Authority special meeting was filed with the City Clerk of Midwest City 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 Special Utilities Authority Minutes
Special Meeting**

June 11, 2024

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 7:49 PM with the following members present:

Trustee Susan Eads	Trustee Marc Thompson	General Manager Tim Lyon
Trustee Pat Byrne	Trustee Sara Bana	Secretary Sara Hancock
Trustee Rita Maxwell	Trustee Rick Favors	Authority Attorney Don Maisch

DISCUSSION ITEMS.

1. Discussion, consideration, and possible action of approving the June 27, 2023 minutes.

Eads made a motion to approve the minutes, seconded by Byrne. Voting Aye: Eads, Byrne, Maxwell, Thompson, Bana, Favors, Dukes. Nay: None. Motion Carried.

2. Public hearing with discussion, consideration and possible action to approve a resolution of the Midwest City Utilities Authority approving its budget for Fiscal Year 2024-2025 in the amount of \$490.

Eads made a motion to approve Resolution UA2024-01, seconded by Maxwell. Voting Aye: Eads, Byrne, Maxwell, Thompson, Bana, Favors, Dukes. Nay: None. Motion Carried.

PUBLIC DISCUSSION. There was no public discussion.

ADJOURNMENT.

There being no further business, Chairman Dukes adjourned the meeting at 7:50 PM.

ATTEST:

MATTHEW D DUKES II, Chairman

SARA HANCOCK, Secretary



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

TO: Honorable Chairman and Trustees
Midwest City Utility Authority

FROM: Tiatia Cromar, Finance Director

DATE: August 27, 2024

SUBJECT: Discussion, consideration and possible action of approving supplemental budget adjustments to the following funds for FY 2024-2025, increase: Utilities Authority Fund, expenses/Economic (87) \$928,548.

This supplement is needed to roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year.

Tiatia Cromar

Tiatia Cromar
Finance Director

SUPPLEMENTS

August 27, 2024

Fund UTILITIES AUTHORITY (193)		BUDGET AMENDMENT FORM Fiscal Year 2024-2025			
<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>
87	Economic			928,548	
		<u>0</u>	<u>0</u>	<u>928,548</u>	<u>0</u>

Explanation:
To roll forward capital outlay project budgets from fiscal year 2023-2024 to current fiscal year. Funding to come from fund balance.



City Attorney, Donald D. Maisch

100 N. Midwest Boulevard

Midwest City, OK 73110

DMaisch@midwestcityok.org

Office: 405.739.1203

www.midwestcityok.org

MEMORANDUM

To: Chair and Trustees of the Midwest City Utilities Authority

From: Robert Coleman, Midwest City Economic Development Director

Date: August 27, 2024

RE: Discussion, consideration, and possible action of approving a Memorandum of Understanding (MOU) between the City of Midwest City, the Midwest City Economic Development Authority and the Midwest City Utilities Authority for the engineering, design and construction of a rail spur for the Soldier Creek Industrial Park (SCIP). (R. Coleman – Economic Development Director).

The MOU between the City of Midwest City, the Midwest City Economic Development Authority and the Midwest City Utilities Authority specifies the duties, responsibilities and relationship between the parties for the engineering, design and construction of a rail spur for the SCIP. The rail spur will serve American Glass and other future occupants of SCIP.

The MOU acknowledges ownership of SCIP, ownership of the location of the rail spur, which entity will pay for the engineering of the rail spur and which entity will be working with a contracted consultant to obtain a federal grant to cover the construction of the rail spur.

Approval is at the discretion of the Trustees of the Utilities Authority.

MEMORANDUM OF AGREEMENT
Between
CITY OF MIDWEST CITY
And
THE MIDWEST CITY ECONOMIC DEVELOPMENT AUTHORITY
AND
THE MIDWEST CITY UTILITIES AUTHORITY

This Memorandum of Agreement (“MOU”) is made and entered into by and between the City of Midwest City (“City”), a municipal corporation organized pursuant to the laws of the State of Oklahoma, the Midwest City Economic Development Authority (“EDA”), a public trust for the benefit of the Citizens of Midwest City, organized pursuant to the laws of the State of Oklahoma, and Midwest City Utilities Authority (“UA”), a public trust for the benefit of the Citizens of Midwest City, organized pursuant to the laws of the State of Oklahoma, all three (3) together hereinafter referred to as “Parties”.

WHEREAS, the UA owns property in the Soldier Creek Industrial Park (“SCIP”); and

WHEREAS, in 2023, the UA sold a portion of the property it owns in SCIP to American Glass, Inc. (“AGI”) for the construction of an industrial facility; and

WHEREAS, pursuant to the AGI Economic Development Agreement, the EDA agreed to have a rail spur constructed for use by the AGI facility; and

WHEREAS, in 2024, the EDA entered into an agreement with Garver Engineering for the engineering and design of the rail switch and industry track; and

WHEREAS, in 2024, the City and Garver Engineering negotiated an agreement for Garver Engineering to assist the City in the administration of a United States Railroad Administration Consolidated Rail Infrastructure and Safety Improvement (“CRISI”) grant (“FRA Grant”) for the construction of the rail rail switch and industry track; and

WHEREAS, the proposed site for the industry track is on property the UA owns within SCIP; and

NOW, THEREFORE, in consideration of the mutual benefit to the Parties the following terms and conditions are hereby agreed upon:

That the UA hereby agrees that the industry track may be constructed within the railroad right-of-way on property owned by the UA within SCIP; and

That the City hereby agrees to own and maintain the industry track for the benefit of any and all owners or lessees within SCIP, including the railroad right-of-way adjacent to AGI; and

MEMORANDUM OF AGREEMENT
Between
CITY OF MIDWEST CITY
And
THE MIDWEST CITY ECONOMIC DEVELOPMENT AUTHORITY
AND
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That the EDA hereby agrees to enter into a contract with an engineering firm and to finance the engineering and design of the rail spur; and

That City hereby agrees to enter into an agreement with a firm to assist in the administration of a federal grant for the construction of the rail spur; and

That City hereby agrees to use any and all federal funding received for the construction of a rail spur to be located within SCIP; and

The City shall operate, maintain and when necessary inspect and repair the industry track, as needed for the life of the industry track.

The effective date of this MOU shall be September 1, 2024.

This MOU may not be amended except by express written agreement of all parties hereto.

Should it be determined that any provision or the application of any provision of this MOU to any party is prohibited by law such prohibition shall not affect the validity of the remaining provisions of this Agreement or its effectiveness against the remaining parties.

This MOU is hereby approved by the City of Midwest City and signed by the Mayor for the City of Midwest City this ____ day of _____, 2024.

MATTHEW D. DUKES, II
MAYOR

Sara Hancock, City Clerk

Approved as to form and legality:

Donald D. Maisch, City Attorney

MEMORANDUM OF AGREEMENT
Between
CITY OF MIDWEST CITY
And
THE MIDWEST CITY ECONOMIC DEVELOPMENT AUTHORITY
AND
THE MIDWEST CITY UTILITIES AUTHORITY

This MOU is hereby approved by the Midwest City Economic Development Authority and signed by the Chair for the Development Authority this ____ day of _____, 2024.

MATTHEW D. DUKES, II
CHAIR

Sara Hancock, Secretary

Approved as to form and legality:

Donald D. Maisch, Authority Attorney

This MOU is hereby approved by the Midwest City Utilities Authority and signed by the Chair for the Utilities Authority this ____ day of _____, 2024.

MATTHEW D. DUKES, II
CHAIR

Sara Hancock, Secretary

Approved as to form and legality:

Donald D. Maisch, Authority Attorney



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

To: Honorable Chairman and Trustees

From: Patrick Menefee, P.E., City Engineer

Date: August 27th, 2024

Subject: Discussion, consideration, and possible action of granting a Permanent Easement to the City of Midwest City across a parcel of land located within the corporate boundaries of Midwest City in Section 27, Township 12 North, Range 2 West of the Indian Meridian, Oklahoma County, Oklahoma.

The Easement is needed in connection with the SCIP Sanitary Sewer extension to Midwest Boulevard project. The project will increase sanitary sewer availability in the area to help further development east of the Soldier Creek Industrial Park.

Patrick Menefee, P.E.,
City Engineer
Attachment

RETURN TO CITY CLERK
100 N. Midwest Blvd.
Midwest City, OK 73110

GRANT OF PERMANENT EASEMENT

KNOW ALL BY THESE PRESENTS:

That Midwest City Utilities Authority (grantor), of Oklahoma County, Oklahoma, for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto the City of Midwest City, a municipal corporation, a permanent easement across, over and under the following described lots, tracts or parcels of land situated in Oklahoma County, State of Oklahoma, to-wit:

SEE ATTACHED EXHIBIT "A"

This easement is granted for the purpose of enabling the City of Midwest City, its officers, agents, contractors and employees to go upon, layout, construct, change, and/or build improvement(s) upon the above-described lots, parcels or tracts of land and includes the permanent right of ingress and egress for employees, tools and equipment of the City of Midwest City, its officers, agents, contractors and employees.

The consideration herein covers any and all kinds and character of damages or injury that may be sustained directly or indirectly to any lands owned by the Grantor by reason of the construction and maintenance of such improvements.

Grantor hereby covenants and warrants that at the time of the delivery of this easement that the above-described real estate and premises are free of all liens and claims whatsoever, except - None and that they will, so long as this easement is in full force and effect, defend the same unto the City of Midwest City against all claiming to the contrary.

WITNESS the hands of the parties this ___ day of _____, 20__.

Name

Title

STATE OF _____)
)ss.
COUNTY OF _____)

Before me, the undersigned Notary Public in and for the state and county aforesaid, on this day of _____, 20__, personally appeared _____, to me known to be the identical person(s) who executed the within and foregoing instrument and acknowledged to me that _____ executed the same as _____ free and voluntary act and deed for the uses and purposes herein set forth.

WITNESS, my hand and seal this ___ day of _____, 20__.

My Commission expires: _____

NOTARY PUBLIC

Accepted by the City of Midwest City

Approved by City Attorney _____ Date: _____

Approved by City Council _____ Date: _____

LEGAL DESCRIPTION

MWC Sewer Project #1296B
Tract 5 – Midwest City Utilities Authority
Sewer Easement

June 24, 2024

A strip of land being a part of the Northeast Quarter (NE/4) of Section Twenty-Seven (27), Township Twelve (12) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma, being more particularly described as follows:

COMMENCING at the Northeast (NE) Corner of said Northeast Quarter (NE/4);

THENCE South 89°42'13" West, along and with the north line of said Northeast Quarter (NE/4), a distance of 681.87 feet;

THENCE South 00°28'30" East, parallel with the east line of said Northeast Quarter (NE/4), a distance of 808.58 feet to a point on the south line of a tract of land described in Book 8535, Page 374 (Lake Tract), said point also being the POINT OF BEGINNING;

THENCE North 68°12'53" East, along and with the south line of said Lake Tract, a distance of 16.83 feet;

THENCE North 72°48'53" East, continuing along and with the south line of said Lake Tract, a distance of 14.53 feet;

THENCE South 30°41'02" West, departing said south line, a distance of 80.04 feet;

THENCE South 68°08'47" West, a distance of 456.77 feet;

THENCE South 40°59'06" West, a distance of 463.39 feet;

THENCE South 42°49'10" West, a distance of 336.93 feet;

THENCE South 31°53'42" West, a distance of 233.64 feet;

THENCE South 41°12'05" West, a distance of 307.85 feet;

THENCE South 09°20'29" West, a distance of 275.77 feet;

THENCE North 80°39'31" West, a distance of 20.00 feet;

THENCE North 09°20'29" East, a distance of 281.48 feet;

THENCE North 41°12'05" East, a distance of 311.93 feet;

THENCE North 31°53'42" East, a distance of 233.93 feet;

THENCE North 42°49'10" East, a distance of 338.53 feet;

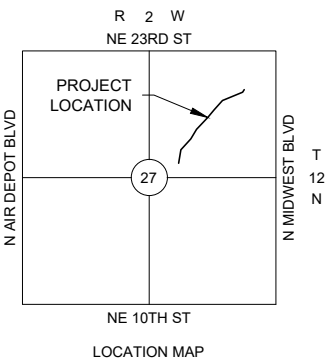
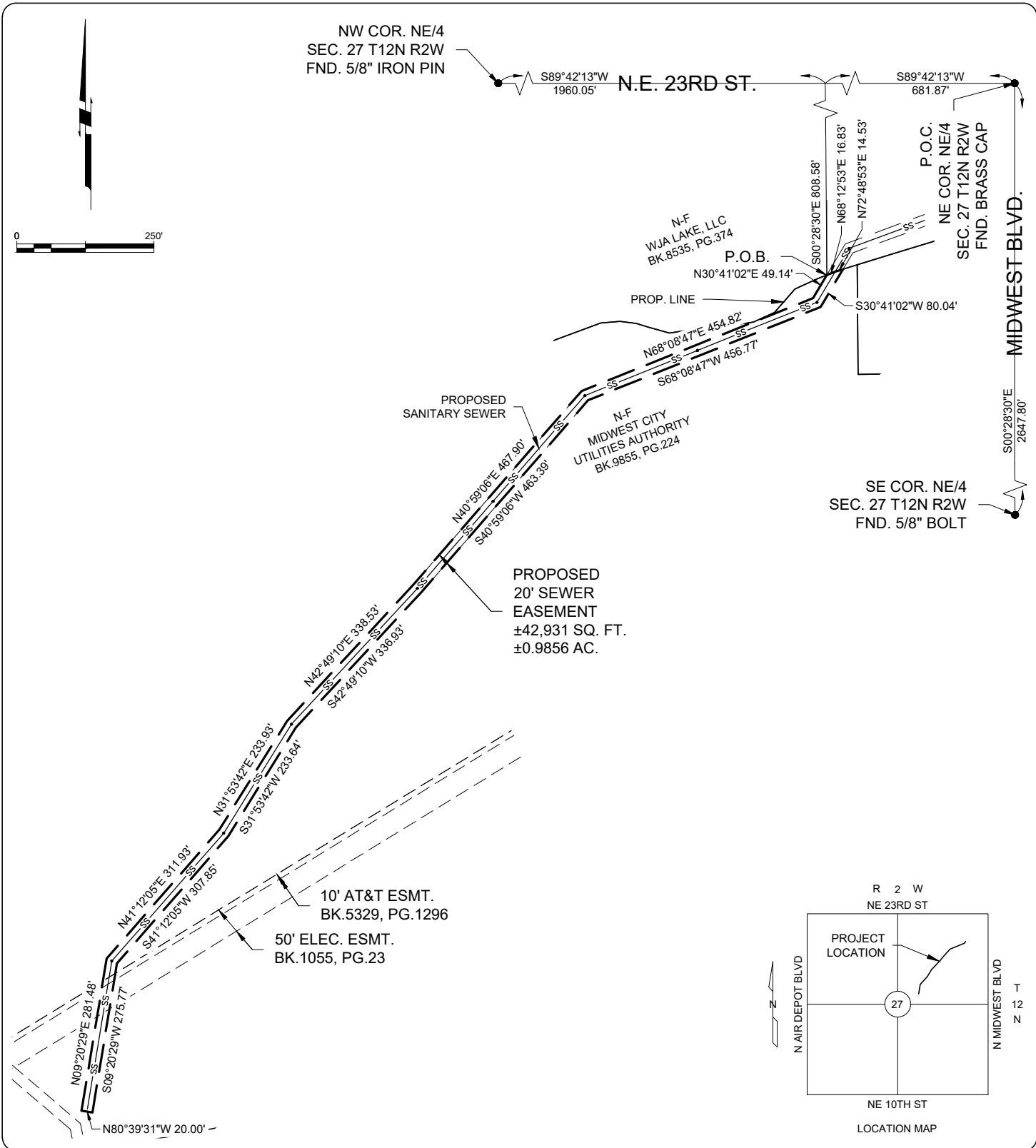
THENCE North 40°59'06" East, a distance of 467.90 feet;

THENCE North 68°08'47" East, a distance of 454.82 feet;

THENCE North 30°41'02" East, a distance of 49.14 feet to the POINT OF BEGINNING.

Containing 42,931 square feet or 0.9856 acres, more or less.

Basis of Bearing: Oklahoma State Plane Coordinate System (North Zone, NAD83) using a bearing of S 00°28'30" E along the east line of the Northeast Quarter of Section 27, T12N, R2W. All Distances are grid distances in U.S. Survey Feet.



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Proj. No.: 5644
 Date: 6-24-2024
 Scale: 1" = 250'

TRACT 5
MWC PROJECT #1296B
 NE/4 of SEC. 27, T12N, R2W
 MIDWEST CITY, OKLAHOMA COUNTY, OK
SEWER EASEMENT



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