

AGENDA

- A. CALL TO ORDER
- B. PLEDGE OF ALLEGIANCE/INVOCATION
Taylor Cockrell, Youth Minister, Lakehoma Church of Christ
- C. ROLL CALL
- D. INTRODUCTION OF GUESTS/HEARING OF CITIZENS OR DELEGATES
- E. NEW BUSINESS, DELETIONS OR CONTINUANCES TO THE AGENDA
- F. CONSENT AGENDA

These items are considered on the Consent Agenda so that members of the City Council by unanimous consent can designate routine agenda items to be approved by one motion. If any item proposed on the Consent Agenda does not meet with approval of all Councilmembers that item will be removed and heard in regular order.

- 1. Approval of **03/05/2019** City Council Minutes.
- 2. Approval of **03/19/2019** City Council Special Meeting (Work Session) Minutes.
- *3. Claims List for **FY 2019**
- *4. Approval to Turn **Past Due Utility Accounts** over to the Collection Agency.
- 5. Approval to Turn **Past Due Library Accounts** over to the Collection Agency.
- 6. Approval of **Resolution 19-031A**, a Resolution of the City of Mustang, Oklahoma, to Provide for Retention of Attorneys to address Opioid Epidemic.
- *7. Acknowledgement of **Receipt of DEQ Permit** No. WL000009190153 to Construct Water Lines for Prairie Hills Estates Addition, Phase 2, Section 1
- *8. Acknowledgement of **Receipt of DEQ Permit** No. SL000009190154 to Construct Sewer Lines for Prairie Hills Estates Addition, Phase 2, Section 1.

G. INFORMATION/REPORTS

- 1. City Manager Report
 - a. City Manager Report
- 2. City Council
 - a. City Council Reports

H. DISCUSSION ITEMS

1. **Public Hearing, Discussion, Consideration and Possible Action** regarding Special Use Permit Application SUP-2-4-19-1-33, 236 W. State Highway 152, Judy Padgett, Tattoo Shop in C-2, Commercial Neighborhood District.
2. **Public Hearing, Discussion, Consideration and Possible Action** regarding Special Use Permit Application SUP-2-7-19-1-28, 327 W. State Highway 152, Suite 109, Edward Giblin, Tattoo Studio in C-3 PUD, Commercial General Planned Unit Development District.
3. **Discussion, Consideration and Possible Action** regarding Preliminary Plat Application PP-2-5-19-1-36, Curtis Brewer, Brewer and Brown Addition, Northeast Quarter, Section 36, 9.7 acres, approx. 2 lots.
4. **Discussion, Consideration and Possible Action** regarding Final Plat Application FP-2-5-19-1-36, Curtis Brewer, Brewer and Brown Addition, Northeast Quarter, Section 36, 9.7 acres, approx. 2 lots.
5. **Discussion, Consideration and Possible Action** regarding Final Plat Application FP-10-16-18-1-25, Premium Land, LLC, Prairie Hills Phase 2, Section 1, NE/4 Section 25, 29.5 acres, approx. 108 lots.
- *6. **Discussion, Consideration and Possible Action** regarding Water System Policy for the City of Mustang.
7. **Discussion, Consideration and Possible Action** regarding **Ordinance No. 1184**, an Ordinance of the City of Mustang, Oklahoma, Amending Chapter 118, Article IV of the Code of Ordinances of the City of Mustang, Oklahoma, by Amending Section 118-214 and Section 118-278 to Establish Fire Hydrant Requirements, Classifying Fire Hydrants based on Capacity, Require Powder Coating and Color Coding of Fire Hydrants by Classification, and Removing Duplicative Provisions, and Amending Section 118-215 to Provide an Exception for Water System Policy Requirements; Declaring Repealer; Providing for Severability; and Declaring an Emergency.

8. **Discussion, Consideration and Possible Action** regarding **Ordinance No. 1185**, an Ordinance of the City of Mustang, Oklahoma, Amending the Code of Ordinances of the City of Mustang by Amending (1) Chapter 42, Section 42-102 to Provide for Notice Fee; (2) Chapter 102-1(5) to Reference the Notice Fee; (3) Chapter 42, Section 42-122 to Provide for a Notice Fee; (4) Chapter 122, Section 122-52(b) to Reference the Notice Fee; (5) Chapter 122, Section 122-57(1) to Reference the Notice Fee; (6) Chapter 122, Section 122-73(a) to Reference the Notice Fee; (7) Chapter 122, Section 122-128 to Provide for Submission of an Application and to Reference the Application and Notice Fees; and (8) Chapter 122, Section 122-130(2) to Reference the Notice Fee; Declaring Repealer; Providing for Severability; and Declaring an Emergency.
9. **Discussion, Consideration and Possible Action** regarding **Ordinance No. 1186**, an Ordinance of the City of Mustang, Oklahoma, Amending Chapter 122, Section 122-7 of the Code of Ordinances of the City of Mustang to Change Time for Continued Residential Use of Property following Amendment to Change Zoning to Commercial Use; Declaring Repealer; Providing for Severability; and Declaring an Emergency.
10. **Discussion, Consideration and Possible Action** regarding Mutual Aid Agreement between the City of Mustang and the City of Tuttle to Provide Aid and Assistance to Each Other in Times of Disaster or Casualty Involving their Respective Jurisdictions.
- *11. **Discussion, Consideration and Possible Action** regarding Interlocal Agreement dated as of April 2, 2019, between the Oklahoma Environmental Management Authority ("OEMA") and the City of Mustang providing and setting rates for the long term disposal of solid wastes.
- *12. **Discussion, Consideration and Possible Action** regarding Agreement between the City of Mustang and the City of Oklahoma City for Easement Acquisition along SW 59th Street and Sara Road for Oklahoma Turnpike Authority Project JKT-MC-11.
- *13. **Discussion, Consideration and Possible Action** regarding Contract between the City of Mustang and RJR Enterprises, Inc. and Approval of Bonds from RJR Enterprises, Inc. for Project labeled Wild Horse Park Splash Pad.
14. **Discussion, Consideration and Possible Action** regarding City of Mustang, City Council Handbook.

J. CITY ATTORNEY'S REPORT

1. **Discussion, Consideration and Possible Action** regarding Potential Purchase and Acceptance of Permanent and Temporary Easements and Authorization for Mayor and City Staff to Execute Necessary Documents to Accomplish the Same; and proposed Executive Session as Authorized by 25 Okla. Stat. §307(B)(3).
2. **Discussion, Consideration and Possible Action** regarding *The City of Mustang, Oklahoma vs. Martha Morgensen*, Case No. CV-2019-52, District Court, Canadian County, Oklahoma, including potential settlement; and proposed Executive Session as Authorized by 25 Okla. Stat. §307(B)(4).
3. **Discussion, Consideration and Possible Action** regarding Employment Agreement with City Attorney; and, proposed Executive Session as Authorized by 25 Okla. Stat. §307(B)(1,2).

K. ADJOURNMENT

MUSTANG CITY COUNCIL

MARCH 5, 2019

The Mustang City Council met in regular session on Tuesday, March 5, 2019, at 7:00 p.m. in the Mustang Municipal Building Council Chambers. Notice of the meeting was posted as required on Friday, March 1, 2019, at 9:50 a.m. in compliance with the Open Meeting Law, 25 O.S., Section 301, et. seq.

A. CALL TO ORDER

Mayor Schweinberg called the meeting to order at **7:00 p.m.**

B. PLEDGE OF ALLEGIANCE/INVOCATION Randy Sholund, Pastor, Empowered Church.

Pastor Sholund led the assembly in the Pledge and Invocation. He stated he was blessed to be with the church for 27, going on 28 years stating it started small with about 15 people. He stated one of the 15 people was a 10 year old boy, Michael Ray, who later married his daughter and is now being appointed to the Council to represent Ward I stating he is blessed to have him as a son in law and he will do a wonderful job for the City.

C. ROLL CALL

Councilmembers Present:	Ward I - Vacant
	Leete
	Grider
	Jones
	McKenzie
	Noblitt
	Schweinberg

Councilmembers Absent:	None
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D. INTRODUCTION OF GUESTS/HEARING OF CITIZENS OR DELEGATES

Jack and Wendy Howard, 130 E. Perry Lane, addressed the Council regarding the assigned time slots available for little league baseball and softball teams to practice in the City parks. They stated there were too many teams trying to squeeze into those time slots and the older teams have a later time slot stating the parks do not have lights and difficult to practice in the dark. He stated he had spoken with Parks and Recreation staff and have been told they could be kicked out of the park for breaking rules.

Mayor Schweinberg asked them to contact *City Manager Rooney* and *Assistant City Manager Battles* to discuss stating no action could be performed this evening since this was a non-agenda item.

E. NEW BUSINESS, DELETIONS OR CONTINUANCES TO THE AGENDA

None.

F. CONSENT AGENDA

1. Approval of **02/05/2019** City Council Minutes.
- *2. Claims List for **FY 2019**
- *3. Approval to Turn **Past Due Utility Accounts** over to the Collection Agency.
4. Approval to Turn **Past Due Library Accounts** over to the Collection Agency.
5. Approval of **Resolution No. 19-028** making Changes in the Police Narcotics Enforcement Fund Budget by making a Supplemental Appropriation to Increase the 2018-2019 Fiscal Year Budget by \$5,000.
6. Approval of **Resolution No. 19-030** making Changes in the Juvenile Fund Budget by making a Supplemental Appropriation to Increase the 2018-2019 Fiscal Year Budget by \$25,000.
7. Approval of **Resolution No. 19-032** making Changes in the Park & Recreation Donation Fund Budget by making a Supplemental Appropriation to Increase the 2018-2019 Fiscal Year Budget by \$10,000.
8. Approval of **Resolution No. 19-033** making Changes in the General Fund Budget by making a Supplemental Appropriation to Increase the 2018-2019 Fiscal Year Budget by \$25,000

MOTION was made by **Councilman Leete**, seconded by **Councilman Jones**, to Approve Items F-1 thru F-8 of the Consent Agenda.

AYE: Leete, Grider, Jones, McKenzie, Noblitt, Schweinberg

NAY: None

G. INFORMATION/REPORTS

1. City Manager Report
 - a. **Oath of Office** for Police Officer Seth Roecker

Police Chief Groseclose administered the Oath of Office to new Police Officer Seth Roecker
 - b. **City Manager Report**

City Manager Rooney stated the City Manager report was posted online today and distributed to everyone this evening.

2. City Council Reports

a. Presentation and Recognition of Public Service

Mayor Schweinberg presented a plaque to former Councilwoman DeAnna Pratt for her service to the City serving as Ward 1 Councilwoman.

City Manager Rooney presented a plaque to Leslie Osborn for her service to the citizens of District 4 as a member of the House of Representatives.

b. City Council Reports

Mayor Schweinberg asked the Councilmembers if they had anything to report in their respective Wards:

Councilman Leete did not have anything to report at this time.

Councilman Grider reminded everyone of the Ward II and Ward VI election April 2nd encouraging citizens in those Wards to come out and vote.

Councilman Jones stated the City Manager's "State of the City" address at the Chamber of Commerce meeting was outstanding and reminded everyone of the Town Center Expansion ribbon cutting on Thursday, March 7th.

Councilman McKenzie advised that his Ward has some street lights out and have had some car break-ins stating he spoke with *Chief Groseclose* and working towards setting up a neighborhood watch. He also mentioned the speed table application a neighborhood in his ward had submitted and waiting for funding.

Councilman Noblitt apologized for not being able to make the February Council meeting stating he was ill.

Mayor Schweinberg agreed with Councilman Jones stating the City Manger's "State of the City" address was well presented and also reminded others of the ribbon cutting on Thursday. He also encouraged those in Wards II and VI to vote.

H. DISCUSSION ITEMS

1. **Discussion, Consideration and Possible Action** regarding Appointment of Councilmember to Represent Ward 1.

City Manager Rooney stated due to former Councilwoman Pratt's resignation, there was a vacancy for the Ward I Councilmember seat. He stated Michael Ray filed in December to be considered for election to represent Ward 1 beginning at the first City Council meeting in May, 2019, and would be appropriate to appoint him to the vacant Ward 1 seat.

MOTION was made by **Councilman Noblitt**, seconded by **Councilman Jones**, to Appoint Michael Ray to serve as Councilmember to Represent Ward 1 until the first meeting in May.

AYE: Leete, Grider, Jones, McKenzie, Noblitt, Schweinberg
NAY: None

2. **Oath of Office** for Ward I Councilmember.

City Manager Rooney administered the Oath of Office to newly appointed Ward I Councilmember Ray.

At this time, the newly appointed Councilmember will take his seat.

Councilman Ray introduced his family and thanked them, his friends, and the Council stating he looked forward to working with them.

3. **Discussion, Consideration and Possible Action** regarding Nomination of Trustee to the Oklahoma Municipal Assurance Group (OMAG) Board of Trustees.

City Manager Rooney stated the City was a member of the Oklahoma Municipal Assurance Group (OMAG) stating there is an opening on the OMAG Board of Trustees. He stated Staff would like to nominate *Assistant City Manager Battles* for this position stating he would be a good addition to the Board as he is familiar with many of the insurance difficulties municipalities and customers experience through the Tort Claim process as a result of his supervision of water and wastewater operations and project management.

MOTION was made by **Councilman Noblitt**, seconded by **Councilman Leete**, to Nominate Justin Battles as Trustee to the Oklahoma Municipal Assurance Group (OMAG) Board of Trustees.

AYE: Ray, Leete, Grider, Jones, McKenzie, Noblitt, Schweinberg
NAY: None

4. **Discussion, Consideration and Possible Action** regarding Approval of **Resolution No. 19-029**, a Resolution of the City of Mustang, Oklahoma, Approving the Attached Interlocal Cooperation Agreement for Municipal Court Jurisdiction concerning Juveniles Authorizing the City of Mustang to Enter into said Agreement and Directing the Mayor and City Staff to Execute the Same; Authorizing and Directing the Finance Director to Establish a Restricted Account as Required by such Interlocal Agreement and Oklahoma Law.

City Attorney Miller stated the City renews annually an Interlocal Cooperation Agreement for Municipal Court Jurisdiction concerning Juveniles with the Canadian County District Court stating this agreement allows the City to assume jurisdiction of certain specified juvenile misdemeanor offenders. He stated the Resolution approves execution of the Interlocal Agreement and authorizes the Finance Director to create the restricted fund required under the terms of the Interlocal Agreement and Oklahoma law.

MOTION was made by **Councilman McKenzie**, seconded by **Councilman Leete**, to Approve **Resolution No. 19-029**, a Resolution of the City of Mustang, Oklahoma, Approving the Attached Interlocal Cooperation Agreement for Municipal Court Jurisdiction concerning Juveniles Authorizing the City of Mustang to Enter into said Agreement and Directing the Mayor and City Staff to Execute the Same; Authorizing and Directing the Finance Director to Establish a Restricted Account as Required by such Interlocal Agreement and Oklahoma Law.

AYE: Ray, Leete, Grider, Jones, McKenzie, Noblitt, Schweinberg
NAY: None

5. **Discussion, Consideration and Possible Action** regarding Approval of Ordinance No. 1183, an Ordinance of the City of Mustang, Oklahoma, Amending Chapter 42, Section 42-46 of the Code of Ordinances of the City of Mustang to Increase Fees for Permits for Sales of Fireworks and for Fireworks Displays; Declaring Repealer; Providing for Severability; and Declaring an Emergency.

City Manager Rooney stated this ordinance changes the fee charged and collected by the City to obtain a Fireworks Sales permit from \$15 per permit to \$200 stating Staff feels this amount is appropriate considering the amount of staff time involved by members of the Community Development Department, Police and Fire Departments that have to review the permits and sites, as well as the time spent by the City Clerk each year in administering the permit process and the permits themselves.

MOTION was made by **Councilman Noblitt**, seconded by **Councilman McKenzie**, to Approve Ordinance No. 1183, an Ordinance of the City of Mustang, Oklahoma, Amending Chapter 42, Section 42-46 of the Code of Ordinances of the City of Mustang to Increase Fees for Permits for Sales of Fireworks and for Fireworks Displays; Declaring Repealer; Providing for Severability.

AYE: Ray, Leete, Grider, Jones, McKenzie, Noblitt, Schweinberg
NAY: None

MOTION was made by **Councilman Grider**, seconded by **Councilman Jones**, to Declare an Emergency.

AYE: Ray, Leete, Grider, Jones, McKenzie, Noblitt, Schweinberg
NAY: None

- *6. **Discussion, Consideration and Possible Action** regarding:

- a. Acceptance of Bids for Project Labeled Wild Horse Park Splash Pad.
- b. Awarding Lowest Qualified Bid for Project Labeled Wild Horse Splash Pad.

Assistant City Manager Battles stated a Notice to Bidders was published for project labeled Wild Horse Park Splash Pad stating the splash pad will be located in Wild Horse Park just southwest of Brittany's Playground. He stated seven companies attended the pre-bid meeting and one bid was submitted for consideration by RJR Enterprises, Inc. **Battles** stated this company is working in conjunction with Vortex Aquatic Structures and Power Play stating they are leaders in this industry. He stated the bid amount is \$296,189.00 and this project was included as part of the 2016 sales tax extension approved by voters.

MOTION was made by **Councilman Grider**, seconded by **Councilman Leete**, to Accept the Bid for Project Labeled Wild Horse Park Splash Pad.

AYE: Ray, Leete, Grider, Jones, McKenzie, Noblitt, Schweinberg
NAY: None

MOTION was made by **Councilman Noblitt**, seconded by **Councilman Jones**, to Award Bid for Project Labeled Wild Horse Park Splash Pad to RJR Enterprises, Inc. in the amount of \$296,189.00

AYE: Ray, Leete, Grider, Jones, McKenzie, Noblitt, Schweinberg
NAY: None

J. CITY ATTORNEY'S REPORT

1. **Discussion, Consideration and Possible Action** regarding Potential Purchase and Acceptance of Permanent and Temporary Easements and Authorization for Mayor and City Staff to Execute Necessary Documents to Accomplish the Same; and proposed Executive Session as Authorized by 25 Okla. Stat. §307(B)(3).
2. **Discussion, Consideration and Possible Action** regarding request by McAfee & Taft for Waiver of Potential Conflict of Interest; and, proposed Executive Session as Authorized by 25 O.S. §307(B)(3).
3. **Discussion, Consideration and Possible Action** regarding Potential Litigation against the Manufacturers and Distributors of Opioid Prescription Drugs and other Potential Related Defendants, including consideration of Resolution No. 19-031 Authorizing Litigation and a Fee Agreement with Outside Counsel to Represent the City of Mustang; and, proposed Executive Session as authorized by 25 O.S. §307(B)(4).

MOTION was made by **Councilman Grider**, seconded by **Councilman Leete** to adjourn to Executive Session.

AYE: Ray, Leete, Grider, Jones, McKenzie, Noblitt, Schweinberg
NAY: None

TIME ADJOURNED to Executive Session: **7:54 p.m.**

MOTION was made by **Councilman Grider**, seconded by **Councilman Leete** to return from Executive Session.

AYE: Ray, Leete, Grider, Jones, McKenzie, Noblitt, Schweinberg
NAY: None

TIME RETURNED from Executive Session: **8:20 p.m.**

In reference to Item J-1 –

MOTION was made by **Councilman Leete**, seconded by **Councilman Noblitt** to Approve the Acceptance of Permanent and Temporary Easements from Jason Berndt, Wes and Diana Allen, Borneman-Mustang LLC, and Karen and John Keckler and authorization for the Mayor and Staff to execute necessary documents to complete acceptance of the easements.

AYE: Ray, Leete, Grider, Jones, McKenzie, Noblitt, Schweinberg
NAY: None

In reference to Item J-2 –

MOTION was made by **Mayor Schweinberg**, seconded by **Councilman Grider** to Approve Waiver Agreement.

AYE: Ray, Leete, Grider, Jones, McKenzie, Noblitt, Schweinberg
NAY: None

MUSTANG CITY COUNCIL
MARCH 5, 2019
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In reference to Item J-3 –

MOTION was made by **Councilman Grider**, seconded by **Councilman Jones** to Approve Resolution No. 19-031 Authorizing Litigation and a Fee Agreement with Outside Counsel to Represent the City of Mustang regarding Potential Litigation against the Manufacturers and Distributors of Opioid Prescription Drugs and other Potential Related Defendants.

AYE: Ray, Leete, Grider, Jones, Schweinberg
NAY: McKenzie, Noblitt

K. ADJOURNMENT

MOTION was made by **Councilman Grider**, seconded by **Councilman Leete**, to adjourn.

AYE: Ray, Leete, Grider, Jones, McKenzie, Noblitt, Schweinberg
NAY: None

The meeting was adjourned at **8:22 p.m.**

Jess Schweinberg, Mayor

Attest:

Lisa Martin, City Clerk

**MUSTANG CITY COUNCIL
MARCH 19, 2019
SPECIAL MEETING**

The Mustang City Council scheduled a Special Meeting on Tuesday, March 19, 2019, at 6:30 p.m. at the Mustang Municipal Building, Community Development Conference Room, 1501 N. Mustang Road, Mustang, Oklahoma. Notice of the meeting was posted as required on Thursday, March 14, 2019, at 2:20 p.m. in compliance with the Open Meeting Law, 25 O.S., Section 301, et. seq.

A. CALL TO ORDER

Mayor Schweinberg called the meeting to order at 6:30 p.m.

B. ROLL CALL

Councilmembers Present:	Ray
	Grider
	Jones
	McKenzie
	Noblitt
	Schweinberg

Councilmembers Absent:	Leete
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C. DISCUSSION ITEMS

1. **Discussion** regarding Water System Policy.

Community Development Director Helsel provided information regarding the current Water System Policy approved in 2003 stating several changes were needed such as type of equipment, distances, and subdivision development protocol. She stated her Staff along with the Fire Department and Inframark updated the policy stating it would be on the April 2, 2019 City Council agenda for consideration.

2. **Discussion** of Ordinance regarding Notice Fee Charged when Mailing Notifications to Property Owners for such items as Rezoning

Community Development Director Helsel provided information regarding a proposed ordinance requiring applicants to pay the postage when a notification has to be mailed to property owners stating this would be a pass through fee and not a revenue generating fee. She stated many cities require the applicant to pay the postage stating Mustang is losing money as the current application fee only covers staff time and materials. **Helsel** stated the ordinance would be placed on the April 2, 2019 City Council meeting for consideration.

Discussion was held regarding the applicant being responsible for the mailings instead of the City. **City Attorney Miller** stated he would have to review statute as it may be a requirement that the City provide the notice.

Other discussion included application fees with **City Manager Rooney** stating fees were being reviewed at this time and may be revised in the future.

3. **Discussion** of Ordinance regarding Fire Hydrant Requirements.

Community Development Director Helsel provided information regarding a proposed ordinance regarding fire hydrant requirements stating the current municipal code is outdated. She stated the new requirements would be specific regarding the two types of fire hydrants the City will allow stating the uniformity would be more efficient for the Fire Department and Public Works. **Helsel** stated her Staff, Fire Department and Inframark worked together to develop this new ordinance and will be placed on the April 2, 2019 City Council agenda for consideration.

4. **Discussion** of Ordinance regarding Continued Residential Use of Property following Amendment to Change Zoning to Commercial Use

Community Development Director Helsel stated under current Code, if a residential property changes zoning to commercial property, the property can only be used as a residence for three years, then amortized and can no longer be used as a residence. She stated this ordinance would allow the property to continue being used as a residence until commercial use is established. **Helsel** stated this ordinance will be placed on the April 2, 2019 City Council agenda for consideration.

Councilman Noblitt stated he would be abstaining on this item as he owns property on State Highway 152.

5. **Discussion** regarding OEMA Disposal Agreement.

City Attorney Miller stated this agreement would establish disposal rates for 15 years through OEMA stating the current agreement ends in June, 2019. He stated this was brought to Council during a Work Session quite a while ago and has been waiting on OEMA to make changes requested by the City stating they had made all but one of the requested changes. **Miller** stated the agreement should be on the April 2, 2019 City Council agreement for consideration.

6. **Discussion** regarding Arsenic Treatment System Agreement.

Assistant City Manager Battles stated the City, Inframark and Cowan Engineering began working on a pilot plan in 2017 for a hydraulic model for the water system stating the proposed project would treat two high producing wells that contain high arsenic and currently are operated in low or no production due to the content. He stated the Oklahoma Department of Environmental Quality (ODEQ) recently approved the plan and Culligan has provided a take or pay agreement for treatment. **Battles** provided details of the agreement stating he would like to begin in May.

7. **Discussion** regarding Ballfield Scheduling Concerns as requested by Councilman McKenzie.

Discussion was held regarding little league practice times in City parks as addressed by Jack and Wendy Howard in the March 5, 2019 City Council meeting. The number of teams as well as number of children were discussed with it being stated the numbers included children from Mustang, but other areas as well such as Tuttle, Yukon, etc. stating it was difficult to provide a place to practice for everyone.

Assistant City Manager Battles stated he met with the Howards and listened to their concerns and discussed the policy and felt they had a better understanding. He stated there was not a leisure agreement, but there is a Leisure Services Board who advises Parks and Recreation stating the policy would be discussed and communication to the little league coaches would be better. He discussed logistics such as some parks only being available to younger children as houses are closer than at other parks stating the City has received tort claims for damage to their property during a practice stating it was important to protect the City.

Discussion was held if the item would be addressed in the next Council meeting with **City Attorney Miller** stating a Councilmember could follow up under City Council reports if they like at the next Council meeting.

8. **Discussion** regarding Format of City Council Agendas.

City Attorney Miller stated he and *City Manager Rooney* felt it would be helpful to have suggested forms of motion included after each item on the agenda in order for Councilmembers to make a motion on an item and not have to guess stating they thought it would be especially helpful with new Councilmembers. **Miller** provided an example using a past agenda.

9. **Discussion** regarding City Council Handbook.

Discussion was held regarding the proposed City Council Handbook needed for the Oklahoma Municipal Assurance Group (OMAG) Recognition program with it being stated the Handbook would be included on the April 2, 2019 City Council agenda for consideration.

10. **Discussion** regarding Scheduling OMAG Training Meeting.

Discussion was held regarding training required by the OMAG Recognition Program in order to be awarded a portion of the City's insurance premium. It was stated the training would have to be held by the end of May in order to receive award for this fiscal year. May 14, 2019 at 5:00 pm was chosen for the training.

D. EXECUTIVE SESSION

1. **Discussion** of proposed Economic Development Opportunity; and, proposed Executive Session as authorized by 25 Okla. Stat. § 307(C)(11).

MOTION was made by **Councilman Grider**, seconded by **Councilman Jones** to adjourn to executive session.

AYE: Ray, Grider, Jones, McKenzie, Noblitt, Schweinberg

NAY: None

TIME ADJOURNED to Executive Session: **7:36 p.m.**

MOTION was made by **Councilman Grider**, seconded by **Councilman Jones** to return from Executive Session.

AYE: Ray, Grider, Jones, McKenzie, Noblitt, Schweinberg

NAY: None

TIME RETURNED from Executive Session: **7:58 p.m.**

E. UPDATE ON MANAGEMENT RELATED ISSUES

City Manager Rooney stated negotiations were in process with the FOP stating the IAFF has a two year agreement so negotiations were not needed this year. He also provided information regarding the City's health insurance stating the City would be changing their health insurance provider stating it would save the City approximately 13%.

F. ADJOURNMENT

MOTION was made by **Councilman McKenzie**, seconded **Councilman Grider**.

AYE: Ray, Grider, Jones, McKenzie, Noblitt, Schweinberg

NAY: None

The meeting was adjourned at **8:00 p.m.**

Jess Schweinberg, Mayor

Attest:

Lisa Martin, City Clerk

3/20/2019 1:20 PM
FUND: 01 - GENERAL FUND

PURCHASE ORDER CLAIM REGISTER

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SUMMARY REPORT

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 15		GENERAL GOVERNMENT				
19-0058	01-C0025	CANADIAN COUNTY ELECTION BOPRE-ELECTION & ELECTION E			3/2019 201903209528	704.03
DEPARTMENT TOTAL:						704.03
FUND TOTAL:						704.03
GRAND TOTAL:						704.03

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 01 MAYOR AND COUNCIL						
19-1440	01-M0115	MTM RECOGNITION CORPORATION	PLAQUE FOR OSBOURN	3/2019	5968421	119.83
19-1441	01-M0115	MTM RECOGNITION CORPORATION	PLAQUE FOR OUTGOING COUNCIL	3/2019	5968421A	119.83
19-0112	01-Y0040	YUKON TROPHY & AWARDS INC	NAME PLATE FOR COUNCIL	3/2019	319153	15.00
DEPARTMENT TOTAL:						254.66
DEPARTMENT: 11 CITY MANAGER						
19-0045	01-A0122	ALLIANCE MAINTENANCE, INC	JANITORIAL SERVICES	3/2019	112040	675.00
19-1565	01-C0020	CANADIAN COUNTY CLERK	FILING OF EASEMENTS	3/2019	R596137	181.00
19-0084	01-M0180	MUSTANG CHAMBER OF COMMER	CHAMBER LUNCHEONS	3/2019	15262	208.00
19-1553	01-M0200	MUSTANG FLOWER & GIFTS, INCL	ANDERSON FATHER	3/2019	100017274	119.95
19-0080	01-M0234	MUSTANG TIMES LLC	LEGAL PUBLICATIONS	3/2019	MT608145	70.20
19-0339	01-T0800	DATA MANAGEMENT, INC.	PROFESSIONAL EMPLOYEE LIC	3/2019	486276	2,203.14
19-0111	01-W0001	WHEATLEY, SEGLER, OSBY & MIATTORNEY	EXPENSES/PROSECUT	3/2019	19095	1,525.78
DEPARTMENT TOTAL:						4,983.07
DEPARTMENT: 12 LIBRARY						
19-0355	01-B1023	BTAC ACQUISITION CORP.	NON-FICTION BOOKS	3/2019	5015379389	17.22
19-0356	01-B1023	BTAC ACQUISITION CORP.	FICTION BOOKS	3/2019	5015381957	351.34
19-1401	01-S0093	SMART TECHNOLOGIES, INC	SSL DV FOR WEBSITE	3/2019	718036	148.48
19-1408	01-S0093	SMART TECHNOLOGIES, INC	HUB SWITCH	3/2019	718018	45.00
19-0354	01-T0048	CENGAGE LEARNING	LARGE PRINT BOOKS	3/2019	66626433	20.79
DEPARTMENT TOTAL:						582.83
DEPARTMENT: 13 PARKS AND RECREATION						
19-1287	01-C0278	COX COMMUNICATIONS, INC.	TV ON TREADMILLS	3/2019	201903119432	232.68
19-0171	01-C1562	RUTH E COUTS	ENSEMBLE TEACHER	3/2019	201903119434	45.00
19-1257	01-F0094	FLEETCORE TECHNOLOGIES, INC	FUEL	3/2019	NP55579906C	400.76
19-1580	01-K0137	ASHLY KOCHER	REFUND FOR DANCE LESSONS	3/2019	12980112	32.00
19-0091	01-O0035	OKLAHOMA ELECTRIC COOPERATIVE	ELECTRIC SERVICES	3/2019	201903119440	3,364.81
19-0094	01-O0055	OKLAHOMA GAS & ELECTRIC CO	ELECTRIC SERVICES	3/2019	201903119436	39.16
19-0267	01-V0050	CELLCO PARTNERSHIP	JET PACKS & PHONE	2/2019	9824684496D	173.44
19-1266	01-Y0040	YUKON TROPHY & AWARDS INC	MEDALS FOR CONTEST	3/2019	119224	56.00
DEPARTMENT TOTAL:						4,343.85

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 15 GENERAL GOVERNMENT						
19-0058	01-C0025	CANADIAN COUNTY ELECTION	BOPRE-ELECTION & ELECTION E	3/2019	201903119433	591.24
19-0065	01-D0088	STATE OF OKLAHOMA - DEPART	MINMATE LABOR	3/2019	UNCCC-306 0219	945.00
19-0011	01-I0015	TYLER TECHNOLOGIES, INC	MONTHLY SUPPORT & HOST WE	3/2019	025-251318	250.00
19-0091	01-O0035	OKLAHOMA ELECTRIC COOPERAT	IELECTRIC SERVICES	3/2019	201903119440	501.97
19-0094	01-O0055	OKLAHOMA GAS & ELECTRIC CO	MELECTRIC SERVICES	3/2019	201903119436	94.94
19-0098	01-S0085	SILVER STAR CONSTRUCTION	STREET & MOWING CONTRACT	3/2019	25444	74,625.00
19-0309	01-S0093	SMART TECHNOLOGIES, INC	MAINTENANCE AGREEMENT	3/2019	718027	3,179.95
19-1378	01-S0093	SMART TECHNOLOGIES, INC	RENEWAL OF FIREWALL	3/2019	718002	1,200.00
19-0099	01-S0173	STANDLEY SYSTEMS, LLC	COPIER LEASE/USAGE	3/2019	951316	2,705.16
19-0308	01-S0306	SETH B SHAY	PEST CONTROL	3/2019	201903119442	600.00
DEPARTMENT TOTAL:						84,693.26
DEPARTMENT: 18 TOWN CENTER						
19-0252	01-A0122	ALLIANCE MAINTENANCE, INC	CLEANING OF T.C.	3/2019	112039	4,435.00
19-1425	01-C0106	CINTAS CORPORATION NO. 2	JANITORIAL SUPPLIES	3/2019	64242539	1,844.80
19-0051	01-C0117	CLEARWATER ENTERPRISE, LLC	GAS SERVICE	2/2019	201903139513	1,672.08
19-1298	01-K0033	KONE, INC	QUARTERLY MAINTENANCE	3/2019	959183300	797.88
19-1544	01-K0033	KONE, INC	ELEVATOR REPAIRS	3/2019	1157747464	911.52
19-0091	01-O0035	OKLAHOMA ELECTRIC COOPERAT	IELECTRIC SERVICES	3/2019	201903119440	7,533.58
19-0882	01-P0055	PLUMBCO, INC	REPAIRS TO SHOWERS	3/2019	201903119439	1,440.00
19-1550	01-S0315	EDWARD F. GLUCKOWSKI JR	REPAIRS TO BOILER PIPING	3/2019	1021inv	810.00
19-1595	01-S1165	INTERLINE BRANDS, INC	JANITORIAL SUPPLIES	3/2019	480093558	276.98
DEPARTMENT TOTAL:						19,721.84
DEPARTMENT: 19 BALL COMPLEX						
19-0249	01-A0131	JAMES HILLIS	PORT-A-POTTIES	3/2019	23568	170.00
19-0976	01-B0154	ICE MAKER SALES & SERVICE,	WINTERIZE ICE MACHINES	3/2019	1065203A	125.46
19-1403	01-B0154	ICE MAKER SALES & SERVICE,	ICE BIN FOR ICE MACHINE	3/2019	1065201	1,660.00
19-1416	01-B0154	ICE MAKER SALES & SERVICE,	SET UP ICE MACHINES	3/2019	1065203	300.00
19-1428	01-B1019	BEN E. KEITH FOODS INC - OK	FOOD FOR CONCESSION	3/2019	64258111	1,890.35
19-1104	01-E0089	EUROPA SPORTS PRODUCTS LLC	BARS AND MISC. FOR CONCES	3/2019	7519301	181.75
19-1573	01-F0078	DAIOHS USA, INC	DRINKS FOR CONCESSION	3/2019	242829	564.90
19-0250	01-F0094	FLEETCORE TECHNOLOGIES, INC	FUEL	3/2019	NP55579906B	179.11
19-0732	01-I1119	STEPHENSON WHOLESALE CO,	INFOOD FOR CONCESSION	3/2019	7075876	786.97
19-1084	01-K0135	KILL CLIFF, INC.	BEVERAGES FOR CONCESSION	3/2019	1000289854	584.87
19-0091	01-O0035	OKLAHOMA ELECTRIC COOPERAT	IELECTRIC SERVICES	3/2019	201903119440	680.39
19-0094	01-O0055	OKLAHOMA GAS & ELECTRIC CO	MELECTRIC SERVICES	3/2019	201903119436	1,209.20
19-0731	01-P0144	PEPSI-COLA METROPOLITAN BOT	DRINKS FOR CONCESSION	3/2019	83334455	1,062.23
19-1427	01-P0144	PEPSI-COLA METROPOLITAN BOT	DRINKS FOR CONCESSION	3/2019	8333445/8590355CR	1,096.90
19-1609	01-Q0004	QUINTON D HILL	UMPIRE BASKETBALL GAMES	3/2019	201903119444	558.00
19-1572	01-R0107	RODGERS FROZEN TREATS, LLC	MINI MELTS FOR CONCESSION	3/2019	1	280.00
19-1106	01-U0016	CEJCO INC	LEAGUE SHIRTS FOR SPORTS	3/2019	38177a	231.00
19-1361	01-U0016	CEJCO INC	T-SHIRTS AND HATS FOR SOF	3/2019	38177	178.50
19-1418	01-Y0040	YUKON TROPHY & AWARDS INC	BALL STAMPS AND TROPHIES	3/2019	219204	70.80
DEPARTMENT TOTAL:						11,810.43

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 20 AQUATICS						
19-0091	01-00035	OKLAHOMA ELECTRIC COOPERATIVE	ELECTRIC SERVICES	3/2019	201903119440	187.02
DEPARTMENT TOTAL:						187.02
DEPARTMENT: 21 FINANCE						
19-0072	01-F0094	FLEETCORE TECHNOLOGIES, INC	FUEL CHARGES	3/2019	NP55579906A	14.06
19-1342	01-M0189	MEEKS LITHOGRAPHING CO.	BOOKS OF TRAFFIC CITATION	3/2019	19020178A	790.00
19-1551	01-M0189	MEEKS LITHOGRAPHING CO.	TRAFFIC CITATIONS	3/2019	19020178	329.50
19-1292	01-S0093	SMART TECHNOLOGIES, INC	COMPUTER DESKTOPS	3/2019	717991	3,606.00
DEPARTMENT TOTAL:						4,739.56
DEPARTMENT: 31 COMMUNITY DEVELOPMENT						
19-1262	01-A0225	AMERICAN STORMWATER INSTITUTE	STORMWATER CLASS	3/2019	1037	750.00
19-0278	01-C0020	CANADIAN COUNTY CLERK	FILING FEES FOR ABATEMENT	3/2019	R596134	13.00
19-0758	01-F0094	FLEETCORE TECHNOLOGIES, INC	BULK FUEL	3/2019	NP55579906	292.95
19-1263	01-F0138	FIRE MARSHAL ASSOCIATION OFF	MAO CONFERENCE	3/2019	201903119435	35.00
19-1549	01-00096	OKLAHOMA UNIFORM BUILDING	CSTATE PERMIT FEES	3/2019	201903119438	752.00
19-0831	01-S0085	SILVER STAR CONSTRUCTION	SIGNS FOR HUNTER'S SPRING	3/2019	61034	2,264.24
19-1185	01-V0050	CELLCO PARTNERSHIP	CELL PHONE SERVICE	3/2019	9824684496a	176.90
DEPARTMENT TOTAL:						4,284.09
DEPARTMENT: 41 POLICE						
19-0123	01-A0122	ALLIANCE MAINTENANCE, INC	FACILITY CLEANING	3/2019	112041	1,295.00
19-0122	01-A1094	DJ HOPKINS INC.	ANNUAL RADAR RECERTIFICAT	3/2019	14307	700.00
19-0051	01-C0117	CLEARWATER ENTERPRISE, LLC	GAS SERVICE	2/2019	201903139513	544.32
19-0038	01-F0078	DAIOHS USA, INC	COFFEE SERVICE & ICE RENT	2/2019	242833	92.45
19-0038	01-F0078	DAIOHS USA, INC	COFFEE SERVICE & ICE RENT	3/2019	242276	135.00
19-0138	01-F0094	FLEETCORE TECHNOLOGIES, INC	FUEL CHARGES	3/2019	NP55579873	3,905.12
19-0140	01-H0139	JON RICHARD DILLINGER	BUSINESS CARDS	3/2019	0119-007	60.00
19-1398	01-M0115	MTM RECOGNITION CORPORATION	BADGES	3/2019	5969603	19.00
19-1359	01-M0312	STRIBCO INC	OIL CHANGES	2/2019	277191	90.98
19-0091	01-00035	OKLAHOMA ELECTRIC COOPERATIVE	ELECTRIC SERVICES	3/2019	201903119440	2,663.53
19-0135	01-00179	STATE OF OKLAHOMA	BOILER INSPECTIONS	3/2019	B792282	25.00
19-1234	01-00277	OKLAHOMA MACHINE GUNS	FLASH BANGS FOR TACTICAL	3/2019	2019-001	1,495.00
19-0156	01-T0029	WEST PUBLISHING CORPORATION	CLEAR INVESTIGATIVE TOOL	3/2019	839893562	202.00
19-0157	01-T1029	THOMAS DAVIS	JAIL LAUNDRY SERVICE	2/2019	5562	306.00
19-1566	01-V0050	CELLCO PARTNERSHIP	WIRELESS TERMINAL USAGE	3/2019	9824684496	608.09
DEPARTMENT TOTAL:						12,141.49

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 42 ANIMAL WELFARE						
19-0138	01-F0094	FLEETCORE TECHNOLOGIES, INC	FUEL CHARGES	3/2019	NP55579873	187.45
19-1566	01-V0050	CELLCO PARTNERSHIP	WIRELESS TERMINAL USAGE	3/2019	9824684496	615.25
DEPARTMENT TOTAL:						802.70
DEPARTMENT: 51 FIRE						
19-0222	01-A0110	ALL SEASON BUILDING SUPPLY	MISC. BUILDING REPAIR	3/2019	170292	62.66
19-1535	01-A0198	RE-MAN SHACK INC IV	COMM/FARM BATTERY	3/2019	57731	399.96
19-1537	01-A0198	RE-MAN SHACK INC IV	AA BATTERIES	3/2019	57733	44.00
19-1538	01-A0203	ACTIVE 911, INC.	ADDITIONAL TWO LINES	3/2019	201903119431	20.02
19-1123	01-C0231	CONRAD FIRE EQUIPMENT	REPLACE OUTBOARD MECH SEA	3/2019	533397	3,335.72
19-1393	01-C0231	CONRAD FIRE EQUIPMENT	DOOR LATCH	3/2019	533431	51.97
19-0332	01-F0094	FLEETCORE TECHNOLOGIES, INC	FUEL FOR VEHICLES	3/2019	NP55579905	783.91
19-1570	01-I0030	INTEGRIS HEALTH, INC.	NEW FF PHYSICAL	3/2019	2019-24959	475.00
19-0680	01-L0160	LYF LEASING LLC	E-4 FRONT BRAKE REPAIR	3/2019	1910	1,665.79
19-0891	01-N0137	NORTHERN SAFETY CO INC	SCBA REPAIR	3/2019	903353463	732.95
19-1392	01-N0137	NORTHERN SAFETY CO INC	ANNUAL FLOW TESTING	3/2019	903353462	2,514.00
19-1153	01-N1001	GENUINE PARTS COMPANY, NAPA	FUEL AND AIR FILTERS	3/2019	100107	830.03
19-1576	01-O0100	OKLAHOMA FIREFIGHTERS PENS	VOLUNTEERS PENSION	3/2019	201903119437	360.00
19-0220	01-O0227	OVERHEAD DOOR COMPANY OF OK	BAY DOOR REPAIRS	3/2019	273319	365.50
19-0784	01-V0050	CELLCO PARTNERSHIP	AIR TIME FOR TABLETS	3/2019	9824970686	462.31
DEPARTMENT TOTAL:						12,103.82
DEPARTMENT: 61 STREETS						
19-0091	01-00035	OKLAHOMA ELECTRIC COOPERAT	IELECTRIC SERVICES	3/2019	201903119440	1,032.65
19-0094	01-00055	OKLAHOMA GAS & ELECTRIC CO	MELECTRIC SERVICES	3/2019	201903119436	194.12
19-1130	01-00055	OKLAHOMA GAS & ELECTRIC CO	MELECTRIC SERVICE-MAINT. B	2/2019	201903129510	97.49
19-0602	01-S1002	STERLING & SONS ELECTRIC, L	MISC. ELECTRICAL REPAIRS	3/2019	3705	122.00
DEPARTMENT TOTAL:						1,446.26
FUND TOTAL:						162,094.88

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FUND: 05 - PARK IMPROVEMENT

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P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 00		ADMINISTRATION				
19-0098	01-S0085	SILVER STAR CONSTRUCTION	STREET & MOWING CONTRACT	3/2019	25443	9,340.51
19-1563	01-S0258	TRAVIS E. GROOMS	REPAIR TO SPRINKLER LINE	2/2019	6635	2,829.00
DEPARTMENT TOTAL:						12,169.51
FUND TOTAL:						12,169.51

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FUND: 11 - PARK & REC DONATION

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P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 00		ADMINISTRATION				
19-1044	01-C1134	CURTIS FRANK WAGNER	SANTA FOR BREAKFAST	3/2019	112	150.00
19-1274	01-G0063	LAWRENCE GRECH	FACE PAINTING EVENT	3/2019	1292	215.00
DEPARTMENT TOTAL:						365.00
FUND TOTAL:						365.00

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FUND: 13 - POLICE TECHNOLOGY FEES

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P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 41		POLICE TECHNOLOGY				
19-0134	01-D0090	STATE OF OKLAHOMA	OLETS USER FEES	3/2019	31-1900129	425.00
19-1097	01-S0206	STOLZ TELECOM, LLC	PURCHASE & INSTALL WATCHG	3/2019	3566	15,960.00
					DEPARTMENT TOTAL:	16,385.00
					FUND TOTAL:	16,385.00

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FUND: 14 - STREET/DRAINAGE IMP

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P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 14		ADMINISTRATION				
19-0098	01-S0085	SILVER STAR CONSTRUCTION	STREET & MOWING CONTRACT	3/2019	25443	6,154.31
					DEPARTMENT TOTAL:	6,154.31
					FUND TOTAL:	6,154.31

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FUND: 16 - POLICE NARCOTICS ENFORCEMENT

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P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 41		POLICE NARCOTICS ENFORCE				
19-1589	01-U0012	UNITED STATES POLICE CANINE	REGISTRATION FOR K-9	3/2019	201903119428	100.00
					DEPARTMENT TOTAL:	100.00
					FUND TOTAL:	100.00

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FUND: 39 - LIMITED PURPOSE

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P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 13		PARK AND RECREATION				
19-0476	01-A0088	ADVANCED HEALTHSTYLES FITNECARDIO EQUIPMENT		3/2019	32497	49,992.16
DEPARTMENT TOTAL:						49,992.16
DEPARTMENT: 61		STREETS				
19-1620	01-P0055	PLUMBCO, INC	PLUMBING FIXTURES	3/2019	201903139519	1,000.00
DEPARTMENT TOTAL:						1,000.00
DEPARTMENT: 72		WATER				
19-0217	01-C1197	CORE & MAIN LP	WATER METERS	3/2019	K174960	720.16
DEPARTMENT TOTAL:						720.16
FUND TOTAL:						51,712.32

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P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 00		ADMINISTRATION				
19-1625	01-B0048	BARNUM & CLINTON, PLLC	WORKERS COMP CLAIM	3/2019	201903139522	2,015.12
19-1624	01-E0007	EMERGENCY PHYSICIANS OF MIDWORKERS	COMP CLAIM	3/2019	201903139517	167.28
19-1627	01-G0134	GREEN FAMILY CHIROPRACTIC	WORKERS COMP CLAIM	3/2019	201903139524	1,048.28
19-1622	01-H0150	HUMAN PERFORMANCE CENTER #2	WORKERS COMP CLAIM	3/2019	201903139518	123.80
19-1597	01-M0265	INDEPENDENT MEDICAL EXAMINAWORKERS	COMP CLAIM	3/2019	201903119429	41.09
19-1626	01-M0267	MEDICAL CLAIMS REVIEW SERVIMEDICAL	BILL AUDIT FEE	3/2019	201903139523	337.03
19-1598	01-N1038	NEUROSCIENCE SPECIALISTS PCWORKERS	COMP CLAIM	3/2019	201903119430	193.25
19-1623	01-S0255	SSM HEALTH CARE OF OKLAHOMAWORKERS	COMP CLAIM	3/2019	201903139521	2,270.43
19-1621	01-T0192	THERAPY IN MOTION PC	WORKERS COMP CLAIM	3/2019	201903139520	562.16
DEPARTMENT TOTAL:						6,758.44
FUND TOTAL:						6,758.44
GRAND TOTAL:						918,132.10

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FUND: 01 - GENERAL FUND

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P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 01 MAYOR AND COUNCIL						
19-0057	01-C0108	COWAN GROUP ENGINEERING,	LENGINEERING FEES	3/2019	4110	1,117.21
19-0010	01-H0045	RALPH STEVEN HUDDLESTON	COURT APPEARANCES	4/2019	201903269537	1,600.00
19-0029	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	4/2019	201903269540	30.00
DEPARTMENT TOTAL:						2,747.21
DEPARTMENT: 11 CITY MANAGER						
19-0084	01-M0180	MUSTANG CHAMBER OF COMMER	CHAMBER LUNCHEONS	3/2019	15288	28.00
19-0027	01-P0099	PRINCIPAL LIFE INSURANCE	CORETIREE INSURANCE	4/2019	201903269549	300.00
19-0029	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	4/2019	201903269540	70.00
19-0117	01-W0009	WORKERS ASSISTANCE PROGRAM,	EMPLOYEE ASSISTANCE PROGR	4/2019	INV00069754	432.81
DEPARTMENT TOTAL:						830.81
DEPARTMENT: 12 LIBRARY						
19-0356	01-B1023	BTAC ACQUISITION CORP.	FICTION BOOKS	3/2019	8015416454	124.47
19-1545	01-I0023	INGRAM INDUSTRIES INC.	JUVENILE BOOKS	3/2019	39195173	962.01
19-1547	01-I0023	INGRAM INDUSTRIES INC.	YOUNG ADULT BOOKS	3/2019	39242802	883.99
19-1052	01-M0263	MIDWEST TAPE, LLC	NONPRINT ITEMS FOR COLLEC	3/2019	97040762	23.94
19-0029	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	4/2019	201903269540	10.00
DEPARTMENT TOTAL:						2,004.41
DEPARTMENT: 13 PARKS AND RECREATION						
19-1647	01-A0088	ADVANCED HEALTHSTYLES	FITNECONSOLE ADAPTER OX	3/2019	39744-R0	695.00
19-0001	01-A0114	PHIL & HELEN SCHUMINSKY	MUSSTORAGE SERVICES	4/2019	201903269532	98.00
19-1708	01-B0251	HALEY BOHANON	REFUND FOR LOCK-IN	3/2019	201903279576	60.00
19-1688	01-C0256	KRISTINA CAVNER	REFUND FOR ART CLASS	3/2019	13345616	4.00
19-1709	01-C0300	RANDALL COX	REFUND FOR LOCK-IN	3/2019	201903279575	30.00
19-0171	01-C1562	RUTH E COUTS	ENSEMBLE TEACHER	3/2019	201903279571	75.00
19-1615	01-D1053	KRISTEN POLSON	DESIGN OF FLIER AND ANNES	3/2019	MUSTANG003	186.80
19-1675	01-F0126	CRYSTAL FARROW	REFUND FOR CAMP	3/2019	12957068	36.00
19-1698	01-M0313	NORITA MAYFIELD	MEMBERSHIP REFUND	3/2019	201903269561	54.00
19-1541	01-00133	OK SPECIALTY SUPPLY, LLC	PADDING FOR BACKBOARDS	3/2019	504	1,234.00
19-1650	01-P0045	PETTY CASH	ADDITIONAL STARTUP	3/2019	201903269570	75.00
19-1671	01-P0202	TASHA PETERSEN	REFUND FOR CAMP	3/2019	201903269569	200.00
19-0029	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	4/2019	201903269540	125.00
19-1649	01-W0147	DANIELLE WEINRICH	REFUND FOR ACTIVITY	3/2019	12987146	30.00
DEPARTMENT TOTAL:						2,902.80

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P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 15 GENERAL GOVERNMENT						
19-0001	01-A0114	PHIL & HELEN SCHUMINSKY	MUSSTORAGE SERVICES	4/2019	201903269532	133.00
19-0056	01-C0278	COX COMMUNICATIONS, INC.	TELEPHONE/INTERNET SERVIC	3/2019	201903269558	6,889.98
19-0011	01-I0015	TYLER TECHNOLOGIES, INC	MONTHLY SUPPORT & HOST WE	4/2019	025-253531	250.00
19-0013	01-K0053	KG HOLDINGS, LP	STAGE INCENTIVE PAY	4/2019	201903269544	4,833.33
19-0014	01-K0127	KG SC HOLDINGS, LLC	CASH SAVER-PAYBACK INCENT	4/2019	201903269538	5,000.00
19-0095	01-O0010	ONE GAS, INC.	GAS SERVICE	3/2019	201903269564	347.42
19-0338	01-O1177	STATE OF OKLAHOMA	SALES TAX PAYABLE	4/2019	201903269541	6,000.00
19-1607	01-P0201	PARKS COFFEE SERVICES OKLAH	COFFEE SERVICE	3/2019	215459	57.00
DEPARTMENT TOTAL:						23,510.73
DEPARTMENT: 16 TRANSFERS						
19-1579	01-L0045	LIMITED PURPOSE FUND	10% EXCESS OVER \$800,000	4/2019	201903269552	10,000.00
19-0017	01-M0210	MUSTANG IMPROVEMENT AUTHORIZA	SALES TAX TRANSFER	4/2019	201903269546	480,000.00
DEPARTMENT TOTAL:						490,000.00
DEPARTMENT: 18 TOWN CENTER						
19-1209	01-B0250	BEST COMPANIES	REPAIR OPERABLE PARTITION	3/2019	2705-1A	500.00
19-1270	01-B0250	BEST COMPANIES	OPERABLE PARTITION	3/2019	2705-1	625.00
19-1318	01-B0250	BEST COMPANIES	REPAIRS TO OPERABLE PARTI	3/2019	2705-2	2,113.00
19-0183	01-C0189	TODD D. ABRELL	REPAIRS TO WEIGHT ROOM	3/2019	8471	130.00
19-1424	01-D0151	DOMINGO ALVAREZ	CLEANING CARPET IN RECREA	3/2019	8	1,240.00
19-0186	01-E0086	ENGINEERED EQUIPMENT INC.	FILTERS FOR HVAC	3/2019	509289	312.98
19-0095	01-O0010	ONE GAS, INC.	GAS SERVICE	3/2019	201903269564	421.70
19-0270	01-P0055	PLUMBCO, INC	REPAIRS AS NEEDED	3/2019	201903269567	275.00
19-0029	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	4/2019	201903269540	20.00
19-1602	01-S1002	STERLING & SONS ELECTRIC, L	REPAIRS TO OUTLETS	3/2019	3722	361.00
DEPARTMENT TOTAL:						5,998.68
DEPARTMENT: 19 BALL COMPLEX						
19-1428	01-B1019	BEN E. KEITH FOODS INC - OK	FOOD FOR CONCESSION	3/2019	64281408	1,761.30
19-0732	01-I1119	STEPHENSON WHOLESALE CO,	INFOOD FOR CONCESSION	3/2019	7083742	1,155.02
19-0887	01-L0052	LOCKE SUPPLY CO	ZIP TIES, TOILET SEATS	3/2019	36707274-00	290.67
19-1426	01-P0055	PLUMBCO, INC	DE-WINTERIZING OF SOFTBAL	3/2019	201903269568	480.00
19-1628	01-P0144	PEPSI-COLA METROPOLITAN	BOTDRINKS FOR CONCESSION	3/2019	84861259	708.52
19-0029	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	4/2019	201903269540	50.00
19-1614	01-S0093	SMART TECHNOLOGIES, INC	SOFTBALL ANTENNA FOR INTE	3/2019	718042	528.00
DEPARTMENT TOTAL:						4,973.51

3/28/2019 7:33 AM
FUND: 01 - GENERAL FUND

PURCHASE ORDER CLAIM REGISTER

PAGE: 3
SUMMARY REPORT

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 20						
		AQUATICS				
19-1692	01-00166	STATE OF OKLAHOMA	PUBLIC BATHING LICENSE	3/2019	201903269562	125.00
19-0029	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	4/2019	201903269540	30.00
DEPARTMENT TOTAL:						155.00
DEPARTMENT: 21						
		FINANCE				
19-0024	01-P8888	PITNEY BOWES GLOBAL FINANCIS	SMART MAILER - U.B. BILLS	3/2019	3308406582	846.72
19-0029	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	4/2019	201903269540	40.00
DEPARTMENT TOTAL:						886.72
DEPARTMENT: 31						
		COMMUNITY DEVELOPMENT				
19-1314	01-00069	OK MUNICIPAL LEAGUE	OML WORKSHOP	3/2019	71025	170.00
19-0029	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	4/2019	201903269540	70.00
DEPARTMENT TOTAL:						240.00
DEPARTMENT: 41						
		POLICE				
19-1542	01-C-0075	CARTER CHEVROLET AGENCY LLC	2019 CHEVY TAHOE REPLACE	4/2019	125D	32,397.00
19-1690	01-C0155	STATE OF OKLAHOMA	RECERTIFICATION FOR BAILE	4/2019	201903269531	150.00
19-0095	01-00010	ONE GAS, INC.	GAS SERVICE	3/2019	201903269564	180.42
19-0029	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	4/2019	201903269540	710.00
DEPARTMENT TOTAL:						33,437.42
DEPARTMENT: 42						
		ANIMAL WELFARE				
19-0134	01-D0090	STATE OF OKLAHOMA	OLETS USER FEES	3/2019	20-1901026	10.00
19-0029	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	4/2019	201903269540	15.00
DEPARTMENT TOTAL:						25.00
DEPARTMENT: 44						
		POLICE DISPATCH				
19-0029	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	4/2019	201903269540	60.00
DEPARTMENT TOTAL:						60.00

3/28/2019 7:33 AM
FUND: 01 - GENERAL FUND

PURCHASE ORDER CLAIM REGISTER

PAGE: 4
SUMMARY REPORT

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 51						
		FIRE				
19-0222	01-A0110	ALL SEASON BUILDING SUPPLY	MISC. BUILDING REPAIR	3/2019	170940	279.84
19-1701	01-C0060	CRAIG CARRUTH	PER-DIEM FOR CONFERENCE	4/2019	201903279573	120.00
19-0680	01-L0160	LYF LEASING LLC	E-4 FRONT BRAKE REPAIR	3/2019	1913	1,107.36
19-0095	01-00010	ONE GAS, INC.	GAS SERVICE	3/2019	201903269564	571.16
19-1186	01-00022	OKLAHOMA CITY COMMUNITY	COLSPRING SEMESTER PARAMEDIC	3/2019	06028139_19SP	1,243.32
19-1180	01-00215	OKLAHOMA STATE UNIVERSITY	FIRE INSTRUCTOR 11 SCHOOL	3/2019	71177	250.00
19-0029	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	4/2019	201903269540	850.00
19-1303	01-S0093	SMART TECHNOLOGIES, INC	BATTERY BACKUP FOR SERVER	3/2019	717992	549.73
19-1442	01-S0093	SMART TECHNOLOGIES, INC	NETWORK DROPS IN TRAINING	3/2019	718017	2,291.26
19-1238	01-S1015	S&S TEXTILES, INC	WORK OUT GEAR	3/2019	49598	523.23
19-1556	01-S1165	HOME DEPOT U.S.A., INC	CLEANING SUPPLIES	3/2019	482142965	453.37
DEPARTMENT TOTAL:						8,239.27
DEPARTMENT: 61						
		STREETS				
19-0878	01-C0278	COX COMMUNICATIONS, INC.	PHONE & INTERNET	1/2019	201903269557	174.14
19-0878	01-C0278	COX COMMUNICATIONS, INC.	PHONE & INTERNET	2/2019	201903269556	174.14
19-0878	01-C0278	COX COMMUNICATIONS, INC.	PHONE & INTERNET	3/2019	201903269555	174.30
19-0094	01-00055	OKLAHOMA GAS & ELECTRIC	COM ELECTRIC SERVICES	3/2019	201903269563	105.89
DEPARTMENT TOTAL:						628.47
FUND TOTAL:						576,640.03

3/28/2019 7:33 AM
FUND: 13 - POLICE TECHNOLOGY FEES

PURCHASE ORDER CLAIM REGISTER

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SUMMARY REPORT

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 41		POLICE TECHNOLOGY				
19-0134	01-D0090	STATE OF OKLAHOMA	OLETS USER FEES	3/2019	20-1901026	120.00
					DEPARTMENT TOTAL:	120.00
					FUND TOTAL:	120.00

3/28/2019 7:33 AM
FUND: 15 - PERSONAL SERVICE - 10% EX

PURCHASE ORDER CLAIM REGISTER

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SUMMARY REPORT

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 41		POLICE				
19-0009	01-G0030	GENERAL FUND	TRANSFER 10% P.S.	4/2019	201903269543	15,000.00
					DEPARTMENT TOTAL:	15,000.00
DEPARTMENT: 51		FIRE				
19-0009	01-G0030	GENERAL FUND	TRANSFER 10% P.S.	4/2019	201903269543	15,000.00
					DEPARTMENT TOTAL:	15,000.00
					FUND TOTAL:	30,000.00

3/28/2019 7:33 AM
FUND: 39 - LIMITED PURPOSE

PURCHASE ORDER CLAIM REGISTER

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SUMMARY REPORT

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 13			PARK AND RECREATION			
19-0872	01-B1002	BEASLEY TECHNOLOGY	SOUND SYSTEM FOR FITNESS	3/2019	COR-103980	4,743.00
19-1658	01-D0089	DAVE'S SAFE & LOCK LLC	KEYS FOR EXPANSION	3/2019	6802	337.00
19-1689	01-G0086	W.W. GRAINGER, INC.	FANS	3/2019	9048632799	2,124.48
19-1208	01-M0311	MID STATE FITNESS REPAIRS,	MOVING CARDIO TO NEW AREA	3/2019	2382A	2,355.00
19-1678	01-M0311	MID STATE FITNESS REPAIRS,	CARDIO EQUIPMENT INSTALL	3/2019	2382	250.00
19-1166	01-O0133	OK SPECIALTY SUPPLY, LLC	GYM DIVIDER, BASKETBALL R	3/2019	504A	6,050.00
19-1144	01-S0093	SMART TECHNOLOGIES, INC	INSTALL DATA LINES/DROPS	3/2019	717950A	7,200.00
19-1613	01-S0093	SMART TECHNOLOGIES, INC	DROPS AND WIFI IN EXPANSI	3/2019	717950	1,933.00
19-1304	01-S1002	STERLING & SONS ELECTRIC,	LINSTALLATION OF TV, FANS	3/2019	3716	700.00
19-1659	01-S1002	STERLING & SONS ELECTRIC,	LTV SET UP	3/2019	3716A	1,640.00
DEPARTMENT TOTAL:						27,332.48
DEPARTMENT: 19			BALL COMPLEX			
19-1673	01-L0052	LOCKE SUPPLY CO	NEW TOILETS FOR SOFTBALL	3/2019	36759357-00	836.89
19-1682	01-P0055	PLUMBCO, INC	8 NEW TOILETS FOR SB COMP	3/2019	201903269566	1,550.00
DEPARTMENT TOTAL:						2,386.89
DEPARTMENT: 72			WATER			
19-1437	01-C1197	CORE & MAIN LP	WATER METERS	3/2019	K196826	3,847.17
DEPARTMENT TOTAL:						3,847.17
FUND TOTAL:						33,566.54

3/28/2019 7:33 AM
FUND: 69 - RISK MANAGEMENT

PURCHASE ORDER CLAIM REGISTER

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SUMMARY REPORT

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 00			ADMINISTRATION			
19-1654	01-04740	DANIEL DRAKE	WORKERS COMP CLAIM	3/2019	201903269554	5.68
19-1665	01-B0268	BREG, INC.	WORKERS COMP CLAIM	3/2019	201903269553	178.96
DEPARTMENT TOTAL:						184.64
FUND TOTAL:						184.64

March 2019 VISA

<u>DEPT</u>		
511	CITY MANAGER	\$ 2,000.00
512	LIBRARY	\$ 3,000.00
513	PARKS & RECREATION	\$ 8,000.00
515	GENERAL GOVERNMENT	\$ 3,000.00
518	TOWN CENTER	\$ 5,000.00
521	FINANCE	\$ 300.00
531	COMM. DEV.	\$ 600.00
541	POLICE	\$ 4,000.00
551	FIRE	\$ 1,000.00
TOTAL		\$ 26,900.00

The City Manager has the authority to approve all claim's up to \$50,000 per Ordinance #1153.

March 2019 PAYROLL

FUND 01	GENERAL FUND	
501	CITY ATTORNEY	\$ 18,864.28
511	CITY MANAGER	\$ 55,301.68
512	LIBRARY	\$ 38,667.03
513	PARKS & RECREATION	\$ 108,562.89
518	TOWN CENTER	\$ 25,858.74
519	BALL COMPLEX	\$ 39,548.98
520	AQUATICS	\$ 4,565.05
521	FINANCE	\$ 65,951.80
531	COMMUNITY DEVELOPMENT	\$ 49,143.91
541	POLICE	\$ 290,447.69
542	ANIMAL CONTROL	\$ 9,983.34
543	OHSO GRANT	\$ 1,039.42
544	POLICE DISPATCH	\$ 35,049.58
551	FIRE	\$ 213,767.12
553	FIRE SAFER GRANT	\$ 12,808.76
TOTAL		\$ 969,560.27

FUND 69	RISK MANAGEMENT	
69	WORKERS COMP	\$ 8,441.88
TOTAL		\$ 8,441.88

CITY OF MUSTANG

AGENDA ITEM COMMENTARY

1. **ITEM NO.** F-4
2. **DATE:** APRIL 2, 2019
3. **TITLE:** Approval to turn past due utility accounts over to the collection agency
4. **COUNCIL ACTION:** Approve or Deny
5. **INITIATOR:** Janet Watts, Finance Director
6. **BACKGROUND:** The attached utility accounts are past due and need to be sent to collections. Total balance is \$1,792.38 excluding collection agency fees.
7. **STAFF SOURCE:** Janet Watts, Finance Director
8. **FINANCIAL IMPACT:** Bad debt write-off of \$1,792.38
9. **STAFF COMMENTS:** Recommends turning accounts over to collections.
10. **CITY ATTORNEY'S COMMENTS:**
11. **RESOLUTION/ORDINANCE NO.** N/A

JANA FERRELL - COLLECTIONS

04/02/2019

ACCOUNT NUMBER	NAME	SERVICE ADDRESS	MAILING ADDRESS	BALANCE	AGENCY FEE	TOTAL FEE
11-+0007-03	BEEDLE, KEITH	342 W ASPEN DR MUSTANG, OK 73064	7901 S COUNCIL RD TRLR 268 OKC, OK 73169	\$ 74.92		
START DATE:						
FINAL DATE:						
07-0147-10	BERGNER, ANN	744 W SHEPHERD DR MUSTANG, OK 73064	744 W SHEPHERD DR MUSTANG, OK 73064	\$ 283.82		
START DATE:						
FINAL DATE:						
21-0102-10	BLACKSHEAR, RENE A	716 N CANADIAN TERR MUSTANG, OK 73064	PO BOX 513 MUSTANG, OK 73064	\$ 31.87		
START DATE:						
FINAL DATE:						
07-0093-10	FOWLER, JULIE	760 W FOREST DR MUSTANG, OK 73064	760 W FOREST DR MUSTANG, OK 73064	\$ 153.19		
START DATE:						
FINAL DATE:						
09-0140-06	FRAME, KRISTY	507 W PERRY DR MUSTANG, OK 73064	4037 NW 13TH OKC, OK 73107	\$ 122.32		
START DATE:						
FINAL DATE:						
05-0405-08	GIVENS-DAY, SHAYLA	917 N BARN HILL WAY MUSTANG, OK 73064	6421 WHITEHALL OKC, OK 73132	\$ 89.23		
START DATE:						
FINAL DATE:						
18-0528-05	KINNEY, ALLEN & STEPHANIE	1842 E SH 152 MUSTANG, OK 73064	900 LAUREL CREEK DR YUKON, OK 73099	\$ 93.72		
START DATE:						
FINAL DATE:						
09-0126-13	LAWRENCE, TYLER	616 S HIGHLAND DR MUSTANG, OK 73064	616 S HIGHLAND DR MUSTANG, OK 73064	\$ 109.27		
START DATE:						
FINAL DATE:						
05-0621-05	LEE, CHRISTINA	1225 W HINTINGTON WAY MUSTANG, OK 73064	12405 WHISPERING HOLLOW DR OKC, OK 73142	\$ 145.95		
START DATE:						
FINAL DATE:						
12-0065-05	MCCLENDON, BILL	116 W CARSON DR MUSTANG, OK 73064	PO BOX 10 WHEATLAND, OK 73097	\$ 86.98		
START DATE:						
FINAL DATE:						
22-0118-04	SMITH, CHASE & STACIA	1117 N VICKSBURG TERR MUSTANG, OK 73064	8337 NW 110TH ST OKC, OK 73162	\$ 176.66		
START DATE:						
FINAL DATE:						
15-0127-16	WATTERS, WILLIAM III	107 S MEADOW LN MUSTANG, OK 73064	107 S MEADOW LN MUSTANG, OK 73064	\$ 156.89		
START DATE:						
FINAL DATE:						
06-0391-03	WELKE, JEFF & NICOLE	909 W GRIGGS WAY MUSTANG, OK 73064	921 N CRYSTAL WAY MUSTANG, OK 73064	\$ 55.25		
START DATE:						
FINAL DATE:						
22-0196-06	WELLS, WILLIAM & LAURA	304 E CHARLOTTE TERR MUSTANG, OK 73064	304 E CHARLOTTE TERR MUSTANG, OK 73064	\$ 119.31		
START DATE:						
FINAL DATE:						
06-0230-06	WESLEY, SUMMER	1121 W GLADYS WAY MUSTANG, OK 73064	1121 W GLADYS WAY MUSTANG, OK 73064	\$ 93.00		
START DATE:						
FINAL DATE:						

ACCOUNTS: 15

TOTALS: \$ 1,792.38 \$ 627.33 \$ 2,419.71

CITY OF MUSTANG

AGENDA ITEM COMMENTARY

1. ITEM NO. F-5
2. MEETING DATE: APRIL 2, 2019
3. TITLE: Approval to turn past due library accounts over to collection agency.
4. COUNCIL ACTION: Approve/Deny
5. INITIATOR: Janet Watts, Finance Director
6. BACKGROUND:
The attached library accounts are past due and need to be sent to collections.
The total balance is \$1,532.40 excluding collection agency fees.
7. FINANCIAL IMPACT:
Inventory loss of \$1,532.40
8. STAFF COMMENTS: Recommend Approval
9. STAFF SOURCE: Julie Slupe, Library Director
10. CITY ATTORNEY COMMENTS:
11. RESOLUTION/ORDINANCE NO. N/A

Council Copy
Accounts Sent to Collections
for March, 2019

	A	B	C	D	E
1	Acct #	NAME/RESPONSIBLE PARTY	CITY, STATE, ZIP	BOOK BALANCE	
2	0073934	Katie Michelle Rudkins	Yukon, OK 73099	\$138.81	
3	0074179	Ashley Dawn Sexton	Mustang, OK 73064	\$204.84	
4	0075498	Britney Smith	Oklahoma City, OK 73169	\$74.38	
5	0075678	Karley Ashton Smith	Yukon, OK 73099	\$89.95	
6	0075441	Stephany E. Mitchell	Yukon, OK 73099	\$73.77	
7	0075864	Shelby Briana Keith	Yukon, OK 73099	\$76.95	
8	0073952	Rachel Dawn Gordon Seibel	Mustang, OK 73064	\$59.94	
9	0075474	Beatriz Garcia	Mustang, OK 73064	\$95.86	
10	0057101	Michael Dean Finch	Mustang, OK 73064	\$263.89	
11	0075256	Teresa Davison	Yukon, OK 73099	\$55.89	
12	0075703	Lorina Kay Birdshead	Oklahoma City, OK 73129	\$111.90	
13	0075564	Brittney Nicole Kessinger	Yukon, OK 73099	\$38.93	
14	0075566	Brittney Nicole Kessinger	Yukon, OK 73099	\$67.79	
15	0075565	Brittney Nicole Kessinger	Yukon, OK 73099	\$52.95	
16	0075595	Earl Clinton Percefull	Mustang, OK 73064	\$12.98	
17	0075593	Earl Clinton Percefull	Mustang, OK 73064	\$9.99	
18	0075594	Earl Clinton Percefull	Mustang, OK 73064	\$43.84	
19	0075608	Jessica N. Price	Mustang, OK 73064	25.19	
20	0075607	Jessica N. Price	Mustang, OK 73064	34.55	
21					
22					
23					
24					
25					
26					
27					
28					
29			TOTAL FOR INDIVIDUALS	\$1,532.40	
30					
31			LOST INTERLIBRARY LOAN FEES	0.00	
32					
33			OVERALL TOTAL	1,532.40	
34					
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CITY OF MUSTANG

CONSENT ITEM COMMENTARY

1. **ITEM NO.** F-6
2. **MEETING DATE:** April 2, 2019
3. **TITLE:** Approval of Resolution No. 19-031A Authorizing Litigation and a Fee Agreement with Outside Counsel to Represent the City of Mustang.
4. **COUNCIL ACTION:** Choose whether or not to approve the Resolution No. 19-031A which authorized the City to file a lawsuit against manufacturers and others relating to the opioid epidemic.
5. **INITIATOR:** City Attorney
6. **PROJECT DESCRIPTION:** The City Council approved Resolution No. 19-031 which authorized the filing of a civil suit against opioid manufacturers, distributors, and potentially other third parties for penalties, damages, injunctive relief, and to abate the public nuisance, and any other remedy available by law, relating to the opioid epidemic. Resolution No. 19-031 incorrectly referred to another municipality in one paragraph. Resolution No. 19-031A corrects that error, and otherwise is the same as Resolution No. 19-031.
7. **FINANCIAL IMPACT:** Same as previously discussed.
8. **STAFF COMMENTS:** Staff recommends approval.
9. **STAFF SOURCE:** Jon Miller, City Attorney.
10. **CITY ATTORNEY'S COMMENTS:** See above.
11. **RESOLUTION/ORDINANCE NO.** 19-031A

RESOLUTION OF THE CITY OF MUSTANG, OKLAHOMA

RESOLUTION #19-031A

April 2, 2019

**A RESOLUTION TO PROVIDE FOR RETENTION
OF ATTORNEYS TO ADDRESS OPIOID EPIDEMIC**

WHEREAS, pharmaceutical opioids have harmed the City of Mustang and its citizens. This harm was created and exacerbated by the misconduct and illegal activities of opioid manufacturers, distributors, and potentially other third parties, and constitutes a public nuisance in the City of Mustang.

WHEREAS, there is a substantial need for legal services to pursue the City of Mustang's claims against opioid manufacturers, distributors, and potentially other third parties.

WHEREAS, the City of Mustang selects the legal team of McAfee & Taft, a Professional Corporation, and Fulmer Sill, PLLC to serve as counsel to prosecute this matter working under the oversight and approval of the City of Mustang and any designees of the City of Mustang.

WHEREAS, all fees to be paid to counsel are contingent upon the recovery of penalties, damages, attorney's fees, and costs. Fees shall be paid only from such recovery and no money shall be due or paid from the City of Mustang's general fund or any special fund.

THEREFORE, it was duly moved and seconded that the following resolution be adopted.

THEREFORE, BE IT RESOLVED that the City of Mustang, Oklahoma hereby authorize the filing of a civil suit against opioid manufacturers, distributors, and potentially other third parties for penalties, damages, injunctive relief, and to abate the public nuisance, and any other remedy available by law. Such legal action is essential to protecting the interests of the City of Mustang and its citizens.

The City of Mustang adopted the above Resolution on the 2nd day of April, 2019.

CITY OF MUSTANG, OKLAHOMA:

Mayor

ATTEST:

City Clerk

CITY OF MUSTANG

AGENDA ITEM COMMENTARY

1. ITEM NO. F-7

2. MEETING DATE: April 2, 2019

3. TITLE: Department of Environmental Quality Permit to Construct Water Lines and Appurtenances – Prairie Hills Estates Addition, Phase 2, Section 1.

4. COUNCIL ACTION: Acknowledgement of Receipt of DEQ Permit No. WL000009190153, to Construct Water Lines for Prairie Hills Estates Addition, Phase 2, Section 1

5. INITIATOR: Community Development Department

COMMENTS & FACTS: As part of the development of Prairie Hills Estates Addition, Phase 2, Section 1, plans for water lines and appurtenances as approved by the city engineer were submitted to the Department of Environmental Quality. The plans were approved by DEQ on March 7, 2019.

The Department of Environmental Quality requests that the City Council acknowledge receipt of the Permit, which will thereby become part of the permanent public record.

7. FINANCIAL IMPACT: None

8. STAFF COMMENTS: Staff recommends acceptance.

9. STAFF SOURCE: Melissa Helsel, Community Development Director

10. CITY ATTORNEY'S COMMENTS:

11. RESOLUTION/ORDINANCE NO. _____



SCOTT A. THOMPSON
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

KEVIN STITT
Governor

March 7, 2019

Melissa A. Helsel, Director
Department of Community Development
City of Mustang
1501 N. Mustang Road
Mustang, Oklahoma 73064

Re: Permit No.: WL000009190153
Prairie Hills Estates Addition Phase 2, Section 1
Water Line Extension Project
PWSID No.: 2000922

Dear Ms. Helsel:

Enclosed is Permit No.: WL000009190153 for the construction of approximately 5,430 L. F. of eight (8) inch and 1,370 L. F. of twelve (12) inch water lines and appurtenances to serve the City of Mustang Prairie Hills Estates Addition Phase 2, Section 1 Water Line Extension Project, Canadian County, Oklahoma.

The project authorized by this permit should be constructed in accordance with the plans approved by this Department on March 7, 2019. 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 Mustang, after which it should be made a matter of permanent record.

We are returning two (2) set of the approved plans to you, one (1) set to your engineer, and retaining one (1) set for our files.

Respectfully,

A handwritten signature in blue ink, appearing to read "Robert B. Walker", is written over a horizontal line.

Robert B. Walker
Construction Permit Section
Water Quality Division

RBW/RC/ag

Enclosure

c: Travis Mensik, R. S., Regional Manager, DEQ
Douglas Hartwig, P. E., Crafton Tull
Oklahoma City DEQ Office





SCOTT A. THOMPSON
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

KEVIN STITT
Governor

PERMIT NO.: WL000009190153

WATER LINES

PWSID NO.: 2000922

PERMIT TO CONSTRUCT

March 7, 2019

Pursuant to O.S. 27A 2-6-304, the City of Mustang is hereby granted this Tier I Permit to construct approximately 5,430 L. F. of eight (8) inch and 1,370 L. F. of twelve (12) inch water lines and appurtenances to serve the City of Mustang Prairie Hills Estates Addition Phase 2, Section 1 Water Line Extension Project, located in part of NE-1/4, Section 25, T-11-N, R-5-W, I. M., Canadian County, Oklahoma, in accordance with the plans approved on March 7, 2019.

By acceptance of this permit, the permittee agrees to operate and maintain the facility in accordance with the Public Water Supply Operation rules (OAC 252:631) 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) Based on review of the submitted limited hydraulic information, this water line design is deemed adequate to provide the 2015 International Fire Code (IFC) Appendix B, Table B105.1(1) minimum fire flow of 1,000-gpm for proposed residential housing with a fire surface area of not greater than 3,600-ft.
- 2) That the recipient of the permit is responsible that the project receives supervision and inspection by competent and qualified personnel.
- 3) 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.
- 4) That no significant information necessary for a proper evaluation of the project has been omitted or invalid information has been presented in applying for the permit.
- 5) That the Oklahoma Department of Environmental Quality shall be kept informed on occurrences which may affect the eventual performance of the works or that will unduly delay the progress of the project.
- 6) That before placing this facility into service, at least two samples of the water, taken on different days, shall be tested for bacteria to show that it is safe for drinking purposes.
- 7) 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.

Page 1 of 2





SCOTT A. THOMPSON
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

KEVIN STITT
Governor

PERMIT NO.: WL000009190153

WATER LINES

PWSID NO.: 2000922

PERMIT TO CONSTRUCT

- 8) 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.
- 9) 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.
- 10) 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. Section 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.
- 11) 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.
- 12) That whenever plastic pipe is approved and used for potable water, it shall bear the seal of the National Sanitation Foundation and meet the appropriate commercial standards.
- 13) That when it is impossible to obtain proper horizontal and vertical separation as stipulated in Public Water Supply Construction Standards OAC 252:626-19-2(h)(1) and OAC 252:626-19-2(h)(2), respectively, the sewer shall be designed and constructed equal to water pipe, and shall be pressure tested to the highest pressure obtainable under the most severe head conditions of the collection system prior to backfilling.

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



CITY OF MUSTANG

AGENDA ITEM COMMENTARY

1. ITEM NO. F-8

2. MEETING DATE: April 2, 2019

3. TITLE: Department of Environmental Quality Permit to Construct Sewer Lines and Appurtenances – Prairie Hills Estates Addition, Phase 2, Section 1.

4. COUNCIL ACTION: Acknowledgement of Receipt of DEQ Permit No. SL000009190154, to Construct Sewer Lines for Prairie Hills Estates Addition, Phase 2, Section 1

5. INITIATOR: Community Development Department

COMMENTS & FACTS: As part of the development of Prairie Hills Estates Addition, Phase 2, Section 1, plans for sewer lines and appurtenances as approved by the city engineer were submitted to the Department of Environmental Quality. The plans were approved by DEQ on March 5, 2019.

The Department of Environmental Quality requests that the City Council acknowledge receipt of the Permit, which will thereby become part of the permanent public record.

7. FINANCIAL IMPACT: None

8. STAFF COMMENTS: Staff recommends acceptance.

9. STAFF SOURCE: Melissa Helsel, Community Development Director

10. CITY ATTORNEY'S COMMENTS:

11. RESOLUTION/ORDINANCE NO. _____



SCOTT A. THOMPSON
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

KEVIN STITT
Governor

March 5, 2019

Melissa A. Helsel, Director
Department of Community Development
City of Mustang
1501 N. Mustang Road
Mustang, Oklahoma 73064

Re: Permit No.: SL000009190154
Prairie Hills Estates Addition
Phase 2 Section 1 Sewer Line Extension Project
Facility No.: S-23543

Dear Ms. Helsel:

Enclosed is Permit No.: SL000009190154 for the construction of approximately 5,200 L. F. of eight (8) inch sewer lines and appurtenances to serve the City of Mustang Prairie Hills Estates Addition Phase 2 Section 1 Sewer Line Extension Project, Canadian County, Oklahoma.

The project authorized by this permit should be constructed in accordance with the plans approved by this Department on March 5, 2019. 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 Mustang, after which it should be made a matter of permanent record.

We are returning two (2) set of the approved plans to you, one (1) set to your engineer, and retaining one (1) set for our files.

Respectfully,

A handwritten signature in blue ink, appearing to read "Robert B. Walker", is written over a horizontal line.

Robert B. Walker
Construction Permit Section
Water Quality Division

RBW/RC/ag

Enclosure

c: Travis Mensik, Regional Manager, DEQ
Douglas Hartwig, P. E., Crafton Tull
Oklahoma City DEQ Office





SCOTT A. THOMPSON
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

KEVIN STITT
Governor

PERMIT NO.: SL000009190154

SEWER LINES

FACILITY NO.: S-23543

PERMIT TO CONSTRUCT

March 5, 2019

Pursuant to O.S. 27A 2-6-304, the City of Mustang is hereby granted this Tier I Permit to construct approximately 5,200 L. F. of eight (8) inch sewer lines and appurtenances to serve the City of Mustang Prairie Hills Estates Addition Phase 2 Section 1 Sewer Line Extension Project, located in parts of NE-1/4 of Section 25, T-11-N, R-5-W, I. M., Canadian County, Oklahoma, in accordance with the plans approved on March 5, 2019.

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 tests will be conducted as necessary to insure 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.
- 5) 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.
- 6) 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.
- 7) 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.





SCOTT A. THOMPSON
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

KEVIN STITT
Governor

PERMIT NO.: SL000009190154

SEWER LINES

FACILITY NO.: S-23543

PERMIT TO CONSTRUCT

- 8) 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.
- 9) 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.
- 10) 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.
- 11) 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.
- 12) 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

CITY OF MUSTANG

AGENDA ITEM COMMENTARY

1. ITEM NO. H-1

2. MEETING DATE: April 2, 2109

3. TITLE: Special Use Permit Application SUP-2-4-19-1-33, 236 W. State Highway 152, Judy Padgett, Tattoo Shop in C-2, Commercial Neighborhood District.

4. COUNCIL ACTION: Public Hearing, Discussion, and Possible Action Regarding Special Use Permit Application.

5. INITIATOR: Community Development Department

6. BACKGROUND RECOMMENDATION:

Project Description: The applicant requests a special use permit for a Tattoo Shop in a C-2, Commercial Neighborhood zoning district. A Tattoo Shop is not a use addressed in our code, so the special use permit is the correct remedy. This property is 66 feet in width and is located between the Burlap Buffalo and the Little Caesar Restaurant Plaza.

A Special Use Permit was granted to this applicant in this location on March 16, 2016. The applicant was unable to mobilize their resources at that time and the permit has expired.

Notice was sent out to the 300-foot property owners list and no comments were received. Please see the attached site plan for a layout of the proposed development. Development must abide by all the commercial zoning requirements for the City of Mustang.

Public water is available to the north of this property and sanitary sewer also exists in that area.

The purpose of a special use permit is to process uses which have not been identified in the zoning code. This use will be reviewed every two years by the City Council.

Character of Neighborhood: The general character of the area is commercial and low density residential.

Zoning and Uses of Property Nearby: The property to the east is zoned C-5, to the north is Agricultural (Church Use), to the west is zoned C-3 and to the south is R-1.

Conformance with Long-Range Plan: The long-range plan calls for commercial retail development in this area, so the request conforms to the comprehensive plan.

Professional Staff Recommendation: Staff recommends approval of the special use permit. No comments have been received against the application. Staff can think of no reason to deny the application. There are currently no tattoo studios in the city limits.

Planning Commission Recommendation: The Mustang Planning Commission voted unanimously to recommend approval of this application at their March 12, 2019 meeting. Please see attached minutes. Please note: These minutes were not yet formally approved by the Mustang Planning Commission.

7. FINANCIAL IMPACT: None

8. STAFF SOURCE: Melissa Helsel, Community Development Director

9. CITY ATTORNEY'S COMMENTS:

10. RESOLUTION/ORDINANCE NO. _____

**VI. PUBLIC HEARING, DISCUSSION, CONSIDERATION AND
RECOMMENDATION ON:**

**1. Special Use Permit Application SUP-2-4-19-1-33, Anthony and Judy Padgett,
236 W. State Highway 152, C-2, Commercial Neighborhood District, Tattoo
Studio.**

Community Development Director, Melissa Helsel, introduced the request. The applicant requests a special use permit for a Tattoo Shop in a C-3 PUD, Commercial General zoning district. A Tattoo Shop is not a use addressed in our code, so the special use permit is the correct remedy. The property is located between the Burlap Buffalo and the Little Caesars Restaurant Plaza. The Special Use Permit was applied for and granted in 2016 for the same applicants, in the same location. They were unable to construct the building and open the business. The permit expired and the process had to start over.

Notice was sent out and there were no comments or questions from the public. Staff recommends approval of the Special Use Permit.

Mr. Hix asked whether the business would have a separate driveway or share access. **Ms. Helsel** stated that the applicant would be able to answer that question.

Mr. Brown asked about fencing. **Ms. Helsel** stated that the property would meet all commercial requirements, including a six foot masonry fence wherever the property abuts residential.

Mr. Brown asked if they could locate the fence anywhere. **Ms. Helsel** responded they could, but she recommends the fence be installed on the property line.

Mr. Russell asked if the property to the south was residential. **Ms. Helsel** responded it was zoned R-1 but is owned and used by Mustang Public Schools.

Mr. Brown asked if the homeowner closest to the property was present. **Ms. Helsel** responded no.

Mr. Bratton opened the public hearing.

Judy Padgett, 9005 S Francis Lane, came forward on behalf of her son, the applicant. She asked if the Commissioners had any questions for her.

The Commissioners had no questions for Ms. Padgett and hearing no further comments, **Mr. Bratton** closed the public hearing.

Mr. Brown made a motion to approve the Special Use Permit. **Mr. Russell** seconded the motion.

A roll call vote was taken:

Jay Adams	Yes
James Waugh	Yes
Dan Hix	Yes
Jerry Brown	Yes
David Russell	Yes
Jesse Bratton	Yes

The motion was approved unanimously.

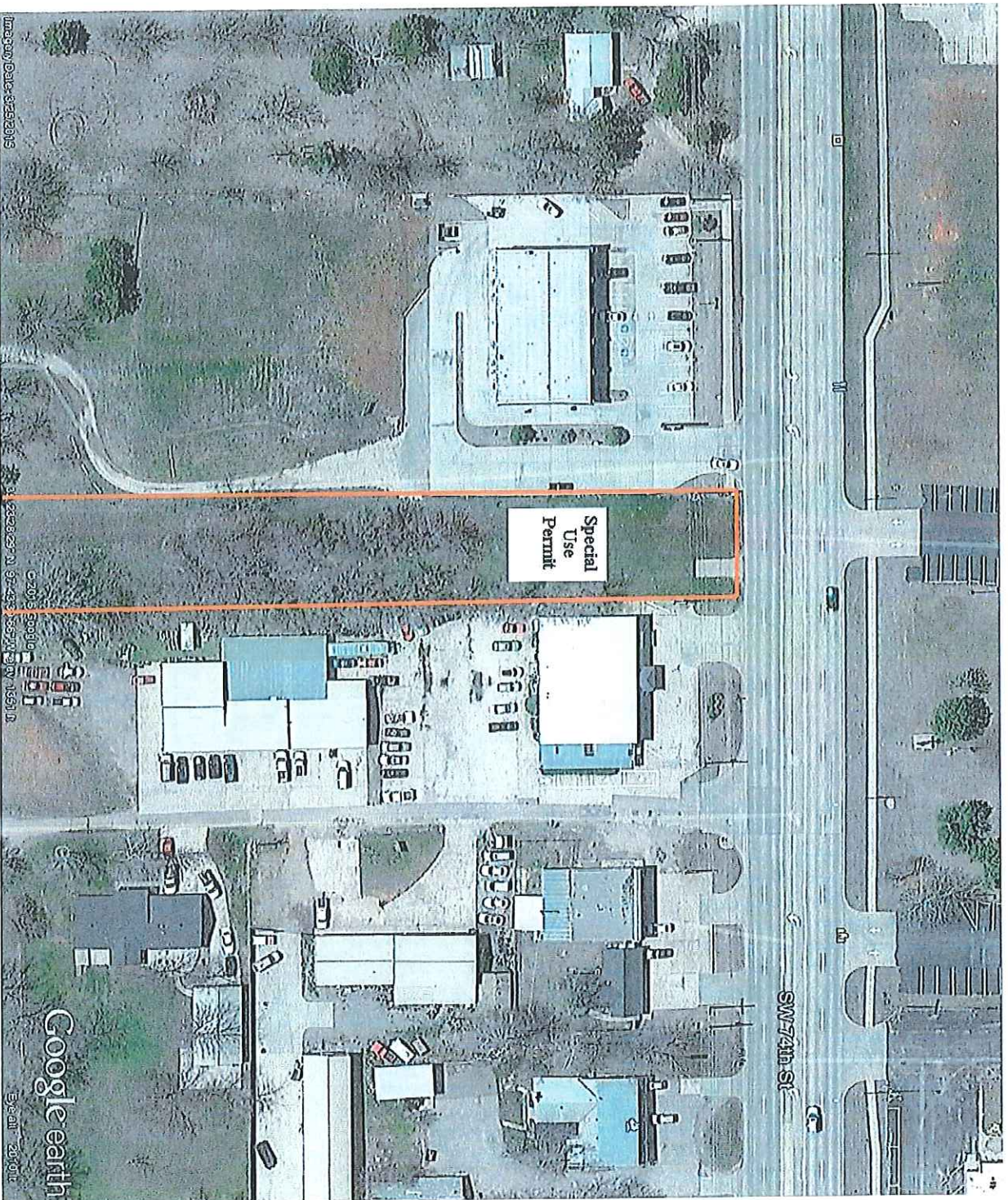


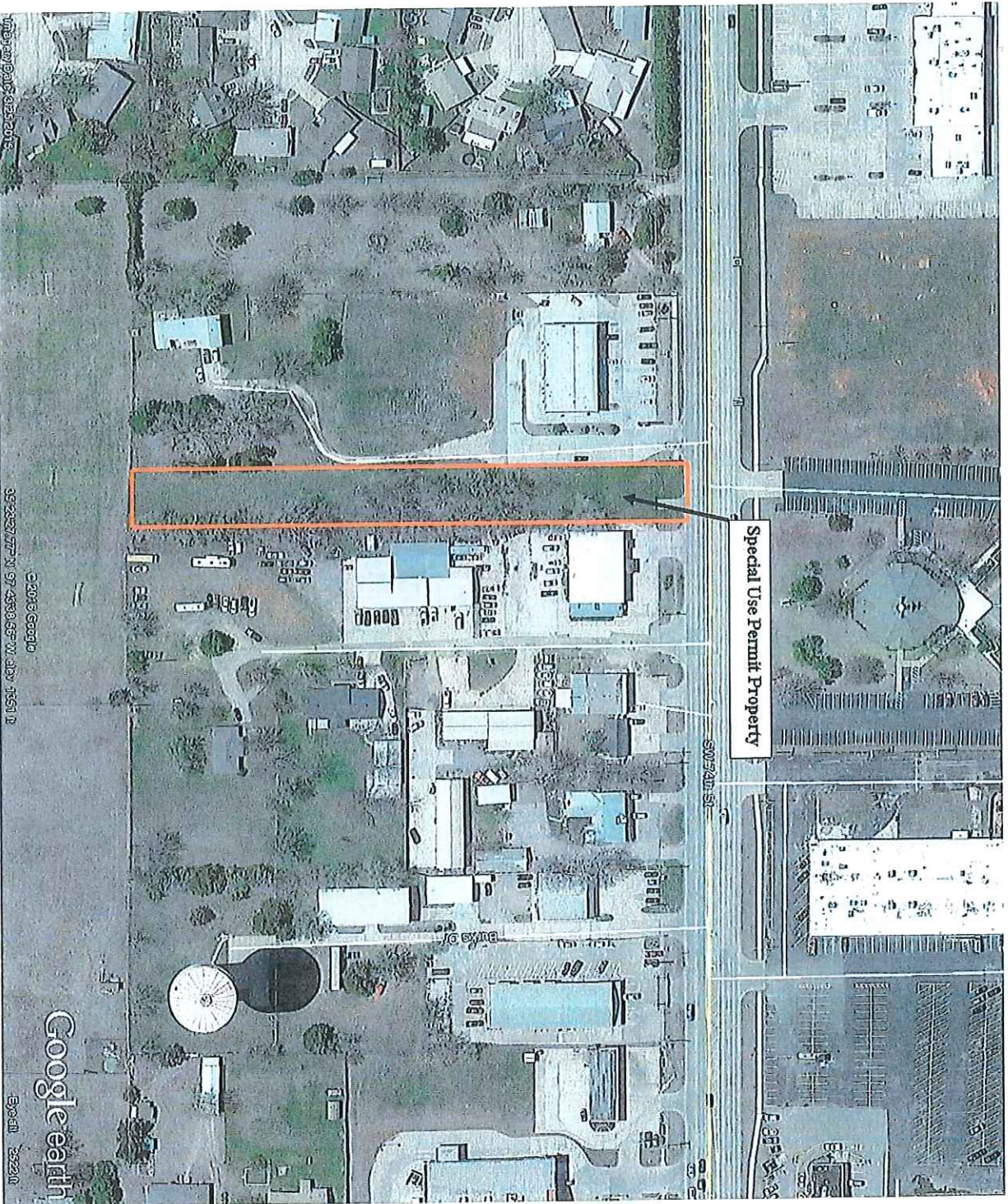
Image Date: 02/23/2015

33° 28' 25" N 97° 45' 15" W 155110

©2015 Google

SW 74th St

Google earth



Special Use Permit Property

Google earth

© 2018 Google
39.282777° N 97.453055° W 43° 15' 51" W

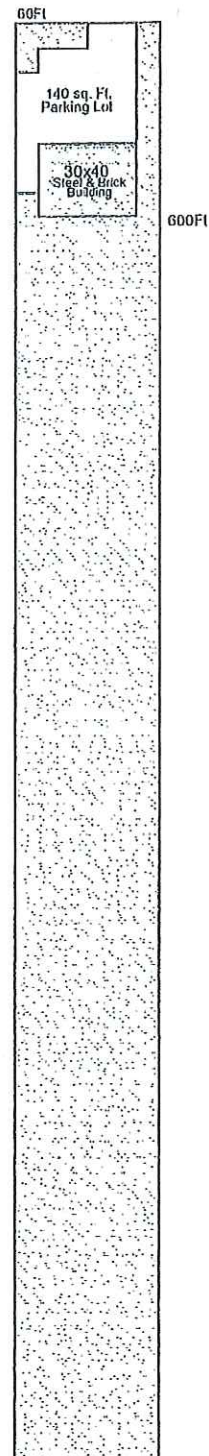
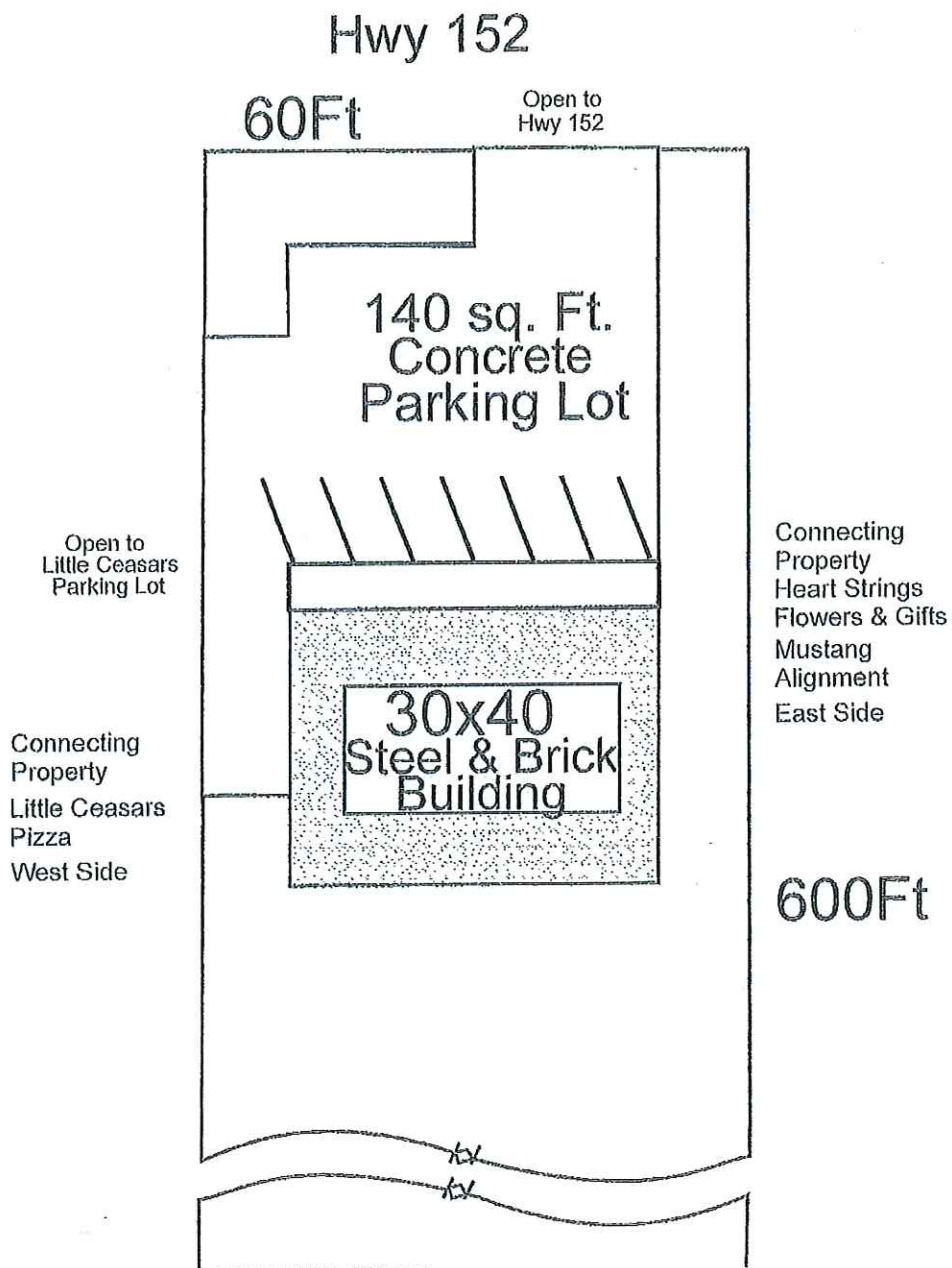
Commercial Zoning
New Business
Building Proposal

~Yer Cheat'n Heart Tattoo

236 West Hwy152

Lot Size
60x600

1/10 Scale



**PUBLIC HEARING NOTICE OF THE
MUSTANG PLANNING COMMISSION**

On Tuesday, March 12, 2019, beginning at 7:00 p.m. in the Council Chambers at Mustang City Hall located at 1501 N. Mustang Road, Mustang, OK 73064, a Public Hearing will be conducted on the following:

NOTICE OF SPECIAL USE PERMIT APPLICATION

CURRENTLY ZONED: C-2, Commercial Neighborhood District
REQUESTED USE: Tattoo Shop
APPLICATION BY: Anthony Padgett
PROPERTY OWNERS: Judy Padgett

ADDRESS OF PROPERTY: 236 W State Highway 152

LEGAL DESCRIPTION OF COMPLETE PROPERTY FOR REZONING:

A tract of land beginning at a point 56 rods West of the Northeast Corner of the Northeast Quarter (NE/4) of Section Thirty-three (33), Township Eleven (11) North, Range Five (5) West of the Indian Meridian, Canadian County, Oklahoma for a point of beginning; THENCE West along the Section line 4 rods; THENCE South 40 rods; THENCE East 4 Rods; THENCE North 40 Rods to the point of beginning; LESS AND EXCEPT a strip, piece or parcel of land lying on part of the NE/4 of Section 33, Township 11 North, Range 5 West. Said Parcel of land being described by metes and bounds as follows: Beginning at a point on the North line of said NE/4, 924.00 feet West of the NE Corner of said NE/4; THENCE West along said north line a distance of 66.00 feet; THENCE South a distance of 60.00 feet; THENCE S 89°57'11" E a distance of 66.00 feet; THENCE North a distance of 60.00 feet to the point of beginning.

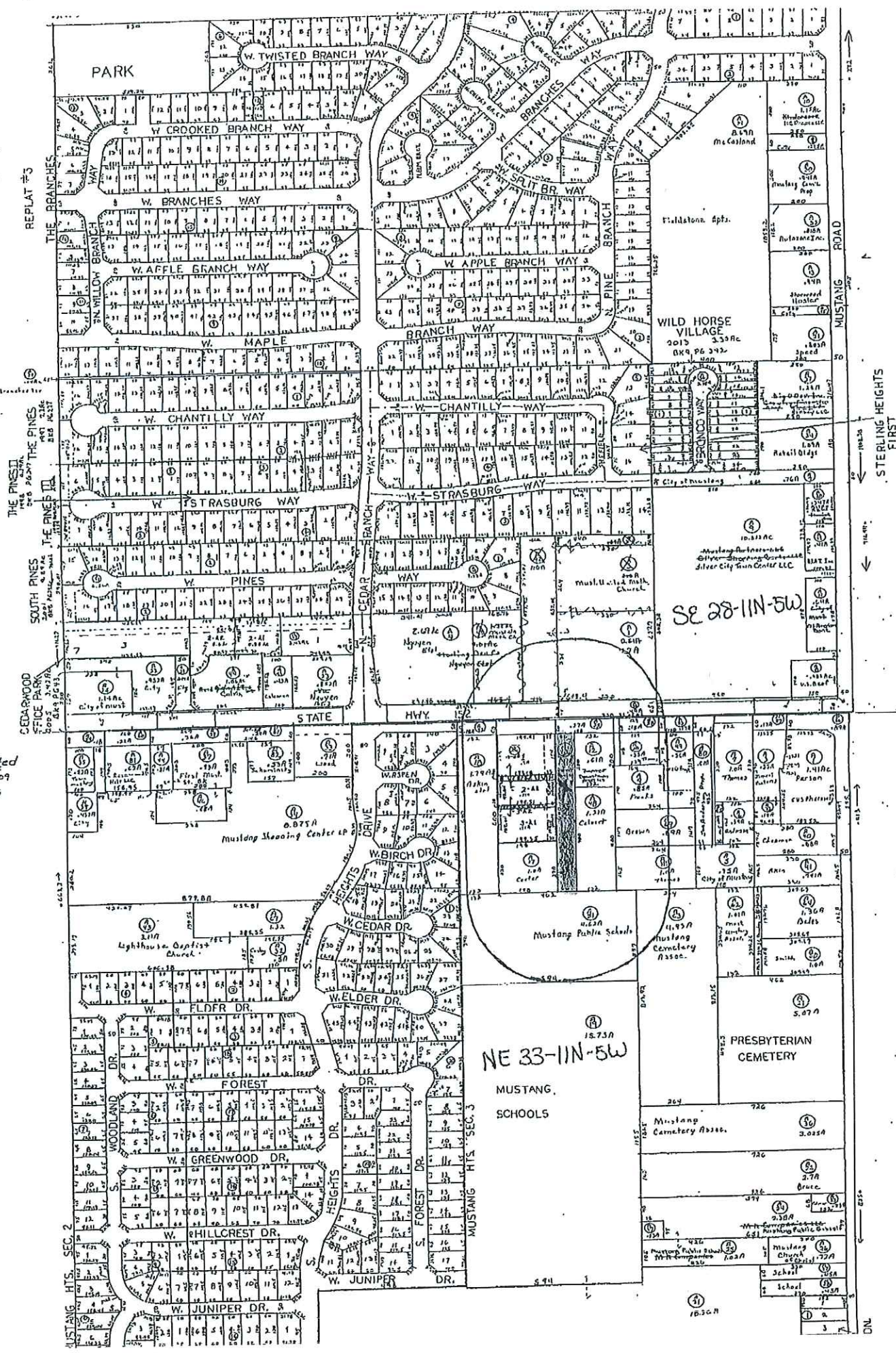
As an interested property owner your comments are invited at the public hearing for or against the request. You may file a written petition and offer oral argument and evidence for or against granting the request.

Please feel free to call the Community Development Department at 376-9873 between 8:30 a.m. and 5:00 p.m. to make inquires about the application.

Respectfully,

Melissa Helsel, AICP
Community Development Director

Updated
4-2-09
11-20-16



SURFACE OWNERSHIP LIST

ORDER NO. 2376787

DATE PREPARED: January 15, 2019
EFFECTIVE DATE: January 7, 2019

OWNER	LOT	BLK	ADDITION OR STR
Judy Padgett 9005 Frances Ln. Mustang, OK 73064			Pt. NE/4 33-11N-5W (A-13 on map) Subject Property
Rodney Faron Franks. 224 ½ W. Highway 152 Mustang, OK 73064			Pt. NE/4 33-11N-5W (A-9 on map)
Randy Thomas 126 W. Highway 152 Mustang, OK 73064			Pt. NE/4 33-11N-5W (A-10 on map)
Everett Randel Thomas 126 W. Highway 152 Mustang, OK 73064			Pt. NE/4 33-11N-5W (A-11 on map)
Downtown Property, LLC P.O. Box 76499 Oklahoma City, OK 73147			Pt. NE/4 33-11N-5W (A-12 on map)
Michael Carter and J. Carter 310 W. Highway 152 Mustang, OK 73064			Pt. NE/4 33-11N-5W (A-17 on map)
Jerome J Askin & Constance C Jennings P.O. Box 147 Cape Canaveral, FL 32920			Pt. NE/4 33-11N-5W (A-18 on map)
David L Morris & Robin M Morris Mustang Alignment 224 ½ W. Highway 152 Mustang, OK 73064			Pt. NE/4 33-11N-5W (A-48 on map)
NJD Properties, LLC 1907 E. Willow Creek Ter. Mustang, OK 73064			Pt. NE/4 33-11N-5W (A-49 on map)
Mustang Public Schools 906 S. Heights Dr. Mustang, OK 73064			Pt. NE/4 33-11N-5W (A-51 on map)
Mustang Cemetery Association C/O Kenneth Bales Route 1 Box 122 Mustang, OK 73064			Pt. NE/4 33-11N-5W (A-63 on map)
Jeffrey D. Burrage, Jr. & Joann M Burrage 200 S. Burks Dr. Mustang, OK 73064			Pt. NE/4 33-11N-5W (A-69 on map)
State of Oklahoma Dept. Transportation/Off Land Acquisition 200 NE 21 st St. Oklahoma City, OK 73105			Pt. NE/4 33-11N-5W (A-52, A-53, A-55, A-58 on map) & Pt. SE/4 28-11N-5W (A-25, A-27, A-28 on map)

Little Caesars #28 Magnum Foods, Inc. 7205 N. Robinson Ave. Oklahoma City, OK 73116	1	1	WINCHESTER COMMERCIAL ADDITION
DSK, LLC 2809 SW 128 St. Oklahoma City, OK 73170	1-3	1	WINCHESTER COMMERCIAL ADDITION
Silver City Town Center, LLC C/O Fields Investments 22736 Vanowen St. Suite 100-B West Hills, CA 91307			Pt. SE/4 28-11N-5W (A-9 on map)
Mustang United Methodist Church P.O. Box 180 Mustang, OK 73064			Pt. SE/4 28-11N-5W (A-1 on map)
Johnny Nguyen & Nhung Pam & Doanloan Pham & Nha Hoa Truong 10504 S. Linn Ave. Oklahoma City, OK 73170			Pt. SE/4 28-11N-5W (A-4 on map)
City of Oklahoma City Office of the City Clerk 208 Municipal Building Oklahoma City, OK 73102			Streets and Easements in subject area not set out above.

OLD REPUBLIC TITLE
4040 N. TULSA
Oklahoma City, OK 73112



WARRANTY DEED
(STATUTORY FORM - INDIVIDUAL)

Doc#: R 2016 9003
Bk&Pg: RB 4404 0328-0328 1E
Filed: 04/20/2016 TMM
03:06:51 PM WD
Canadian County, OK

State of Oklahoma
Canadian County
Documentary Stamps
\$99.75

KNOW ALL MEN BY THESE PRESENTS:

That JIMMY JACK HERRING JR, a single person, party(IES) of the first part, in consideration of the sum of ~~TEN AND NO/100~~ dollars, and other valuable considerations, in hand paid, the receipt of which is hereby acknowledged, do(ES) hereby grant, bargain, sell and convey unto JUDY PADGETT, a single person, party(IES) of the second part, the following described real property and premises situated in Canadian County, State of Oklahoma, to-wit:

A tract of land beginning at a point Fifty-Six (56) Rods West of the Northeast Corner of the Northeast Quarter (NE/4) of Section THIRTY-THREE (33), Township ELEVEN (11) North, Range FIVE (5) West of the Indian Meridian, Canadian County, Oklahoma for the point of beginning; thence West along the Section line 4 rods; thence South 40 rods; thence East 4 rods; thence North 40 rods to the point of beginning; LESS AND EXCEPT a strip piece or parcel of land lying on part of the NE/4 of Section 33, Township 11 North, Range 5 West. Said parcel of land being described by metes and bounds as follows: Beginning at a point on the North line of said NE/4, 924.00 feet West of the NE Corner of said NE/4; thence West along said North line a distance of 66.00 feet; thence South a distance of 60.00 feet; thence S 89°57'11" E a distance of 66.00 feet; thence North a distance of 60.00 feet to the point of beginning.

LESS AND EXCEPT any interest in and to all of the oil, gas and mineral rights which have been previously conveyed or reserved of record and subject to easements, restrictive covenants and rights of way of record.

RETURN TO:
JUDY PADGETT
9005 S FRANCES LANE
MUSTANG, OK 73064

TAXES TO:
JUDY PADGETT
9005 S FRANCES LANE
MUSTANG, OK 73064

together with all the improvements thereon and the appurtenances thereunto belonging, and warrant the title to the same.

TO HAVE AND TO HOLD said described premises unto the said party(IES) of the second part, her heirs and assigns forever, free, clear and discharged of and from all former grants, charges, taxes, judgments, mortgages and other liens and encumbrances of whatsoever nature.

Signed and delivered this 4th day of April, 2016.

JIMMY JACK HERRING JR

STATE OF OKLAHOMA)
) ss
COUNTY OF CANADIAN)

This instrument was acknowledged before me on this 4th day of April, 2016, by JIMMY JACK HERRING JR, a single person-

Notarial Stamp Or Seal (Or Other Title Or Rank)

Signature Of Notary Public Or Other Official

File # 16184323



CITY OF MUSTANG

AGENDA ITEM COMMENTARY

1. ITEM NO. A-2

2. MEETING DATE: April 2, 2109

3. TITLE: Special Use Permit Application SUP-2-7-19-1-28, 327 W. State Highway 152, Suite 109, Edward Giblin, Tattoo Studio in C-3 PUD, Commercial General Planned Unit Development District.

4. COUNCIL ACTION: Public Hearing, Discussion, and Possible Action Regarding Special Use Permit Application.

5. INITIATOR: Community Development Department

6. BACKGROUND RECOMMENDATION:

Project Description: The applicant requests a special use permit for a Tattoo Shop in a C-3 PUD, Commercial General zoning district. A Tattoo Shop is not a use addressed in our code, so the special use permit is the correct remedy. This property is located at 327 W. State Highway 152 in Victory Plaza.

Notice was sent out to the 300-foot property owners list and no comments were received. This is an existing shopping center with several uses already in place including a liquor store and a restaurant. The applicant would like to rent Suite #109 for his studio.

The applicant is currently a professional tattoo artist at American Ink, a licensed tattoo studio in Oklahoma City. He is state certified and licensed to practice. He is certified in airborne pathogens, basic first aid and CPR. This profession is certified and inspected by the Oklahoma Department of Health.

Public water and sewer are available to this tenant space.

The purpose of a special use permit is to process uses which have not been identified in the zoning code. This use will be reviewed every two years by the City Council.

Character of Neighborhood: The general character of the area is commercial and low density residential.

Zoning and Uses of Property Nearby: The property to the east is zoned C-5, to the north is R-1, Single Family, to the west is zoned C-3 and to the south is R-1 and C-5.

Conformance with Long-Range Plan: The long-range plan calls for commercial retail development in this area, so the request conforms to the comprehensive plan.

Professional Staff Recommendation: Staff recommends approval of the special use permit. No comments have been received against the application. There are currently no tattoo studios in the city limits.

Planning Commission Recommendation: The Mustang Planning Commission voted unanimously to recommend approval of this application at their March 12, 2019 meeting. Please see attached minutes. Please note: These minutes were not yet formally approved by the Mustang Planning Commission.

7. FINANCIAL IMPACT: None

8. STAFF SOURCE: Melissa Helsel, Community Development Director

9. CITY ATTORNEY'S COMMENTS:

10. RESOLUTION/ORDINANCE NO. _____

2. Special Use Permit Application SUP-2-7-19-1-28, Edward A Giblin, 327 W. State Highway 152, Suite 109, C-3 PUD District, Tattoo Studio.

Community Development Director, Melissa Helsel, introduced the request. The applicant requests a special use permit for a Tattoo Shop in a C-3 PUD, Commercial General zoning district. A Tattoo Shop is not a use addressed in our code, so the special use permit is the correct remedy. This property is located at 327 W. State Highway 152 in Victory Plaza. Notice was sent out to the 300-foot property owners list and no comments were received. This is an existing shopping center with several uses already in place including a liquor store and a restaurant. The applicant would like to rent Suite #109 for his studio.

The applicant is currently a professional tattoo artist at American Ink, a licensed tattoo studio in Oklahoma City. He is state certified and licensed to practice. He is certified in blood borne pathogens, basic first aid and CPR. This profession is certified and inspected by the Oklahoma Department of Health. Public water and sewer are available to this tenant space. The purpose of a special use permit is to process uses which have not been identified in the zoning code. This use will be reviewed every two years by the City Council.

Staff recommends approval of the special use permit. No comments have been received against the application. Staff can think of no reason to deny the application. There are currently no tattoo studios in the city limits.

Mr. Bratton opened the public hearing.

Edward Giblin, 2031 E Hill Terrace, the applicant, came forward. He discussed the state requirements for tattoo artist license and the inspections performed by the state.

Mr. Brown asked for the number of booths. Mr. Giblin answered four.

Mr. Brown asked about hours of operation. Mr. Giblin stated the hours would probably be 12-8 pm, the standard for most studios. They would work after hours on a client if it takes longer than normal business hours to complete.

Mr. Waugh asked about apprenticeships. Mr. Giblin explained the process.

Hearing no further comments, **Mr. Bratton** closed the public hearing.

Mr. Hix made a motion to approve the Special Use Permit. **Mr. Russell** seconded the motion.

A roll call vote was taken:

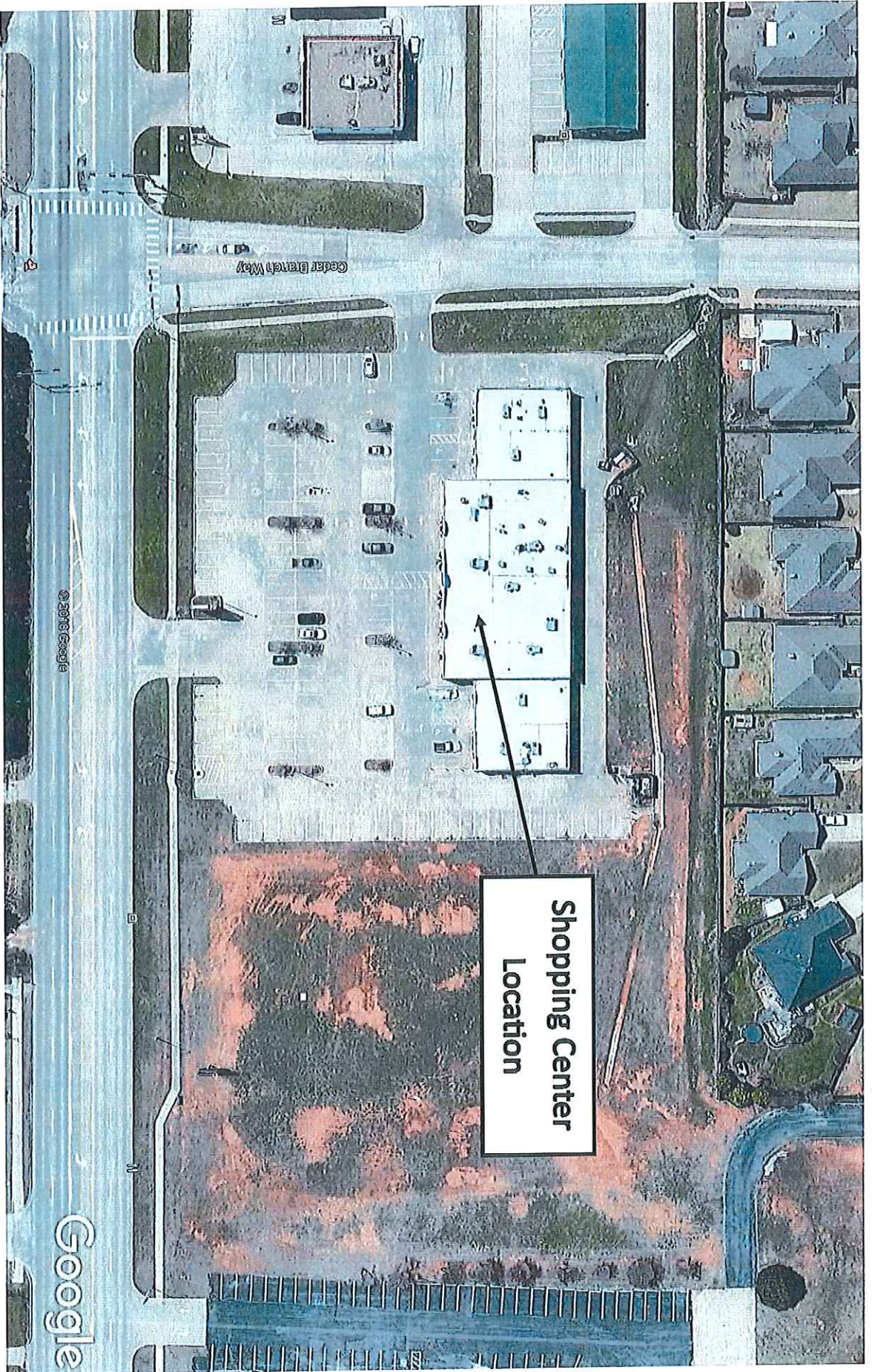
Jay Adams

Yes

James Waugh	Yes
Dan Hix	Yes
Jerry Brown	Yes
David Russell	Yes
Jesse Bratton	Yes

The motion was approved unanimously.

Ms. Helsel informed the audience and applicants that the request would go before City Council on April 2, 2019 for final approval.



PUBLIC HEARING NOTICE OF THE MUSTANG PLANNING COMMISSION

On Tuesday, March 12, 2019, beginning at 7:00 p.m. in the Council Chambers at Mustang City Hall located at 1501 N. Mustang Road, Mustang, OK 73064, a Public Hearing will be conducted on the following:

NOTICE OF SPECIAL USE PERMIT APPLICATION

CURRENTLY ZONED: C-3 PUD, Commercial General Planned Unit Development District
REQUESTED USE: Tattoo Studio
APPLICATION BY: Edward A Giblin
PROPERTY OWNERS: Johnny & Nhung Pham Nguyen & Doanloan Pham & Nha Hoa Truong

ADDRESS OF PROPERTY: 327 W State Highway 152, Suite 109

LEGAL DESCRIPTION OF COMPLETE PROPERTY FOR REZONING:

A PART OF THE SOUTHEAST QUARTER (SE/4) OF SECTION TWENTY-EIGHT (28), TOWNSHIP ELEVEN (11) NORTH, RANGE FIVE (5) WEST OF THE INDIAN MERIDIAN, CITY OF MUSTANG, CANADIAN COUNTY, OKLAHOMA, SAID PART BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SE/4 THENCE SOUTH 89°48'34" WEST ALONG THE SOUTH LINE OF SAID SE/4 A DISTANCE OF 1100.09 FEET AND THENCE NORTH 00°20'57" WEST A DISTANCE OF 63.92 FEET TO A POINT NORTH OF THE NORTH RIGHT-OF-WAY OF S.H. 152 SAID POINT BEING THE POINT OF BEGINNING, THENCE FROM SAID POINT OF BEGINNING SOUTH 89°19'38" WEST A DISTANCE OF 466.28 FEET TO A POINT OF CURVATURE TO THE RIGHT; THENCE ALONG SAID CURVE A DISTANCE OF 45.04 FEET (SAID CURVE HAVING A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 86°01'12" AND A CHORD BEARING OF NORTH 47°10'50" WEST A DISTANCE OF 40.93 FEET) THENCE NORTH 04°09'40" WEST A DISTANCE OF 181.56 FEET, THENCE NORTH 00°11'26" WEST A DISTANCE OF 74.37 FEET TO THE POINT OF CURVATURE TO THE RIGHT; THENCE ALONG SAID CURVE A DISTANCE OF 252.78 FEET (SAID CURVE HAVING A RADIUS OF 3407.61 FEET, A CENTRAL ANGLE OF 04°15'01", A CHORD BEARING OF NORTH 01°56'05" EAST A DISTANCE OF 252.72 FEET), THENCE NORTH 04°03'35" EAST A DISTANCE OF 103.98 FEET; THENCE SOUTH 89°55'27" EAST A DISTANCE OF 489.94 FEET; THENCE SOUTH 00°20'57" EAST A DISTANCE OF 633.45 FEET TO THE POINT OF BEGINNING. LESS AND EXCEPT THE FOLLOWING DESCRIBED TRACT: COMMENCING AT THE SOUTH CORNER OF SAID SE/4, THENCE SOUTH 89°48'34" WEST ALONG THE SOUTH LINE OF SAID SE /4 A DISTANCE OF 1100.09 FEET AND THENCE NORTH 00°20'57" WEST A DISTANCE OF 63.92 FEET TO A POINT NORTH OF THE NORTH RIGHT-OF-WAY OF S.H. 152; THENCE CONTINUING NORTH 00°20'57" WEST A DISTANCE 343.44 FEET TO THE POINT OF BEGINNING; THENCE FROM SAID POINT OF BEGINNING NORTH 89°55'27" WEST A DISTANCE OF 507.17 FEET TO A POINT ON A CURVE TO THE RIGHT; THENCE ALONG SAID CURVE A DISTANCE OF 186.46 FEET (SAID CURVE HAVING RADIUS OF 3407.61 FEET, A CENTRAL ANGLE OF 03°08'06", A CHORD BEARING OF NORTH 02°29'32" EAST A DISTANCE OF 186.43 FEET) THENCE NORTH 04°03'35" EAST A DISTANCE OF 103.98 FEET; THENCE SOUTH 89°55'27" EAST A DISTANCE OF 489.94 FEET; THENCE SOUTH 00°20'57" EAST A DISTANCE OF 290.01 FEET TO THE POINT OF BEGINNING.

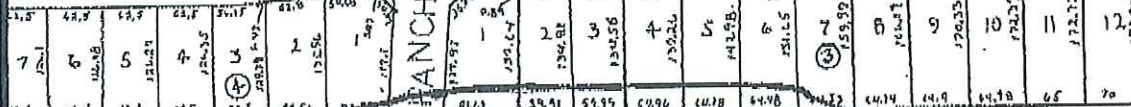
As an interested property owner your comments are invited at the public hearing for or against the request. You may file a written petition and offer oral argument and evidence for or against granting the request.

Please feel free to call the Community Development Department at 376-9873 between 8:30 a.m. and 5:00 p.m. to make inquires about the application.

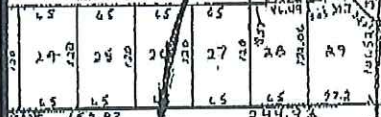
Respectfully,

Melissa Helsel, AICP
Community Development Director

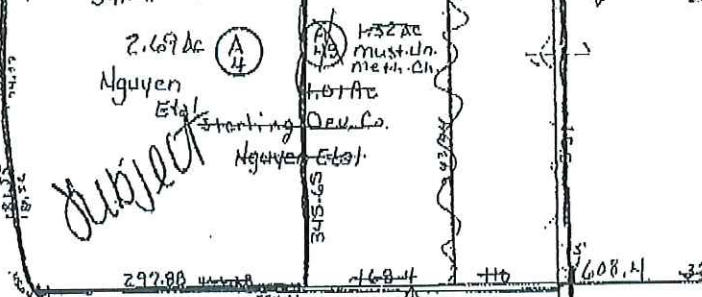
BURG WAY



PINES

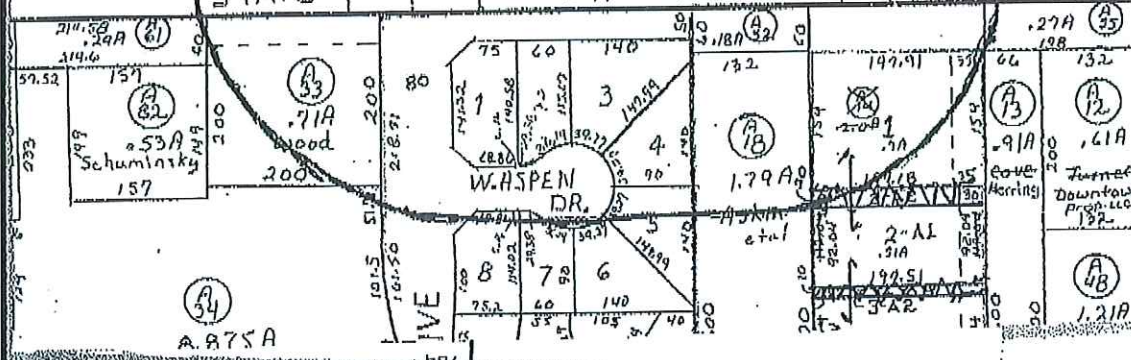


CEDAR



STATE

HWY. 152



ABTRACTOR'S SPECIAL CERTIFICATE

STATE OF OKLAHOMA)
) ss.
COUNTY OF CANADIAN)

OLD REPUBLIC TITLE COMPANY OF OKLAHOMA, a corporation and bonded abstractor, hereby certifies:

That the following is a list of all owners of record as shown by the current year tax rolls in the office of the County Treasurer of Canadian County, Oklahoma, to the lands surrounding and within 300 feet of:

A PART OF THE SOUTHEAST QUARTER (SE/4) OF SECTION TWENTY-EIGHT (28), TOWNSHIP ELEVEN (11) NORTH, RANGE FIVE (5) WEST OF THE INDIAN MERIDIAN, CITY OF MUSTANG, CANADIAN COUNTY, OKLAHOMA, SAID PART BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHEAST CORNER OF SAID SE/4 THENCE SOUTH 89°48'34" WEST ALONG THE SOUTH LINE OF SAID SE/4 A DISTANCE OF 1100.09 FEET AND THENCE NORTH 00°20'57" WEST A DISTANCE OF 63.92 FEET TO A POINT NORTH OF THE NORTH RIGHT-OF-WAY OF S.H. 152 SAID POINT BEING THE POINT OF BEGINNING, THENCE FROM SAID POINT OF BEGINNING SOUTH 89°19'38" WEST A DISTANCE OF 466.28 FEET TO A POINT OF CURVATURE TO THE RIGHT; THENCE ALONG SAID CURVE A DISTANCE OF 45.04 FEET (SAID CURVE HAVING A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 86°01'12" AND A CHORD BEARING OF NORTH 47°10'50" WEST A DISTANCE OF 40.93 FEET) THENCE NORTH 04°09'40" WEST A DISTANCE OF 181.56 FEET, THENCE NORTH 00°11'26" WEST A DISTANCE OF 74.37 FEET TO THE POINT OF CURVATURE TO THE RIGHT; THENCE ALONG SAID CURVE A DISTANCE OF 252.78 FEET (SAID CURVE HAVING A RADIUS OF 3407.61 FEET, A CENTRAL ANGLE OF 04°15'01", A CHORD BEARING OF NORTH 01°56'05" EAST A DISTANCE OF 252.72 FEET), THENCE NORTH 04°03'35" EAST A DISTANCE OF 103.98 FEET; THENCE SOUTH 89°55'27" EAST A DISTANCE OF 489.94 FEET; THENCE SOUTH 00°20'57" EAST A DISTANCE OF 633.45 FEET TO THE POINT OF BEGINNING. LESS AND EXCEPT THE FOLLOWING DESCRIBED TRACT: COMMENCING AT THE SOUTH CORNER OF SAID SE/4, THENCE SOUTH 89°48'34" WEST ALONG THE SOUTH LINE OF SAID SE/4 A DISTANCE OF 1100.09 FEET AND THENCE NORTH 00°20'57" WEST A DISTANCE OF 63.92 FEET TO A POINT NORTH OF THE NORTH RIGHT-OF-WAY OF S.H. 152; THENCE CONTINUING NORTH 00°20'57" WEST A DISTANCE 343.44 FEET TO THE POINT OF BEGINNING; THENCE FROM SAID POINT OF BEGINNING NORTH 89°55'27" WEST A DISTANCE OF 507.17 FEET TO A POINT ON A CURVE TO THE RIGHT; THENCE ALONG SAID CURVE A DISTANCE OF 186.46 FEET (SAID CURVE HAVING RADIUS OF 3407.61 FEET, A CENTRAL ANGLE OF 03°08'06", A CHORD BEARING OF NORTH 02°29'32" EAST A DISTANCE OF 186.43 FEET) THENCE NORTH 04°03'35" EAST A DISTANCE OF 103.98 FEET; THENCE SOUTH 89°55'27" EAST A DISTANCE OF 489.94 FEET; THENCE SOUTH 00°20'57" EAST A DISTANCE OF 290.01 FEET TO THE POINT OF BEGINNING.
TAX ID: 6391

OWNER OF RECORD: JOHNNY & NHUNG PHAM NGUYEN &
 DOANLOAN PHAM & NHA HOA TRUONG
 10504 S LINN AVE
 OKLAHOMA CITY, OK 73170

That the addresses that are listed have been taken from the Treasurer's records of Canadian County, Oklahoma.

GRANTEE & ADDRESS & LEGAL DESCRIPTION:

MUSTANG UNITED METHODIST CHURCH
P.O. BOX 180
MUSTANG, OK 73064
A#1 SE 28-11N-5W

BEVERLY ANN COLEMAN
11729 SW 24TH TERRACE
YUKON, OK 73099
A#43 SE 28-11N-5W

THIEN AN LLC
1516 NORTH PENN
OKLAHOMA CITY, OK 73107
A#23 SE 28-11N-5W

TERRY WOOD
400 WEST HIGHWAY 152
MUSTANG, OK 73064
A#33 33-11N-5W

MUSTANG SHOPPING CENTER LP
82 ARMSTRONG DRIVE
MUSTANG, OK 73064
A#34 NE 33-11N-5W

STATE OF OKLAHOMA
DEPARTMENT TRANS/OFF LAND ACQUISIT
200 NE 21ST STREET
OKLAHOMA CITY, OK 73105
A#52 NE 33-11N-5W
A#61 NE-33-11N-5W
A#55 NE 33-11N-5W

JEROME J. ASKIN & CONSTANCE JENNINGS
P.O. BOX 147
CAPE CANAVERAL, FL 32920
A#18 NE 33-11N-5W

JUDY PADGETT
9005 FRANCES LANE
MUSTANG, OK 73064
A#13 33-11N-5W

ARC HOLDINGS LLC
6316 NORTH MERIDIAN AVE
OKLAHOMA CITY, OK 73112
CLEARWOOD OFFICE PARK LOT 1

KEVING & JAMIE WHITMAN FAMILY TRUST
%KEVIN & JAMIE WHITEMAN, CO-TRU
10201 FAWN TRIAN ROAD
MUSTANG, OK 73064
CEDARWOOD OFFICE PARK LOT 2-A1

WADE MANFORD JR. & CONNIE FAY REED
110 SOUTH HEIGHTS DRIVE
MUSTANG, OK 73064
MUSTANG HEIGHTS LOT 1 BLOCK 1

PETE & PAULINE O'NEAL TRUSTEES
PETE & PAULINE O'NEAL 2016 FAMILY TRUST
337 W ASPEN DRIVE
MUSTANG, OK 73064

JANICE M. BENNIE D. MORRIS
331 WEST ASPEN DRIVE
MUSTANG, OK 73064
MUSTANG HEIGHTS LOT 4 BLOCK 1

SUSANNA L. MCCLUNG
508 COTTONWOOD DRIVE
TUTTLE, OK 73089
MUSTANG HEIGHTS S1' & 2" LOT 4 ALL 5

TOBY D. & TOMME M. THOMPSON
901 WEST SW 89TH
MUSTANG, OK 73064
MUSTANG HEIGHTS LOT 6 BLOCK 1

GLENN E. JR & TERRY LYNN SPECK
338 W. ASPEN
MUSTANG, OK 73064
MUSTANG HEIGHTS LOT 7 BLOCK 1

HAROLD JR. & SONYA O. KEY TRUSTEES
KEY FAMILY REVOCABLE LIVING TRUST 11-30-05
P.O. BOX 66
MUSTANG, OK 73064
MUSTANG HEIGHTS LOT 8 BLOCK 1

DSKS LLC
2809 SW 128TH STREET
OKLAHOMA CITY, OK 73170
WINCHESTER COMMERCIAL ADDITION LOTS 1-3 BLOCK 1

MIKE WALLACE
310 W. PINES WAY
MUSTANG, OK 73064
SOUTH PINES LOT 15 BLOCK 1

SCOTT ELLIS KESLER
302 W. PINES WAY
MUSTANG, OK 73064
SOUTH PINES LOT 13 BLOCK 1

SCOTT A. & VICKIE EASTON
246 W. PINES WAY
MUSTANG, OK 73064
SOUTH PINES LOT 12 BLOCK 1

HIGHLAND PROPERTIES
P.O. BOX 432
MUSTANG, OK 73064
SOUTH PINES LOT 11 BLOCK 1

DANIEL S. URIAS
448 FOX HILLS DRIVE N APT 8
BLOOMFIELD HILLS, MI 48304
SOUTH PINES LOT 10 BLOCK 1

BRYANT J. LANGERMAN IRREVOCABLE TRUST
234 W. PINES WAY
MUSTANG, OK 73064
SOUTH PINES LOT 9 BLOCK 1

JENNIFER MARZOLF
1034 COUNTY ST 2971
BLANCHARD, OK 73010

SOUTH PINES LOT 7 BLOCK 1

JOHN P. BOHLEN
237 W PINES WAY
MUSTANG, OK 73064
SOUTH PINES LOT 6 BLOCK 1

JERRY M. RANDALL
241 W PINES WAY
MUSTANG, OK 73064
SOUTH PINES LOT 5 BLOCK 1

MICHAEL WAYNE & DIANE ROW CO-TRUSTEES
MICHAEL & DIANE ROWE REVOCABLE LIVING TRUST
245 W PINES WAY
MUSTANG, OK 73064
SOUTH PINES LOT 4 BLOCK 1

KIRK DOUGLAS FISHER
301 W PINES WAY
MUSTANG, OK 73064
SOUTH PINES LOT 3 BLOCK 1

JOSEPH & YLENE PEEBLES
305 W PINES WAY
MUSTANG, OK 73064
SOUTH PINES LOT 2 BLOCK 1

MARVIN MASON JR.
309 W PINES WAY
MUSTANG, OK 73064
SOUTH PINES LOT 1 BLOCK 1

R. SAM & CINDY K. GROVES
325 W PINES WAY
MUSTANG, OK 73064
SOUTH PINES LOT 1 BLOCK 2

SUSAN K. VOIT
329 W PINES WAY
MUSTANG, OK 73064
SOUTH PINES LOT 2 BLOCK 2

JUSTIN & TIFFANY M. EASLEY
333 W PINES WAY
MUSTANG, OK 73064
SOUTH PINES LOT 3 BLOCK 2

TIMOTHY A. HOLLAND
337 W PINES WAY
MUSTANG, OK 73064
SOUTH PINES LOT 4 BLOCK 2

GERALD L. & MARCIA L. SHOTTENKIRK
332 W PINES WAY
MUSTANG, OK 73064
SOUTH PINES LOT 26 BLOCK 2

JUSTIN L. MIZE

328 W PINES WAY
MUSTANG, OK 73064
SOUTH PINES LOT 27 BLOCK 2

ODILIA R. & THOMAS D. TAYLOR JR TRUSTEES
ODILIA R. TAYLOR LIVING TRUST
324 W. PINES WAY
MUSTANG, OK 73064
SOUTH PINES LOT 28 BLOCK 2

LORIS D. & MARY ANN JOHNSON
320 W. PINES WAY
MUSTANG, OK 73064
SOUTH PINES LOT 29 BLOCK 2

MELISSA PHILLIPS
320 W. STRASBURG WAY
MUSTANG, OK 73064
THE PINES II LOT 1 BLOCK 4

ADRIANNA D. GOULD
324 W STRASBURG WAY
MUSTANG, OK 73064
THE PINES II LOT 2 BLOCK 4

PAT RODGERS SUCC-TR OF JOSEPH
PERRY & PATRICIA RODGERS LIVING TRUST
310 W. STRASBURG WAY
MUSTANG, OK 73064
STERLING HEIGHTS 1ST LOT 1 BLOCK 3

BILLY DEAN & GLENDA ANN HANEY
306 W. STRASBURG WAY
MUSTANG, OK 73064
STERLING HEIGHTS 1ST LOT 2 BLOCK 3

TIMOTHY A. & JENNA K. SAVAGE
302 W STRASBURG WAY
MUSTANG, OK 73064
STERLING HEIGHTS 1ST LOT 3 BLOCK 3

MARION J. & CATHY E. ZACHARIAS
246 W. STRASBURG WAY
MUSTANG, OK 73064
STERLING HEIGHTS LOT 4 BLOCK 3

MARC A. HAWKINS
242 W STRASBURG WAY
MUSTANG, OK 73064
STERLING HEIGHTS LOT 5 BLOCK 3

CLYDE A. & BARBARA A. PRUITT
238 W. STRASBURG WAY
MUSTANG, OK 73064
STERLING HEIGHTS 1ST LOT 6 BLOCK 3

PAUL W. & MARY A. HIGGINS TRUSTEES
HIGGINS FAMILY TRUST 4-19-2000
1250 S BLUE HAVEN DRIVE

MUSTANG, OK 73064
STERLING HEIGHTS 1ST LOT 7 BLOCK 3

ROBERT & TIFFANY DARATA
230 W STRASBURG WAY
MUSTANG, OK 73064
STERLING HEIGHTS 1ST LOT 8 BLOCK 3

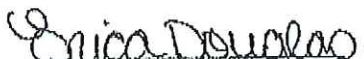
KATHERINE BROWN
230 W. PINES
MUSTANG, OK 73064
SOUTH PINES LOT 8 BLOCK 1

CAROL MECK
306 WEST PINES WAY
MUSTANG, OK 73064
SOUTH PINES LOT 14 BLOCK 1

Due care and diligence have been exercised in preparing this report; however, no liability is assumed for the correctness or completeness of information furnished.

DATED: January 25, 2019 at 7:30 AM

OLD REPUBLIC TITLE COMPANY OF OKLAHOMA
Bonded Abstractor


Erica Douglas, License #4862

COMPLETED: February 1, 2019

Order No. 19223402

CITY OF MUSTANG

AGENDA ITEM COMMENTARY

1. ITEM NO. H-3

2. MEETING DATE: April 2, 2019

3. TITLE: Preliminary Plat Application PP-2-5-19-1-36, Curtis Brewer, Brewer and Brown Addition, Northeast Quarter, Section 36, 9.7 acres approx., 2 lots.

4. COUNCIL ACTION: Discussion, Consideration and Possible Action to Approve or Deny Preliminary Plat

5. INITIATOR: Community Development Department

6. **Project Description:** The applicant, Curtis Brewer of 2212 E Pleasantview Drive, has submitted a **Preliminary Plat** for Brewer and Brown Addition. This area is zoned R-E, Rural Estates District and R-MH-2 Mobile Home Park District and contains approximately 9.7 total acres. The purpose of this preliminary plat is to transfer one acre of land from Mr. Doyle Brown's property to Mr. Curtis Brewer, who will add this acre onto his existing lot at 2212 E Pleasantview Drive.

Both lots more than meet the minimum size and setback requirements for R-E districts.

There is an existing mobile home park on Mr. Brewer's property, as well as his personal residence. Mr. Brown offered Mr. Brewer an acre of land, and platting was the most efficient way of accomplishing this. Both parties have agreed to the transaction. There are no plans at this time to build any structures on this acre that is being transferred. The acre of land to be transferred will continue to be zoned R-E at this time.

The city attorney and staff have reviewed this plat for form, and have approved it.

Character of Neighborhood: This is an area of residential development with R-E development surrounding the area.

Zoning and Uses of Property Nearby: Property to the north, east and west is zoned R-E, and to the south is Agriculturally zoned property.

Conformance with Long-Range Plan: The long-range plan calls for low density residential development in this area, therefore this development conforms to the comprehensive plan.

Utilities and Services: Public water is available to these properties, but public sewer is not. Pleasantview Lane is a public street.

Professional Staff Recommendation: Staff recommends approval. This is the most efficient way to transfer the acre of land that is land-locked.

Planning Commission Findings: The Mustang Planning Commission voted unanimously to recommend approval of this final plat at their March 12, 2019 meeting. Please see attached minutes. Note: These minutes have not yet been formally approved by the Planning Commission.

7. FINANCIAL IMPACT: None

8. STAFF COMMENTS: None

9. STAFF SOURCE: Melissa Helsel, Community Development Director

10. CITY ATTORNEY'S COMMENTS:

11. RESOLUTION/ORDINANCE NO. _____

4. Preliminary Plat PP-2-5-19-1-36, Curtis Brewer, Brewer and Brown Addition, NE/4, Section 36, 9.7 acres approx., 2 lots.

Community Development Director, Melissa Helsel, introduced the request. The applicant, Curtis Brewer of 2212 E Pleasantview Drive, has submitted a Preliminary Plat for Brewer and Brown Addition. This area is zoned R-E, Rural Estates District and R-MH-2 Mobile Home Park District and contains approximately 9.7 total acres. The purpose of this preliminary plat is to transfer one acre of land from Mr. Doyle Brown's property to Mr. Curtis Brewer, who will add this acre onto his existing lot at 2212 E Pleasantview Drive. Both lots more than meet the minimum size and setback requirements for R-E districts. There is an existing mobile home park on Mr. Brewer's property, as well as his personal residence. Mr. Brown offered Mr. Brewer an acre of land, and platting was the most efficient way of accomplishing this. Both parties have agreed to the transaction. There are no plans at this time to build any structures on this acre that is being transferred. The acre of land to be transferred will continue to be zoned R-E at this time.

The city attorney and staff have reviewed this plat for form, and have approved it. Staff recommends approval. This is the most efficient way to transfer the acre of land that is land-locked.

Mr. Bratton opened the public hearing. Hearing no comments, **Mr. Bratton** closed the public hearing.

Mr. Adams made a motion to approve the Preliminary Plat. **Mr. Waugh** seconded the motion.

A roll call vote was taken:

Jay Adams	Yes
James Waugh	Yes
Dan Hix	Yes
Jerry Brown	Yes
David Russell	Yes
Jesse Bratton	Yes

The motion was approved unanimously.



CITY OF MUSTANG

AGENDA ITEM COMMENTARY

1. ITEM NO. 14-4

2. MEETING DATE: April 2, 2019

3. TITLE: Final Plat Application FP-2-5-19-1-36, Curtis Brewer, Brewer and Brown Addition, Northeast Quarter, Section 36, 9.7 acres approx., 2 lots.

4. COUNCIL ACTION: Discussion, Consideration and Possible Action to Approve or Deny Final Plat

5. INITIATOR: Community Development Department

6. **Project Description:** The applicant, Curtis Brewer of 2212 E Pleasantview Drive, has submitted a **Final Plat** for Brewer and Brown Addition. This area is zoned R-E, Rural Estates District and R-MH-2 Mobile Home Park District and contains approximately 9.7 total acres. The purpose of this preliminary plat is to transfer one acre of land from Mr. Doyle Brown's property to Mr. Curtis Brewer, who will add this acre onto his existing lot at 2212 E Pleasantview Drive.

Both lots more than meet the minimum size and setback requirements for R-E districts.

There is an existing mobile home park on Mr. Brewer's property, as well as his personal residence. Mr. Brown offered Mr. Brewer an acre of land, and platting was the most efficient way of accomplishing this. Both parties have agreed to the transaction. There are no plans at this time to build any structures on this acre that is being transferred. The acre of land to be transferred will continue to be zoned R-E at this time.

The city attorney and staff have reviewed this plat for form, and have approved it.

Character of Neighborhood: This is an area of residential development with R-E development surrounding the area.

Zoning and Uses of Property Nearby: Property to the north, east and west is zoned R-E, and to the south is Agriculturally zoned property.

Conformance with Long-Range Plan: The long-range plan calls for low density residential development in this area, therefore this development conforms to the comprehensive plan.

Utilities and Services: Public water is available to these properties, but public sewer is not. Pleasantview Lane is a public street.

Professional Staff Recommendation: Staff recommends approval. This is the most efficient way to transfer the acre of land that is land-locked.

Planning Commission Findings: The Mustang Planning Commission voted unanimously to recommend approval of this final plat at their March 12, 2019 meeting. Please see attached minutes. Note: These minutes have not yet been formally approved by the Planning Commission.

7. FINANCIAL IMPACT: None

8. STAFF COMMENTS: None

9. STAFF SOURCE: Melissa Helsel, Community Development Director

10. CITY ATTORNEY'S COMMENTS:

11. RESOLUTION/ORDINANCE NO. _____

5. Final Plat FP-2-5-19-1-36, Curtis Brewer, Brewer and Brown Addition, NE/4, Section 36, 9.7 acres approx., 2 lots.

Ms. Helsel stated this was the final plat for the same property and recommended approval.

Mr. Bratton opened the public hearing. Hearing no comments, **Mr. Bratton** closed the public hearing.

Mr. Adams made a motion to approve the Preliminary Plat. **Mr. Waugh** seconded the motion.

A roll call vote was taken:

Jay Adams	Yes
James Waugh	Yes
Dan Hix	Yes
Jerry Brown	Yes
David Russell	Yes
Jesse Bratton	Yes

The motion was approved unanimously.



CITY OF MUSTANG

AGENDA ITEM COMMENTARY

1. ITEM NO. H-5

2. MEETING DATE: April 2, 2019

3. TITLE: Final Plat Application FP-10-16-18-1-25, Premium Land, LLC, Prairie Hills Phase 2, Section 1, NE/4 Section 25, 29.5 acres approx., 108 lots.

4. COUNCIL ACTION: Discussion, Consideration and Possible Action to Approve or Deny Final Plat

5. INITIATOR: Community Development Department

6. **Project Description:** The applicants, Taber Le Blanc and Zach Holland of Premium Land, LLC have submitted a **Final Plat** for Prairie Hills Estates Addition, Phase 2, Section 1. This plat is located near the corner of County Line Road and SW 59th Street, just south of the existing Prairie Hills Estates Addition. This area is zoned R-1, Single Family Residential, and contains approximately 29.5 acres. There are 108 lots in this final plat.

All lots meet the minimum size and setback requirements for R-1 districts. All setbacks, easements and frontage requirements have been met. There will be public water, sewer and streets extended throughout the development. The city engineer has reviewed the water, sewer and paving/drainage reports and has approved them.

The Fire Marshal has reviewed the water plans and suggested several changes. These changes have been made.

The city attorney and staff have reviewed this plat for form, and have approved it.

Character of Neighborhood: This is an area of residential development with R-1 and R-E development surrounding the area.

Zoning and Uses of Property Nearby: Property to the north, east and west is zoned R-1, and to the south is R-E zoned property.

Conformance with Long-Range Plan: The long-range plan calls for low density residential development in this area, therefore this development conforms to the comprehensive plan.

Utilities and Services: Public water and sewer is available to these properties. All streets will be public.

Professional Staff Recommendation: Staff recommends approval. The city engineer, city attorney, fire marshal and city staff have reviewed the plat and find that it meets city code requirements.

Planning Commission Findings: The Mustang Planning Commission voted unanimously to recommend approval of this final plat at their March 12, 2019 meeting. Please see attached minutes. Note: These minutes have not yet been formally approved by the Planning Commission.

7. FINANCIAL IMPACT: None

8. STAFF COMMENTS: None

9. STAFF SOURCE: Melissa Helsel, Community Development Director

10. CITY ATTORNEY'S COMMENTS:

11. RESOLUTION/ORDINANCE NO. _____

3. Final Plat FP-10-16-18-1-25, Premium Land, LLC, Prairie Hills Phase 2, Section 1, NE/4, Section 25, 29.5 acres approx., 108 lots.

Community Development Director, Melissa Helsel, introduced the request. The applicants, Taber Le Blanc and Zach Holland of Premium Land, LLC have submitted a Final Plat for Prairie Hills Estates Addition, Phase 2, Section 1. This plat is located near the corner of County Line Road and SW 59th Street, just south of the existing Prairie Hills Estates Addition. This area is zoned R-1, Single Family Residential, and contains approximately 29.5 acres. There are 108 lots in this final plat. All lots meet the minimum size and setback requirements for R-1 districts. All setbacks, easements and frontage requirements have been met. There will be public water, sewer and streets extended throughout the development.

Staff recommends approval. The city engineer, city attorney, fire marshal and city staff have reviewed the plat and find that it meets city code requirements. The city attorney requested two changes, the developer has agreed and the changes will be made before City Council.

Mr. Brown asked what changes were required. **Mr. Miller** stated language in the ownership section and owner acceptance was added.

Mr. Bratton opened the public hearing.

Kendall Dillon, 300 Pointe Parkway Blvd, came forward on behalf of the applicant. He stated they could not make the changes in time for the Planning Commission meeting but it would be done before City Council.

Mr. Miller added that the applicant worked well with staff in making requested changes.

Hearing no further comments, **Mr. Bratton** closed the public hearing.

Mr. Russell made a motion to approve the Final Plat with the changes requested by the city attorney. **Mr. Brown** seconded the motion.

A roll call vote was taken:

Jay Adams	Yes
James Waugh	Yes
Dan Hix	Yes
Jerry Brown	Yes
David Russell	Yes
Jesse Bratton	Yes

The motion was approved unanimously.





February 12, 2019

Melissa Helsel
Community Development Director
City of Mustang
1501 N Mustang Road
Mustang, OK 73064

**RE: Prairie Hills Estates Addition – Phase 2, Section 1
Mustang, Oklahoma**

Dear Ms. Helsel:

CGE has completed its review of the revised Construction Plans and Reports for the subject residential development project dated 01/18/19. The final subject plans and calculations will be submitted by Crafton Tull to your attention.

Please accept this letter as a formal recommendation of approval of the Construction Plans for the Prairie Hills Estates Addition – Phase 2, Section 1 development per the City of Mustang's Regulations and Ordinances.

Thanks for your attention and should you have any questions please contact the undersigned.

Sincerely,

Cowan Group Engineering, LLC

A handwritten signature in blue ink, appearing to read 'Sean Fairbairn', is written over a light blue horizontal line.

Sean Fairbairn, P.E., CFM

SKF/skf

Cc: Douglas Allan Hartwig, P.E. – Engineer of Record – Crafton Tull
Michael Taylor, P.E. – Cowan Group Engineering, LLC

CITY OF MUSTANG

AGENDA ITEM COMMENTARY

1. ITEM NO. H-6

2. MEETING DATE: April 2, 2019

3. TITLE: WATER POLICY UPDATE

4. COUNCIL ACTION: Approve/Deny Policy Update

5. INITIATOR: Community Development Department

6. PROJECT DESCRIPTION:

The Water Policy that was drafted by the Fire Department, Community Development and Public Works in 2003 is out of date. There have been changes made to equipment regulations, distances required, and protocol for subdivision development.

Fire, Public Works and Community Development have worked together over the past few months to develop a new comprehensive water policy for the City of Mustang.

Several regulations have changed:

- 1) Fire Department requests certain fire lane widths to be able to reach buildings with different heights.
- 2) Fire equipment design and water line technology has changed; the new policy addresses these changes.
- 3) New building codes have been adopted, and that is reflected.
- 4) Public Works, over the years, has developed policies that make the water system in the city easier to repair, while affecting the smallest number of users.
- 5) Community Development has adopted certain policies to make the subdivision development process run more smoothly with regard to water utilities.

7. FINANCIAL IMPACT: None.

8. STAFF COMMENTS: Staff recommends approval of this multi-departmental effort.

9. STAFF SOURCE: Melissa Helsel, Community Development Director

10. CITY ATTORNEY'S COMMENTS:

11. RESOLUTION/ORDINANCE NO. _____

WATER SYSTEM POLICY

FOR THE CITY OF MUSTANG

FIRE HYDRANTS

1. There shall be a maximum of one fire hydrant on a dead-end 6-inch line.
2. There shall be a maximum of three fire hydrants on a looped 6-inch line.
3. There shall be a maximum of three fire hydrants on a dead-end 8-inch line.
4. There shall be no limits on the number of fire hydrants on a 12-inch line.
5. Fire hydrants shall not be any closer than 20 feet from a building.
6. Hard surface fire lanes shall be a minimum of 20 feet from a building.
7. Fire lanes shall be a minimum of 20 feet in width for buildings up to 30 feet in height. For buildings higher than 30 feet, the fire lane shall be a minimum of 26 feet in width.
8. Minimum vertical clearance on all buildings shall be 13 feet, 6 inches.
9. Design capacity of 6-inch lines and fire hydrants is 500 GPM.

LINE SIZES

1. Line size shall be a minimum of 12 inches along section line roads.
2. Line size shall be a minimum of 8 inches on quarter section lines.
3. Six inch loops are permitted from 8-inch or 12-inch main lines.
4. Lines on a cul-de-sac shall be a minimum of 6 inches with a 2-inch blow off valve at the end. Fire hydrants shall not be allowed to be used as a blow off valve.
5. Velocity shall be no more than 6 feet per second.
6. Minimum line sizes shall be determined by the required fire flow in accordance with current International Building and Fire Codes.
7. All dead-end lines shall not exceed 600 feet in length. Any proposed water line over 600 feet in length shall be part of a looped system.

HOSE LAY

1. Maximum hose lay shall be 400 feet from fire hydrant to any portion of the structure. Length is based on hose-lay and not radius.

VALVE PLACEMENT

1. Valves shall be placed using a three-valve turnoff system.
2. No more than three valves shall be required to isolate a line.
3. The maximum number of homes that can be isolated at one time shall be 15.

WATER METERS

1. All subdivisions shall be equipped with 1-inch service lines and 1-inch curb stops.
2. Water meters shall not be set until plumbing top-out is approved.
3. All water meters will be set by the City of Mustang approved contractor.
4. Broken water meter cans must be replaced by developer or builder at plumbing top-out and plumbing final inspections.

Adopted for the City of Mustang this ____ day of _____, 2019, as prepared by Mustang Fire Department, Public Works and Community Development.

Melissa Helsel, Director
Community Development Department

CITY OF MUSTANG

AGENDA ITEM COMMENTARY

1. ITEM NO. 11-7

2. MEETING DATE: April 2, 2019

3. TITLE: AN ORDINANCE OF THE CITY OF MUSTANG, OKLAHOMA, AMENDING CHAPTER 118, ARTICLE IV OF THE CODE OF ORDINANCES OF THE CITY OF MUSTANG, OKLAHOMA, BY AMENDING SECTION 118-214 AND SECTION 118-278 TO ESTABLISH FIRE HYDRANT REQUIREMENTS, CLASSIFYING FIRE HYDRANTS BASED ON CAPACITY, REQUIRE POWDER COATING AND COLOR CODING OF FIRE HYDRANTS BY CLASSIFICATION, AND REMOVING DUPLICATIVE PROVISIONS, AND AMENDING SECTION 118-215 TO PROVIDE AN EXCEPTION FOR WATER SYSTEM POLICY REQUIREMENTS; DECLARING REPEALER; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

4. COUNCIL ACTION: Approve/Deny Ordinance

5. INITIATOR: Community Development Department

6. PROJECT DESCRIPTION:

The current ordinance regarding fire hydrant requirement in the municipal code is outdated. Some of those models are no longer available, and equipment descriptions are out of date.

Fire, Public Works and Community Development have worked together over the past few months to develop a new ordinance for Fire Hydrant Requirement for the City of Mustang.

It is important to be specific about the type of fire hydrants we require developers to install within the city limits. This makes it easier and more efficient for the fire department to respond to emergencies. Also, the public works department can keep parts in stock so they can repair fire hydrants quickly.

This ordinance ensures that fire hydrants will be installed correctly, and that they will meet certain specifications

7. FINANCIAL IMPACT: None.

8. STAFF COMMENTS: Staff recommends approval of this ordinance.

9. STAFF SOURCE: Melissa Helsel, Community Development Director

10. CITY ATTORNEY'S COMMENTS:

11. RESOLUTION/ORDINANCE NO. 1184

ORDINANCE 1184

AN ORDINANCE OF THE CITY OF MUSTANG, OKLAHOMA, AMENDING CHAPTER 118, ARTICLE IV OF THE CODE OF ORDINANCES OF THE CITY OF MUSTANG, OKLAHOMA, BY AMENDING SECTION 118-214 AND SECTION 118-278 TO ESTABLISH FIRE HYDRANT REQUIREMENTS, CLASSIFYING FIRE HYDRANTS BASED ON CAPACITY, REQUIRE POWDER COATING AND COLOR CODING OF FIRE HYDRANTS BY CLASSIFICATION, AND REMOVING DUPLICATIVE PROVISIONS, AND AMENDING SECTION 118-215 TO PROVIDE AN EXCEPTION FOR WATER SYSTEM POLICY REQUIREMENTS; DECLARING REPEALER; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSTANG, OKLAHOMA:

SECTION 1. ENACTMENT.

That Chapter 118, Article IV, Section 118-214 of the Code of Ordinances of the City of Mustang, Oklahoma, be and hereby is amended to read as follows:

Sec. 118-214. - Fire hydrants.

(a) All fire hydrants shall be dry-top traffic model design, conforming to the AWWA C-502-80 standard. Hydrants shall be round-valved bell compression type (open against—closed with pressure) with two, 2½-inch nozzles and one 4½-inch steamer nozzle. Nozzle threads shall be national standards. All fire hydrants shall be single barrel for four feet bury and 5¼-inch valve opening, six-inch mechanical joint. All fire hydrant extensions shall be at the contractor's expense. All operating nuts and nozzle cap nuts shall be 1½-inch pentagon. All nozzles shall be equipped with chained caps, provided with gaskets made of suitable plastic or neoprene. O-ring seals and oil sealed ball bearings may be used in place of AWWA packing gland and multiple packing rings. All threads shall be used between the valve and the tee.

(b) Fire hydrants shall be classified in accordance with their rated gallons per minute (gpm) capacities, using data from actual flow testing of the hydrant after installation, as follows:

- (1) Class AA—Rated capacity of 1,500 gpm or greater.
- (2) Class A—Rated capacity of 1,000—1,499 gpm.
- (3) Class B—Rated capacity of 500—999 gpm.
- (4) Class C—Rated capacity of less than 500 gpm.

(c) Fire hydrants shall be powder coated with a color as specified by the fire chief. The tops and nozzle caps shall be painted after installation with the following capacity-indicating color scheme:

- (1) Class AA—Light blue;
- (2) Class A—Green;
- (3) Class B—Orange;
- (4) Class C—Red.

Fire hydrants that are inoperative or unusable shall be marked as "out of service" until the hydrant is either repaired or removed from service.

(d) The back side of the hydrant opposite the pipe shall have concrete blocking. Blocking is to be formed and poured in place. Blocking is to be from hydrant to undisturbed soil. The back side of the tee fitting coming off the main line shall also be blocked. When soil is soft and unstable a clamping device shall be used. Blocking or clamping is to be in accordance with the standard detail drawing.

(e) Around the drain of the hydrant shall be placed not less than five cubic feet of crushed stone or gravel. Backfill around the hydrant shall be firmly tamped to the surface of the ground, to a distance of five feet in front of the hydrant and back of the hydrant to the end of the hydrant, trench excavation.

SECTION 2. ENACTMENT.

That Chapter 118, Article IV, Section 118-278 of the Code of Ordinances of the City of Mustang, Oklahoma, be and hereby is amended to read as follows:

Sec. 118-278. - Fire hydrants.

(a) All fire hydrants shall be Mueller A-423 Super Centurion, American – Darling B-84-B, M and H Styles 129 and Clow Medallion, and shall be of dry-top traffic model design, conforming to the AWWA C-502-80 standard. Hydrants shall be round-valved bell compression type (open against—closed with pressure) with two 2½-inch nozzles and one 4½-inch steamer nozzle. Nozzle threads shall be national standard. All fire hydrants shall be single barrel for four-foot bury and 5¼-inch valve opening, six-inch mechanical joint. All fire hydrant extensions shall be at the contractor's expense. All operating nuts and nozzle cap nuts shall be 1½-inch pentagon. All nozzles shall be equipped with chained caps, provided with gaskets made of suitable plastic or neoprene. O-ring seals and oil sealed ball bearings may be used in place of AWWA packing gland and multiple packing rings.

(b) Fire hydrants shall be painted at the plant with two coats of fire hydrant red paint.

(c) The back side of the hydrant opposite the pipe shall have concrete blocking. Blocking is to be formed and poured in place. Blocking is to be from hydrant to undisturbed soil. The back side of the tee fitting coming off the main line shall also be blocked. When soil is soft

and unstable a clamping device shall be used. Blocking or clamping shall be in accordance with the standard details drawing.

(d) Around the drain of the hydrant shall be placed not less than five cubic feet of crushed stone or gravel. Backfill around the hydrant shall be firmly tamped to the surface of the ground, to a distance of five feet in front of the hydrant and back of the hydrant to the end of the hydrant trench excavation.

SECTION 3. ENACTMENT.

That Chapter 118, Article IV, Section 118-215 of the Code of Ordinances of the City of Mustang, Oklahoma, be and hereby is amended to read as follows:

Sec. 118-215. - Plugging of dead ends.

Plugs shall be inserted into the bells of all dead end fittings. Spigot ends of accessories and fittings and plain ends of plastic pipe shall be capped, except as otherwise provided by the City Water System Policy. A reaction of trust blocking shall be provided at all dead ends of pipe that are capped or plugged.

SECTION 4. REPEALER.

All former ordinances or parts of Ordinances conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION 5. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 6. EMERGENCY.

It being immediately necessary for the preservation of the public health, peace, and safety of the City of Mustang and the inhabitants thereof, an emergency is hereby declared to exist by reason whereof, this ordinance shall be in full force and effect and after its passage and approval, as provided by law.

PASSED AND APPROVED and the Emergency Clause voted upon separately and passed and approved this 5th day of March, 2019.

Mayor

ATTEST:

City Clerk

APPROVED as to form this 5th day of March, 2019.

City Attorney

CITY OF MUSTANG

AGENDA ITEM COMMENTARY

1. ITEM NO. 14-8

2. MEETING DATE: April 2, 2019

3. TITLE: AN ORDINANCE OF THE CITY OF MUSTANG, OKLAHOMA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF MUSTANG BY AMENDING: (1) CHAPTER 42, SECTION 42-102 TO PROVIDE FOR A NOTICE FEE; (2) CHAPTER 102-1(5) TO REFERENCE THE NOTICE FEE; (3) CHAPTER 42, SECTION 42-122 TO PROVIDE FOR A NOTICE FEE; (4) CHAPTER 122, SECTION 122-52(b) TO REFERENCE THE NOTICE FEE; (5) CHAPTER 122, SECTION 122-57(1) TO REFERENCE THE NOTICE FEE; (6) CHAPTER 122, SECTION 122-73(a) TO REFERENCE THE NOTICE FEE; (7) CHAPTER 122, SECTION 122-128 TO PROVIDE FOR SUBMISSION OF AN APPLICATION AND TO REFERENCE THE APPLICATION AND NOTICE FEES; AND (8) CHAPTER 122, SECTION 122-130(2) TO REFERENCE THE NOTICE FEE; DECLARING REPEALER; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

4. COUNCIL ACTION: Approve/Deny Ordinance

5. INITIATOR: Community Development Department

6. PROJECT DESCRIPTION:

Code requires that staff mail out public hearing notices for the following applications:

1. Closing of Public Ways and Easements
2. Rezoning
3. Special Use Permits
4. Conditional Use Permits
5. Variances

Due to increasing costs for postage, staff suggests adding a "postage fee" to these application fees for these types of application.

Recently staff received a "300-foot property ownership list" with more than 250 addresses on it. At current postage rates, that is over \$125.00 in mailing fees.

Staff feels that the city's current application fees for these various types of applications are just enough to cover staff time, newspaper publication and supplies for the public hearings. Postage varies by application, and this creates fair and equitable fees for applicants.

7. FINANCIAL IMPACT: None.

8. STAFF COMMENTS: Staff recommends approval of this ordinance. Many cities do require applicants to pay postage fees for mailings related to their applications. Applicants would pay the city's cost of mailing each letter, which is currently 50 cents. This ordinance will allow that level to vary depending on the current mailing costs.

9. STAFF SOURCE: Melissa Helsel, Community Development Director

10. CITY ATTORNEY'S COMMENTS:

11. RESOLUTION/ORDINANCE NO. 1185

ORDINANCE 1185

AN ORDINANCE OF THE CITY OF MUSTANG, OKLAHOMA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF MUSTANG BY AMENDING: (1) CHAPTER 42, SECTION 42-102 TO PROVIDE FOR A NOTICE FEE; (2) CHAPTER 102-1(5) TO REFERENCE THE NOTICE FEE; (3) CHAPTER 42, SECTION 42-122 TO PROVIDE FOR A NOTICE FEE; (4) CHAPTER 122, SECTION 122-52(b) TO REFERENCE THE NOTICE FEE; (5) CHAPTER 122, SECTION 122-57(1) TO REFERENCE THE NOTICE FEE; (6) CHAPTER 122, SECTION 122-73(a) TO REFERENCE THE NOTICE FEE; (7) CHAPTER 122, SECTION 122-128 TO PROVIDE FOR SUBMISSION OF AN APPLICATION AND TO REFERENCE THE APPLICATION AND NOTICE FEES; AND (8) CHAPTER 122, SECTION 122-130(2) TO REFERENCE THE NOTICE FEE; DECLARING REPEALER; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSTANG, OKLAHOMA:

SECTION 1. ENACTMENT.

That Chapter 42, Section 42-102 of the Code of Ordinances of the City of Mustang, Oklahoma, be and hereby is amended to read as follows:

Sec. 42-102. - Chapter 102: Streets, sidewalks and other public places.

(a) Application for closing street or easement under section 102-1.

(1) The application fee shall be \$75.00.

(2) The notice fee shall be an amount equal to the actual cost of mailing notice in the U.S. Mail using the notice method required in the Code (first class, registered letter, or otherwise) for each property owner who is entitled to receive notice of the proceeding. In the event the application is withdrawn prior to mailing of notices, the notice fee shall be refunded to the applicant.

(b) Reserved.

(c) Sidewalk construction permit. The sidewalk construction permit fee referred to in section 102-153 shall be \$10.00.

SECTION 2. ENACTMENT.

That Chapter 102, Section 102-1(5) of the Code of Ordinances of the City of Mustang, Oklahoma, be and hereby is amended to read as follows:

Sec. 102-1. - Procedure for closing public ways and easements.

The following procedure is established for closing public ways and easements:

- (1-4) [These subsections are unchanged.]
- (5) The applicant shall, at the time of filing the application, pay the application and notice fees as set forth in section 42-102.
- (6) [This subsection is unchanged.]

SECTION 3. ENACTMENT.

That Chapter 42, Section 42-122 of the Code of Ordinances of the City of Mustang, Oklahoma, be and hereby is amended to read as follows:

Sec. 42-122. - Chapter 122: Zoning.

- (a) Application fees.
 - (1) Rezoning petitions and petitions for amendment. The application fee referred to in section 122-52, for filing a petition for a zoning amendment or an amendment to the comprehensive plan, shall be as follows:
 - (i) For filing a petition to change a zoning classification, \$175.00.
 - (ii) For filing a petition to change a zoning classification to include a use allowed only in the C6 commercial special use district, \$500.00.
 - (iii) For filing a petition to change a zoning classification to a planned unit development, \$175.00, plus an acreage charge of \$15.00 per acre or any part of an acre thereof. Provided, if the planned unit development includes a use allowed only in the C6 commercial special use district, the filing fee shall be \$500.00, plus the acreage charge.
 - (iv) For filing a petition for a comprehensive plan land use amendment, \$150.00.
 - (2) Application for special use permit. The filing fee for an application for a special use permit referred to section 122-73 shall be \$75.00.
 - (3) Appeal to board of adjustment. The filing fee for an appeal to the board of adjustment referred to in section 122-130 shall be \$100.00.
 - (4) Application for approval of group home. The filing fee referred to

in section 122-852 for an application for approval of a group home shall be \$75.00. If the application requires a public hearing, an additional fee of \$75.00 shall be required.

- (5) Application for temporary occupancy permit. The permit fee referred to in section 122-242 for an application for temporary occupancy of a travel trailer shall be \$75.00.

(b) Notice fee. In addition to the application fees, a notice fee shall be required for each application or filing for which the City is required to mail notice to third parties. The notice fee shall be an amount equal to the actual cost of mailing notice in the U.S. Mail using the notice method required in the Code (first class, registered letter, or otherwise) for each person who is entitled to receive notice of the proceeding. In the event the application or other filing is withdrawn prior to mailing of notices, the notice fee shall be refunded to the applicant.

SECTION 4. ENACTMENT.

That Chapter 122, Section 122-52(b) of the Code of Ordinances of the City of Mustang, Oklahoma, be and hereby is amended to read as follows:

Sec. 122-52. - Petition for amendment.

- (a) [This subsection is unchanged.]
- (b) The applicant shall deposit with the city clerk the application and notice fees as set forth in section 42-122.

SECTION 5. ENACTMENT.

That Chapter 122, Section 122-57(1) of the Code of Ordinances of the City of Mustang, Oklahoma, be and hereby is amended to read as follows:

Sec. 122-57. - Application for conditional use permit.

Where the letter "R" appears for certain uses in sections 122-212, 122-241, 122-472, and 122-641 of the district regulations, their use may be permitted subject to acquiring a conditional use permit. The uses designated under the various districts herein as "conditional uses" are nonconforming and temporary uses and so classified because they more intensely dominate the area in which they are located than do other uses permitted in the district. Such conditional uses are subject to yearly review and renewal or termination, and are subject to termination during the year if the use is no longer compatible with the area or the applicant is violating the conditions imposed on such use. The following procedure is established to integrate properly the conditional uses with the other land uses located in the district. These conditional uses shall be reviewed and authorized or rejected under the following procedure:

- (1) An owner or his duly authorized agent or representative may make application for a conditional use permit by filing with the planning and zoning department a written application, in such form and content as the planning commission may establish. The application shall be accompanied by the payment of an application fee of \$200.00, and a notice fee as set forth in section 42-122. Said application fee shall consist of two parts, \$150.00 for the hearing before the planning commission and \$50.00 for the hearing before the city council. For conditional use permits for uses in the C6 commercial special use district, the application shall be accompanied by the payment of an application fee of \$500.00, and a notice fee as set forth in section 42-122. Said application fee shall consist of two parts, \$450.00 for the hearing before the planning commission and \$50.00 for the hearing before the city council. For conditional use permits for a sexually-oriented business, the application shall be accompanied by the payment of an application fee of \$5,000.00, and a notice fee as set forth in section 42-122. Said application fee shall consist of two parts, \$4,500.00 for the hearing before the planning commission and \$500.00 for the hearing before the city council.

(2-6) [These subsections are unchanged.]

SECTION 6. ENACTMENT.

That Chapter 122, Section 122-73(a) of the Code of Ordinances of the City of Mustang, Oklahoma, be and hereby is amended to read as follows:

Sec. 122-73. - Application for approval; issuance or denial.

(a) Application. An application for a special use permit shall be filed with the community development department. At the time of filing, the applicant shall pay the application and notice fees as provided in section 42-122 to cover the cost of public notice and investigation. The applicant shall submit a list of all record property owners and their current addresses within a 300-foot radius of the boundaries of the total site used for the special use permit described or the boundaries of the property ownership. For applications requesting a use that could include or accommodate a detoxification facility, a list of the property owners within 1,320 feet of the boundaries of the total site shall be prepared and certified by an abstract company.

(b-d) [These subsections are unchanged.]

SECTION 7. ENACTMENT.

That Chapter 122, Section 122-128 of the Code of Ordinances of the City of Mustang, Oklahoma, be and hereby is amended to read as follows:

Sec. 122 128. Variances.

- (a) Applications for variances shall be filed with the Planning Director, who shall distribute it to other appropriate City departments for review. The application shall be accompanied by the payment of the application fee and notice fee as set forth in section 42-122.
- (b) A variance from the terms of this chapter may be granted, as provided in this division, only upon a finding by the board of adjustment that:
 - (1) The application of this chapter to the particular piece of property would create an unnecessary hardship;
 - (2) Such conditions are peculiar to the particular piece of property involved;
 - (3) Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of this chapter or the comprehensive plan; and
 - (4) The variance, if granted, would be the minimum necessary to alleviate the unnecessary hardship.
- (c) The applicant for a variance has the burden of showing that granting of a variance will not be contrary to the public interest, that literal enforcement of this chapter will result in unnecessary hardship, that by granting the variance the spirit of this chapter will be observed, and that by granting the variance substantial justice will be done.

SECTION 8. ENACTMENT.

That Chapter 122, Section 122-130(2) of the Code of Ordinances of the City of Mustang, Oklahoma, be and hereby is amended to read as follows:

Sec. 122-130. - Procedure for appeals.

Appeals from any action or decision of an administrative officer acting pursuant to any zoning ordinance to the board of adjustment shall be made in the following manner:

- (1) [This subsection is unchanged.]
- (2) An appeal shall be taken within 30 days from the date of the decision by filing with the city clerk and filing with the board of adjustment a notice of appeal specifying the grounds therefor, and by paying the filing and notice fees as set forth in section 42-122 at the office of the city clerk at the time the notice is filed. The applicant shall provide at the time of application a certified list of property owners within 300 feet of the property in question, prepared by a bonded abstract company. The officer from whom the appeal is taken shall forthwith transmit to the board of adjustment certified copies of all the papers constituting the record of the matter, together with a copy of the ruling or order from which the appeal is taken.

(3-4) [These subsections remain unchanged.]

SECTION 9. REPEALER.

All former ordinances or parts of Ordinances conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION 10. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 11. EMERGENCY.

It being immediately necessary for the preservation of the public health, peace, and safety of the City of Mustang and the inhabitants thereof, an emergency is hereby declared to exist by reason whereof, this ordinance shall be in full force and effect and after its passage and approval, as provided by law.

PASSED AND APPROVED and the Emergency Clause voted upon separately and passed and approved this 2nd day of April, 2019.

Mayor

ATTEST:

City Clerk

APPROVED as to form this 2nd day of April, 2019.

City Attorney

CITY OF MUSTANG

AGENDA ITEM COMMENTARY

1. ITEM NO. 17-9

2. MEETING DATE: April 2, 2019

3. TITLE: AN ORDINANCE OF THE CITY OF MUSTANG, OKLAHOMA, AMENDING CHAPTER 122, SECTION 122-7 OF THE CODE OF ORDINANCES OF THE CITY OF MUSTANG TO CHANGE TIME FOR CONTINUED RESIDENTIAL USE OF PROPERTY FOLLOWING AMMENDMENT TO CHANGE ZONING TO COMMERCIAL USE; DECLARING REPEALER; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

4. COUNCIL ACTION: Approve/Deny Ordinance

5. INITIATOR: Community Development Department

6. PROJECT DESCRIPTION:

Current code states that if a property is rezoned from a residential to a commercial or industrial zoning district, the building or structure may only be used for residential purposes for a period of three years after a commercial or industrial zoning is approved. After three years, as the residence was amortized, residential uses are prohibited.

There are residences in the city limits that are on property that has been zoned commercial for much longer than 3 years. Staff does not feel it is in the best interest of the city, to require that the residents terminate their rights to use the home as a residence at that time.

Staff believes that if a property owner chooses to change their zoning to a commercial or industrial district, with the idea that it might have value as a commercial or industrial property, they should not be penalized. Staff feels that it does no harm for the residential use to continue until a commercial or industrial use is established on the parcel.

At no time will commercial and industrial uses be permitted while the home is being used for residential purposes. From the moment a building permit or business license is sought for the property, residential uses will no longer be permitted.

7. FINANCIAL IMPACT: None.

8. STAFF COMMENTS: Staff recommends approval of this ordinance. It allows property owners to rezone property for commercial or industrial use and attempt to convert the land to that use, without fear of a 3-year deadline. It allows time for commercial growth to expand or develop to that location.

9. STAFF SOURCE: Melissa Helsel, Community Development Director

10. CITY ATTORNEY'S COMMENTS:

11. RESOLUTION/ORDINANCE NO. 1186

ORDINANCE 1186

AN ORDINANCE OF THE CITY OF MUSTANG, OKLAHOMA, AMENDING CHAPTER 122, SECTION 122-7 OF THE CODE OF ORDINANCES OF THE CITY OF MUSTANG TO CHANGE TIME FOR CONTINUED RESIDENTIAL USE OF PROPERTY FOLLOWING AMMENDMENT TO CHANGE ZONING TO COMMERCIAL USE; DECLARING REPEALER; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSTANG, OKLAHOMA:

SECTION 1. ENACTMENT.

That Chapter 122, Section 122-7 of the Code of Ordinances of the City of Mustang, Oklahoma, be and hereby is amended to read as follows:

Sec. 122-7. - Residential Use in Commercial or Industrial Zoned Property

The conversion of buildings or structures from residential uses to commercial uses is prohibited within residential zoned districts. Where buildings or structures used for residential purposes are located on property that is thereafter zoned for commercial or industrial use, the residential use may continue until a commercial or industrial use is made thereon. After the commercial or residential use is made, the residential use is prohibited and shall immediately cease. For purposes of this section, a commercial or industrial use is made on the property at the earlier of such time as a building permit or business license is sought for a commercial or industrial use, or the property is used for a purpose that would not be allowed but for the commercial or industrial zoning.

SECTION 2. REPEALER.

All former ordinances or parts of Ordinances conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION 3. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 4. EMERGENCY.

It being immediately necessary for the preservation of the public health, peace, and safety of the City of Mustang and the inhabitants thereof, an emergency is hereby declared to exist by

reason whereof, this ordinance shall be in full force and effect and after its passage and approval, as provided by law.

PASSED AND APPROVED and the Emergency Clause voted upon separately and passed and approved this 5th day of April, 2019.

Mayor

ATTEST:

City Clerk

APPROVED as to form this 2nd day of March, 2019.

City Attorney

City of Mustang
City Council
Agenda Item Commentary

1. ITEM NO. H-10
2. MEETING DATE: April 2, 2018
3. TITLE: Mutual Aid Agreement with Tuttle Fire Department
4. COUNCIL ACTION: Approve/Deny
5. INITIATOR: Craig Carruth, Fire Chief
6. BACKGROUND: This document establishes an agreement with Tuttle Fire Department for assistance during emergencies.
7. FINANCIAL IMPACT: None
8. STAFF COMMENTS: Staff recommends approval
9. STAFF SOURCE: Craig Carruth, Fire Chief
10. RESOLUTION / ORDINANCE:

MUTUAL AID AGREEMENT

THIS AGREEMENT is entered into this 15th day of APRIL, 2019, by and between the fire department of the City of Mustang, Oklahoma, and the fire department of TUTTLE, Oklahoma.

1. DURATION

THIS AGREEMENT shall be in full force and effect and binding upon the parties upon the execution of this agreement and shall continue in full force and effect for a period of one (1) year. At the end of the one (1) year period this agreement shall be renewed automatically upon the same terms and conditions contained herein unless either of the parties notifies the other of its intent to terminate the agreement at least thirty (30) days before the end of the initial term. If the agreement is renewed, as provided herein, the agreement shall continue in force on a year to year basis, for an indefinite term, or until terminated, in writing. Either party may terminate this agreement at any time upon giving ninety (90) days notice in writing.

2. PURPOSE

THE PARTIES HERETO, by their respective governing bodies, hereby find and declare:

(a) WHEREAS, the parties to this agreement, desire to provide aid and assistance to each other in times of disaster or casualty involving their respective jurisdictions; and

(b) WHEREAS, the parties are in danger of and susceptible to disasters, including but not limited to fire, flood, tornadoes, and other acts of God; and

(c) WHEREAS, it would be for the mutual benefit and advantage of all concerned to be able to respond to disaster, casualty or other calamities through cooperation, pooling of resources, and the exchange of expertise and manpower; and

(d) THEREFORE, each fire department shall provide mutual aid and assistance to the requesting agency, EXCEPT when in the opinion of the fire chief or other ranking officer, it is unable to do so on account of possible fires or other problems within its own area, broken apparatus, personnel limitations, dangerous roadways or other limiting conditions.

(e) It is further understood and agreed by all parties to this agreement that the agency requesting assistance will be the agency in command of the situation and that the ranking officer from each agency providing mutual aid assistance will remain in charge of that agency's personnel and equipment.

3. LIABILITY

(A) Each party to this agreement shall provide, be responsible for, and/or continue in full force, its own workers' compensation insurance, public liability insurance and retirement benefits, in the manner required by law, covering all of its employees providing mutual aid assistance.

(B) Each party shall assume all risks incident to or in connection with any of its activities or operations in connection with this agreement and shall be solely responsible for all accidents or injuries of whatsoever nature or kind to persons or property caused by its operations and shall indemnify, defend and save harmless the other party to this contract, and its authorized agents and representatives, from any penalties or violations of any law, and all claims, suits, lawsuits, damages or injuries to the persons or property of whatsoever kind or nature arising directly or indirectly out of the operations of that party or resulting from the carelessness, negligence or improper conduct of that party or its agents or employees to the extent of the liability provided under the Oklahoma Political Subdivision Tort Claims Act.

4. WARRANTY

Neither party makes any warranty or guarantee of the type or kind of response they make to any emergency involved herein.

5. EXPENSES

The party requesting mutual aid assistance shall not be billed in any manner for any expenses related to assistance by the assisting agency. However, nothing in this agreement shall prevent an assisting agency from billing individual property owners for fire runs in accordance with that agency's standard or adopted billing practices.

6. AUTHORITY

The undersigned are empowered to enter into this agreement and by our signatures agree to the terms of this Mutual Aid Agreement.

7. EXECUTIONS

APPROVED by the City Council of the City of Mustang, Oklahoma, this ____ day of _____, 20 ____.

CITY OF MUSTANG, OKLAHOMA

By _____
Mayor

ATTEST:

City Clerk

APPROVED as to form this ____ day of _____, 20 ____.

City Attorney

11th APPROVED by the City Council of the City of Tuttle, Oklahoma, this
day of March, 20 19.

CITY OF Tuttle, OKLAHOMA

By _____
Mayor

ATTEST:

Wendy Marble
City Clerk

APPROVED as to form this 11th day of March, 20 ____.

City Attorney



CITY OF MUSTANG

AGENDA ITEM COMMENTARY

1. **ITEM NO.** 14-11
2. **MEETING DATE:** April 2, 2019
3. **TITLE:** Discussion, Consideration and Possible Action regarding Interlocal Agreement dated as of April 2, 2019, between the Oklahoma Environmental Management Authority ("OEMA") and the City of Mustang providing and setting rates for the long term disposal of solid wastes.
4. **COUNCIL ACTION:** Choose whether or not to approve the Interlocal Agreement requiring the City dispose of its solid wastes at the OEMA facility for a term of 15 years, and setting rates and other terms.
5. **INITIATOR:** City Manager
6. **PROJECT DESCRIPTION:** The City of Mustang currently disposes of the majority of its solid wastes at the disposal facility south of El Reno that is operated by the OEMA. The OEMA has requested that the City enter into an Interlocal Agreement under which the City of Mustang will be required to dispose of its solid wastes for a 15 year term. The rates that will be charged in the initial term will result in savings to the City. There are certain exceptions from the disposal requirement, including, for example, if the City is required to competitively bid disposal of storm debris as a condition to obtaining reimbursement under any state or federal program.
7. **FINANCIAL IMPACT:** City staff can provide this information at the meeting, if requested by Council.
8. **STAFF COMMENTS:** Staff recommends approval.
9. **STAFF SOURCE:** Jon Miller, City Attorney.
10. **CITY ATTORNEY'S COMMENTS:** See above.
11. **RESOLUTION/ORDINANCE NO.** _____

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT made and entered into this ____ day of _____, 2019, by and between the OKLAHOMA ENVIRONMENTAL MANAGEMENT AUTHORITY ("Authority") and the MUSTANG IMPROVEMENT AUTHORITY ("Member"), WITNESSETH:

WHEREAS, Authority was organized by Trust Indenture Dated March 9, 1971, which Indenture as amended is incorporated herein by this reference; and

WHEREAS, Authority is a public trust organized pursuant to Title 60, §176 et seq. of the Oklahoma Statutes for the benefit of Canadian County, Oklahoma, in providing for solid waste disposal; and

WHEREAS, the Authority owns a solid waste landfill at a location approximately five (5) miles south of El Reno, Oklahoma, and one-half mile east of U.S. Highway 81; and

WHEREAS, pursuant to Article 6 of said Trust Indenture as amended, each of the seven incorporated cities or towns within Canadian County, Oklahoma (except Oklahoma City), selects a Trustee to represent it on the Board of Trustees of the Authority; and

WHEREAS, Member recognizes that its continued participation in the use of the landfill owned by the Authority is necessary for the continued efficient operation of the Authority and planning with respect thereto; and

WHEREAS, Member desires to enter into a long term commitment to dispose of its solid waste at the Authority landfill, and fix its disposal fee accordingly.

WHEREAS, the parties hereto are "Public Agencies" as defined in the Interlocal Cooperation Act set forth in Title 74, §1001, et seq. of the Oklahoma Statute.

NOW, THEREFORE, for and in consideration of One or More (\$1.00) Dollars and for the other good and valuable considerations herein contained, IT IS AGREED by and between the parties as follows:

1. **DEFINITIONS – MEMBER:** Member shall mean the contracting party hereof which shall be a public authority created by a Canadian County city or town (except Oklahoma City) which has the capacity to enter into long term contracts. Provided, if such city or town does not have such an authority, then Member as used herein shall be such city or town.

2. **EFFECTIVE DATE:** The effective date of this Agreement shall be the later of the date the Agreement is approved by Member and the city or town creating such Member and Authority.

3. **CONSIDERATION:** For the term of this Agreement, Member is guaranteed a disposal rate of \$15.50 per ton for disposal of its solid waste at Authority's landfill, subject to paragraphs 6 and 7 below. In addition to the disposal rate set forth herein, Member shall pay Authority \$1.25 per ton for the Oklahoma State Solid Waste Disposal Fee, and 20 cents (\$0.20) per ton for the Union City Host Fee.

Member covenants to dispose of at Authority's landfill, all solid waste collected from within the corporate limits of Mustang, whether collected by Member or by anyone on its behalf. In addition, Member covenants to dispose of at Authority's landfill all solid waste collected from without the corporate limits of Mustang, whether collected by Member or by anyone on its behalf. In the event Member contracts with any third party for the collection and/or disposal of Member's solid waste, Member shall give notice of this Agreement to such third party and shall require any such third party to dispose of any solid waste collected for or on behalf of Member at Authority's landfill. Provided, Member shall not be required to dispose of waste that is (a) being recycled through a third party, (b) being collected and burned by City pursuant to appropriate permit, (c) being collected and ground by City pursuant to contract with Authority, (d) being collected through third-party disposal containers, or (e) collected during an emergency where disposal at Authority's landfill is impractical or where federal or state rules or regulations require competitive bidding as a condition for reimbursement of disposal services incurred by Member.

In the event Authority determines that Member is not disposing of all of its solid waste as required pursuant to this Paragraph 3, Authority shall give Member written notice of said determination and default. Member shall cure such default within ten (10) days of notice thereof. If Member disputes said default, Member within ten (10) days of notice thereof may request, in writing, a hearing before the Board of Trustees of Authority. If after hearing, the Board of Trustees of Authority determines that Member is in default, Member shall have ten (10) days from the date of said determination to cure Member's default. If Member fails to comply with the provisions of this paragraph, Authority in its discretion may elect to continue to accept solid waste from Member, but the rate for disposal of said solid waste shall not be determined pursuant to the terms of this Agreement, but shall be determined by Authority at a rate not to exceed the highest rate then charged by Authority for solid waste disposal. Provided further, Authority in its discretion may elect not to accept solid waste from Member and terminate this Agreement.

4. **TERMS:** Member shall pay to Authority or its assignee all amounts due for the preceding month on or before the first day of the following month. For example, all amounts due for the month of October shall be paid on or before the first day of December. Any amounts not paid when due shall bear interest at the rate of 18% per annum until paid.

5. **EXPIRATION:** The term of this Agreement shall commence on the effective date hereof, and expire fifteen (15) years from said date, unless sooner terminated pursuant to the provisions hereof.

6. **CPI ADJUSTMENT:** The rate set forth in Paragraph 3 above shall be adjusted annually by Authority, beginning April 1, 2020, to reflect an increase based upon the consumer price index for the El Reno statistical area. Any such increase shall not be effective until the July next following the April in which any increase shall be established.

7. **COST INCREASES DUE TO GOVERNMENT REGULATIONS OR FEES:**

The rate set forth in Paragraph 3 above shall be adjusted by Authority as necessary to recover additional costs incurred by Authority and/or its assignee to comply with and/or implement any federal, state or municipal mandates, laws, statutes, rules, ordinances or regulations. Authority shall give Member at least thirty (30) days notice before the adjustment of any rate pursuant to this paragraph. In the event Member disputes the amount of any such adjustment, Member shall give Authority written notice of such dispute, and upon receipt of said notice, Authority shall furnish to Member documentation in support of such increase. Upon receipt of said documentation, if Member still disputes the amount of such increase, Member may request a hearing before the Trustees of Authority, or any part thereof, appointed for that purpose by the Chairman of Authority, at which hearing Member may submit evidence and argument in support of an adjustment to the proposed increase. Such hearing must be requested in writing by Member within ten (10) days of receipt of the documentation set forth above.

8. **SOLID WASTE DISPOSAL:** All solid waste disposed of by Member at the Authority's landfill shall be in compliance with federal and state statutes and regulations, and as allowed by Authority's permit, as may be from time to time amended. In no event shall any hazardous waste or non-permitted waste be disposed of at Authority's landfill.

9. **TERMINATION:** Authority shall have the option of terminating this Agreement in the event of Member's default of any of the conditions hereof, when said default is not cured within ten (10) days of notice thereof, subject to paragraph 10 below.

In addition, Member shall have the option of terminating this Agreement in the event the landfill facility is unable to accept Member's solid waste for a thirty (30) day consecutive period, subject to paragraph 10 below. In the event Authority's permit is modified or changed such that Authority can no longer accept all of Member's solid waste (excluding hazardous waste), Member may terminate this Agreement.

In the event Authority's landfill is unable to accept Member's solid waste for disposal, Member is not prohibited from disposing of said solid waste at another landfill facility for that period of time Authority's landfill is unable to accept Member's solid waste.

10. **FORCE MAJEURE:** If either party is delayed or prevented from performing any term of this Agreement by reason of acts of God, fire, explosion, accidents, strikes, walkouts, inability to procure fuel, power or materials, failure of power, restrictive laws or regulations riots, or other reasons beyond the parties' reasonable control the performance will be excused for the period of the delay, and the time for performance will be extended for a period equal to the period of such delay. Provided, Authority's failure to comply with legal requirements to maintain the effectiveness of Authority's disposal permit shall not constitute an event of force majeure.

11. **BINDING EFFECT:** This Agreement shall be binding upon the parties hereto, their successors and assigns. Authority may assign this Agreement in its entirety to any entity or individual which Authority has contracted with to operate and/or lease Authority's landfill.

12. **LITIGATION:** In the event Authority or Member institutes litigation to enforce any provision hereof or to collect any sums due from the other, the party prevailing in said litigation shall also be entitled to recover reasonable attorney fees and court costs incurred.

13. **NOTICES:** All notices given pursuant to the provisions hereof shall be given by certified mail to the addresses as follows:

Oklahoma Environmental Management Authority
P. O. Box 189
El Reno, Oklahoma 7303

cc: Bass Law Firm, P.C.
P. O. Box 157
El Reno, Oklahoma 73036

City of Mustang
Attn: City Manager
1501 N. Mustang Road
Mustang, Oklahoma 73064

cc: City Attorney
City of Mustang
1501 N. Mustang Road
Mustang, Oklahoma 73064

The date of all notices given pursuant to provisions hereof shall be the date the certified mail green receipt is signed or three (3) days after mailing, whichever is earlier.

14. **REPLACEMENT OF PRIOR AGREEMENTS:** Upon the effective date hereof, this Agreement replaces all prior disposal agreements between Authority and Member, but only as to the rate charged in such prior disposal agreement. All other terms of prior agreements remain intact.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year first above written.

OKLAHOMA ENVIRONMENTAL
MANAGEMENT AUTHORITY

By: _____
T.J. McCullough, Chairman

ATTEST:

Barbara Johnson, Secretary

MUSTANG IMPROVEMENT AUTHORITY

By: _____

ATTEST:

Secretary

MEMBER CITY APPROVAL: The within and foregoing Agreement is hereby approved this 2nd day of April, 2019, by the undersigned Member City.

CITY OF MUSTANG

Mayor

ATTEST:

City Clerk

CITY OF MUSTANG
AGENDA COMMENTARY

1. ITEM: H-12

2. MEETING DATE: April 2, 2019

3. TITLE: Approval of agreement between the City of Mustang and the City of Oklahoma City for easement acquisition along SW 59th Street and Sara Road for Oklahoma Turnpike Authority Project JKT-MC-11

4. COUNCIL ACTION: Approve/Deny

5. INITIATOR: Justin Battles, Assistant City Manager

6. BACKGROUND:

The widening of Sara Road begins at State Highway 152 and extends north 3 miles into Oklahoma City. This project will widen Sara Road to four lanes with five lane interchanges. Currently the City of Mustang and Oklahoma City are acquiring easements for the project.

The City of Mustang and Oklahoma City border Southwest 59th Street. Attachment A reflects the current boundary lines and additional easements required for the project. Due to the unique circumstances in the joint project the parcels reflected in the attachment require both the City of Mustang and Oklahoma City to acquire easements on the same parcels. The agreement defines the responsibilities and costs for each municipality.

7. FINANCIAL IMPACT: None/ Contract approval

8. STAFF'S COMMENTS: Staff recommends approving the agreement.

9. STAFF SOURCE: Justin Battles, Assistant City Manager

**AGREEMENT BETWEEN THE CITY OF MUSTANG AND THE CITY OF OKLAHOMA
CITY FOR EASEMENT ACQUISITION ALONG SW 59TH STREET AND SARA ROAD
FOR OKLAHOMA TURNPIKE AUTHORITY PROJECT JKT-MC-11**

THIS AGREEMENT ("Agreement") is entered by and between The City of Mustang (hereinafter referred to as "**Mustang**") and The City of Oklahoma City (hereinafter referred to as "**Oklahoma City**").

WITNESSETH:

WHEREAS, the State of Oklahoma, by way of the Oklahoma Turnpike Authority, has proposed the widening of a portion of SW 59th Street and a portion of Sara Road ("Project") as more particularly described on **Attachment "A,"** which is attached hereto and incorporated herein by reference; and

WHEREAS, SW 59th Street borders Mustang and Oklahoma City; and

WHEREAS, the Project requires the purchase of additional easement along SW 59th Street and along Sara Road for the relocation of existing utility lines and facilities in the existing right-of-way, and

WHEREAS, Mustang and Oklahoma City would both benefit from the Project, and

WHEREAS, Mustang and Oklahoma City desire to coordinate the purchase or acquisition of the required easements described on **Attachment "A"** and to allocate the costs between Mustang and Oklahoma City.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, **Mustang and Oklahoma City** enter into this Agreement for the purpose of coordinating, negotiating, acquiring, and funding the additional easement described on **Attachment "A"** as follows:

1. **EASEMENT** – Mustang and Oklahoma City will work together to purchase or acquire the easements along SW 59th Street and along Sara Road as set forth on **Attachment "A."** Mustang and Oklahoma City agree to use the easement form set forth on **Attachment "B"**, as may be revised as to terms and conditions and as to legal description as may be approved by the Mustang City Manager of Mustang on behalf of Mustang and by the Oklahoma City Public Works Director on behalf of Oklahoma City.

2. **AVAILABLE FUNDS** – Mustang affirms that Mustang has sufficient available funds necessary to purchase or acquire the easements set forth on **Attachment "A"** in accordance with this Agreement. Mustang acknowledges that Mustang has or will encumber the funds necessary to purchase or acquire the easements set forth on

Attachment "A" in accordance with this Agreement. Oklahoma City affirms that Oklahoma City has sufficient available funds necessary to purchase or acquire the easements set forth on **Attachment "A"** in accordance with this Agreement. Oklahoma City acknowledges that Oklahoma City has or will encumber the funds necessary to purchase or acquire the easements set forth on **Attachment "A"** in accordance with this Agreement.

3. ALLOCATION OF COSTS

a. Except as specifically provided otherwise in this Agreement, Mustang and Oklahoma City agree that each will assume its own administrative, engineering and legal costs in purchasing or acquiring the necessary easements set forth on **Attachment "A"** and this Agreement.

b. For easements on **Parcels 19 and 31** that parallel SW 59th Street, as set forth on **Attachment "A,"** in accordance with this Agreement, purchased by either Mustang and/or Oklahoma City by agreement with the property owner, Mustang and Oklahoma City will share the purchase price and third-party acquisition costs for any easements, based upon the comparative portion of the easements to be purchased and used by Mustang that lies within Mustang's city limits and the comparative portion of the easements to be purchased and used by Oklahoma City that lies within Oklahoma City's city limits, based on **Attachment "A"** and this Agreement; provided the purchase price is approved by the City Manager of Mustang on behalf of Mustang and by the Oklahoma City Public Works Director on behalf of Oklahoma City.

c. Should Oklahoma City and/or Mustang need to condemn any of the easements on **Parcels 19 or 31** as set forth on **Attachment "A"** in accordance with this Agreement, Mustang and Oklahoma City will share the costs of the condemnation award of the easement, third-party acquisition costs, appraisal costs, expert testimony, commissioner fees, court costs, award of attorney fees to condemnee, and attorney fees incurred by condemning entity/entities as set forth in Paragraph 3 b. above; provided, however, such costs and the selection of attorney and approval of attorney fees for the condemning entity/entities must be approved by the Mustang City Manager of Mustang on behalf of Mustang and by the Oklahoma City Public Works Director on behalf of Oklahoma City.

d. For easements on **Parcels 32 and 33**, as set forth on **Attachment "A,"** in accordance with this Agreement, purchased by either Mustang or Oklahoma City by agreement with the property owner, Oklahoma City will pay the purchase price and

third-party acquisition costs for any easements, provided the purchase price is approved by the Oklahoma City Public Works Director on behalf of Oklahoma City.

e. Should Oklahoma City need to condemn any of the easements on **Parcels 32 or 33** as set forth on **Attachment "A"** in accordance with this Agreement, Oklahoma City will pay the costs of the condemnation award of the easement, third-party acquisition costs, appraisal costs, expert testimony, commissioner fees, court costs, award of attorney fees to condemnee, and attorney fees incurred by condemning entity/entities; provided, however, such costs and the selection of attorney and approval of attorney fees for the condemning entity/entities must be approved by the Oklahoma City Public Works Director on behalf of Oklahoma City. Mustang agrees to the purchase of any necessary easement within its jurisdiction and will provide such affirmation as may be required but will not bear the costs of such acquisition.

4. EXECUTION - This Agreement shall be executed in multiple copies of which is deemed an original.

5. EFFECTIVE - The effective date of this Agreement shall be upon execution by the last party hereto.

6. TIME OF ESSENCE - It is expressly agreed by all parties hereto that time shall be deemed to be of the essence in this Agreement.

7. AMENDMENT - Except as specifically delegated in this Agreement to the Mustang City Manager or the Oklahoma City City Engineer, this Agreement may not be amended except by express written agreement of all parties hereto.

8. CAPTIONS - The captions, titles, and headings contained herein are for convenience of reference only and shall not control the interpretation of any provision hereof.

9. INTERPRETATION - When any word in this Agreement is used in the singular, it shall include the plural, and the plural, the singular, except where a contrary intention plainly appears. When any word in this Agreement is used in the masculine, it shall include the feminine, and the feminine, the masculine, except where a contrary intention plainly appears.

10. WHOLE AGREEMENT - It is mutually understood and agreed by the parties hereto that this Agreement contains all the covenants, stipulations and provisions agreed upon by said parties and no agent or any party to this Agreement has authority to alter or change the terms hereof, except as provided herein, and no party is or shall be bound by any statement or representation not in conformity herewith.

11. **NO ASSIGNMENT OR THIRD-PARTY RIGHTS** – This Agreement may not be assigned except upon the prior written consent of all parties hereto. This Agreement does not establish and shall not be deemed to establish or recognize any right of any third parties. No third-party beneficiaries are created or deemed to be created by this Agreement.

12. **VENUE** – Parties agree that the venue for any litigation, enforcement or interpretation of this Agreement shall be in State District Court in Oklahoma County, Oklahoma and waive all rights to other venues. Parties agree that this Agreement will be interpreted and enforced in accordance with Oklahoma law.

APPROVED by the CITY OF MUSTANG and SIGNED by its MAYOR this _____ day of _____, 2019.

Attest: **THE CITY OF MUSTANG**

City Clerk

Mayor

Reviewed for form and legality

Municipal Counselor - Mustang

APPROVED by the City of Oklahoma City and SIGNED by the Mayor this _____ day of _____, 2019.

ATTEST:

THE CITY OF OKLAHOMA CITY

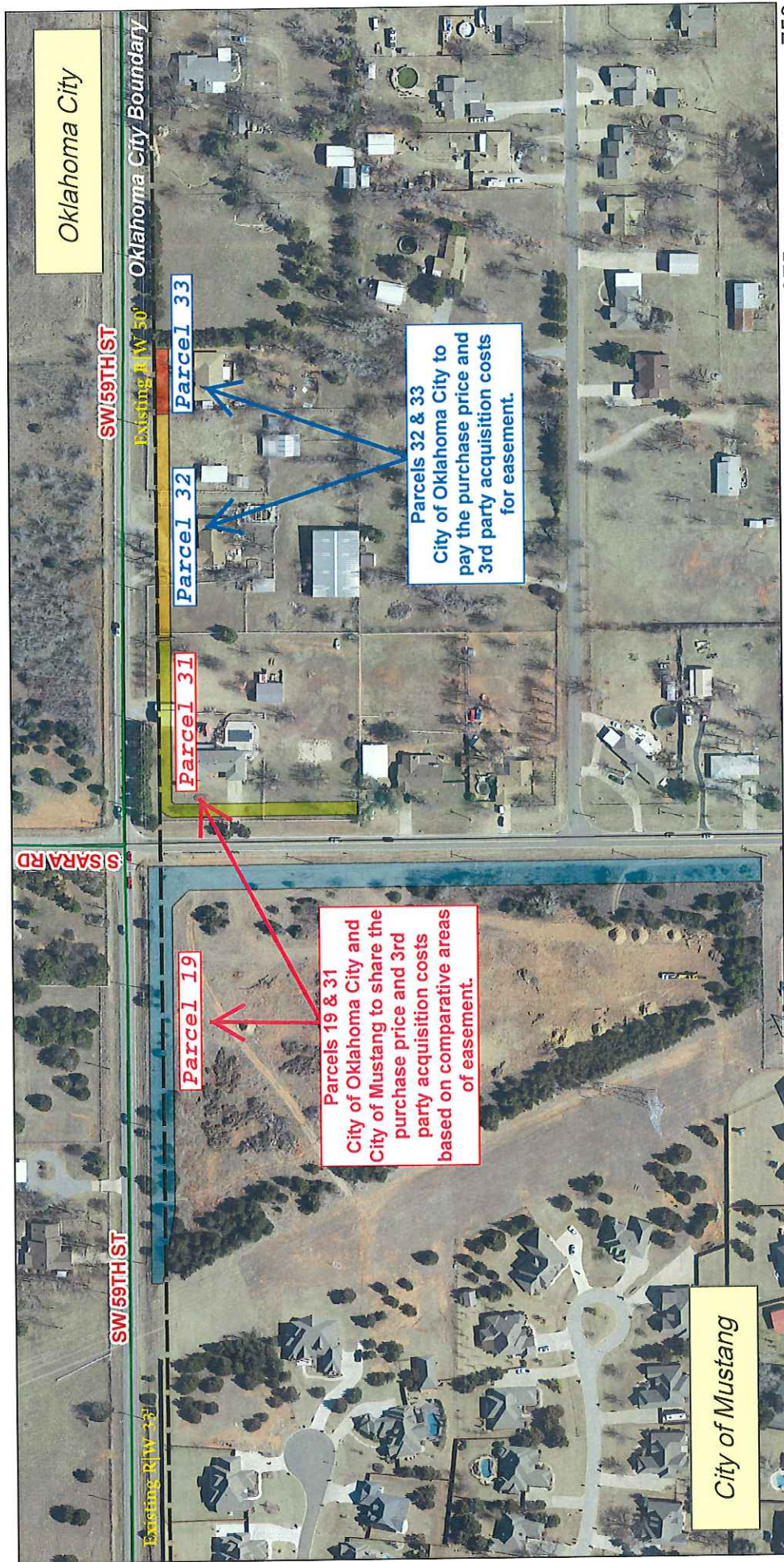
City Clerk

MAYOR

Reviewed for form and legality

Assistant Municipal Counselor – Oklahoma City

ATTACHMENT "A"
EASEMENT AND ALLOCATION BETWEEN MUSTANG AND OKLAHOMA CITY



ATTACHMENT "B"
EASEMENT FORM

The City of Oklahoma City
Office of City Clerk
200 North Walker Ave.
Oklahoma City, Oklahoma 73102

Project No. OTA: JKT-MC-11
Project No. OKC: PC-0548
Parcel No.

**PERMANENT EASEMENT
FOR RELOCATION OF EXISTING UTILITY LINES**

KNOW ALL MEN BY THESE PRESENTS THAT [NAME OF PRIVATE ENTITY] its successors, and assigns (collectively "Grantor") for and in consideration of Ten Dollars and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby grant and convey unto the **CITY OF OKLAHOMA CITY, CITY OF MUSTANG, OKLAHOMA GAS AND ELECTRIC COMPANY, OKLAHOMA ELECTRIC COOPERATIVE, OKLAHOMA NATURAL GAS COMPANY, COX COMMUNICATIONS, AMERICAN TELEPHONE AND TELEGRAPH, AND PLAINS ALL AMERICAN PIPELINE, LP**, (collectively "Grantees") this Permanent Easement over, under, across, through and to the following described property situated in Canadian County, Oklahoma, shown on **Attachment "A" ("Subject Property")** for the use of the **Grantees** for the purpose of constructing, maintaining, repairing, expanding, and replacing the various utilities and associated facilities, connections, utilities and operating public streets, public storm drainage, sidewalks and appurtenances thereto (collective "Utility Systems") and including the right of ingress and egress through Grantor's property to and from the Subject Property and all right, title and interest in and to any soil, earthen material, fixture, and appurtenances within the boundaries of the Subject Property, incidentally removed during the use of this Permanent Easement.

It is specifically understood by the parties that this easement is being given for the existing Utility Systems that are being relocated due to road expansion. It is further understood that this easement for the existing Utility Systems and for additional subsequently constructed utilities owned by the City of Oklahoma City and the City of Mustang have priority over any subsequent easements given by the Grantor for the Subject Property.

THIS EASEMENT IS MADE SUBJECT TO THE FOLLOWING:

1. Grantor agrees that no building or other similar structure shall be erected on, over or under the Subject Property.
2. Grantor agrees that Grantees will not maintain, repair, or replace Grantor's improvements, including but not limited to fencing, landscaping, driveways, and parking areas whenever it becomes necessary to move or remove improvements, due to any operation, maintenance, replacement, expansion, or repair of the Utility Systems.
3. This Permanent Easement does not create an obligation upon the Grantees to construct, operate, maintain, replace, expand or repair these Utility Systems, or provide services or functions.

This Permanent Easement shall be perpetual and exclusive to Grantees and shall run in favor of the respective parties, hereto, their successors and assigns.

[NAME OF PRIVATE ENTITY]

Dated this ____ day of _____, 2019. By: _____
[NAME OF PERSON] [TITLE]

STATE OF OKLAHOMA, COUNTY OF _____, SS.

This instrument was acknowledged before me on this ____ day of _____, 2019 by **[NAME OF PERSON]**, as **[TITLE]** of **[NAME OF PRIVATE ENTITY]**.

My Commission Expires: _____

Notary Public

My Commission No. _____

ACCEPTED by The City of Oklahoma City
this ____ day of _____, 2019.

City Clerk

REVIEWED for form and legality

Assistant Municipal Counselor

ACCEPTED by The City of Mustang
this ____ day of _____, 2019.

City Clerk

REVIEWED for form and legality

Assistant Municipal Counselor

CITY OF MUSTANG
AGENDA COMMENTARY

1. **ITEM:** H-13

2. **MEETING DATE:** April 2, 2019

3. **TITLE:** Acceptance of contract and bonds from RJR Enterprises Inc. for project labeled Wild Horse Park Splash Pad

4. **COUNCIL ACTION:** Approve/Deny

5. **INITIATOR:** Justin Battles, Assistant City Manager

6. **BACKGROUND:**

The City of Mustang and Red Prairie Design Group published a notice to bidders for project labeled Wild Horse Park Splash Pad. The splash pad will be located in Wild Horse Park just southwest of Brittany's Playground. At the March 5, 2019 City Council meeting the project bid was accepted and awarded.

Company:
RJR Enterprises Inc.

Base bid:
\$296,189.00

7. **FINANCIAL IMPACT:** \$296,189.00

8. **STAFF'S COMMENTS:** Staff recommends approving contract and bonds.

9. **STAFF SOURCE:** Justin Battles, Assistant City Manager



AIA[®] Document A101[™] – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the Second day of April in the year Two Thousand Nineteen
(In words, indicate day, month and year.)

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

City of Mustang, Other
1501 N. Mustang Rd.
Mustang, Oklahoma 73064
Telephone Number: 405 376-3411

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

RJR Enterprises, Inc., General Corporation
804 N. 42nd Street
Rogers, Arkansas 72756
Telephone Number: 479 621-3939

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

Wild Horse Park Splash Pad
Mustang, Oklahoma
New Splash Pad for the City of Mustang

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

Red Prairie Design Group, Professional Limited Liability Company
4557 W. Memorial Rd.
Oklahoma, City, Oklahoma 73142
Telephone Number: 405 606-1023

The Owner and Contractor 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.

The parties should complete A101[™]-2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. 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.

Init.

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

☒ The date of this Agreement.

☐ A date set forth in a notice to proceed issued by the Owner.

☐ Established as follows:

(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

[X] Not later than one hundred and twenty (120) calendar days from the date of commencement of the Work.

[] By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work

Substantial Completion Date

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Two Hundred Ninety-six Thousand One Hundred Eighty-nine Dollars and Zero Cents (\$ 296,189.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
------	-------

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. (Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
------	-------	---------------------------

§ 4.3 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)

Item	Price
------	-------

§ 4.4 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

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

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

Init.

1

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

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

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

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 25th day of a month, the Owner shall make payment of the amount certified to the Contractor 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 sixty (60) days after the Architect receives the Application for Payment.

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

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 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.

§ 5.1.6 In accordance with AIA Document A201™-2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

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

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

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

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201-2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201-2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

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

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

Five percent (5%)

§ 5.1.7.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:
(Insert any other conditions for release of retainage upon Substantial Completion.)

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201-2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- 1 the Contractor has fully performed the Contract except for the Contractor'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; and
- 2 a final Certificate for Payment has been issued by the Architect.

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

§ 5.3 Interest

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

As published in the current edition of the Wall Street Journal %

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201-2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

Init.

§ 6.2 Binding Dispute Resolution

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

(Check the appropriate box.)

- ☐ Arbitration pursuant to Section 15.4 of AIA Document A201-2017
- ☒ Litigation in a court of competent jurisdiction
- ☐ Other (Specify)

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

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201-2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201-2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:

(Name, address, email address, and other information)

Justin Battles
1501 N. Mustang Rd.
Mustang, Oklahoma 73064

Email Address: jbattles@cityofmustang.org

§ 8.3 The Contractor's representative:

(Name, address, email address, and other information)

Ron Brown
804 N. 42nd Street
Rogers, Arkansas 72756

Init.

Email Address: ronbrown@nwarjr.com

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™-2017 Exhibit A, and elsewhere in the Contract Documents.

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

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

§ 8.7 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™-2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .4 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this Agreement.)

- .5 Drawings

Number	Title	Date
All documents issued by Architect on January 25, 2019		

- .6 Specifications

Section	Title	Date	Pages
All documents issued by Architect on January 25, 2019			

- .7 Addenda, if any:

Number	Date	Pages
Addendum 1 issued by Architect on February 14, 2019		

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

☐ AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

☐ The Sustainability Plan:

Title	Date	Pages
-------	------	-------

☐ Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
----------	-------	------	-------

.9 Other documents, if any, listed below:

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

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

OWNER (Signature)

Jess Schweinberg Mayor City of Mustang
(Printed name and title)

CONTRACTOR (Signature)

Ron Brown, President
(Printed name and title)

Init.



Additions and Deletions Report for AIA® Document A101™ – 2017

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 14:18:44 ET on 03/04/2019.

PAGE 1

AGREEMENT made as of the Second day of April in the year Two Thousand Nineteen

...

City of Mustang, Other
1501 N. Mustang Rd.
Mustang, Oklahoma 73064
Telephone Number: 405 376-3411

...

RJR Enterprises, Inc., General Corporation
804 N. 42nd Street
Rogers, Arkansas 72756
Telephone Number: 479 621-3939

...

Wild Horse Park Splash Pad
Mustang, Oklahoma
New Splash Pad for the City of Mustang

...

Red Prairie Design Group, Professional Limited Liability Company
4557 W. Memorial Rd.
Oklahoma, City, Oklahoma 73142
Telephone Number: 405 606-1023

PAGE 2

☒ The date of this Agreement.

PAGE 3

☒ Not later than one hundred and twenty (120) calendar days from the date of commencement of the Work.

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Two Hundred Ninety-six Thousand One Hundred Eighty-nine Dollars and Zero Cents (\$ 296,189.00), subject to additions and deductions as provided in the Contract Documents.

PAGE 4

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User Notes:

(1312389684)

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 25th day of a month, the Owner shall make payment of the amount certified to the Contractor 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 sixty (60) days after the Architect receives the Application for Payment.

...

Five percent (5%)

PAGE 5

As published in the current edition of the Wall Street Journal %

PAGE 6

☒ Litigation in a court of competent jurisdiction

...

Justin Battles

1501 N. Mustang Rd.

Mustang, Oklahoma 73064

...

Email Address: jbattles@cityofmustang.org

...

Ron Brown

804 N. 42nd Street

Rogers, Arkansas 72756

PAGE 7

Email Address: ronbrown@nwarjr.com

...

All documents issued by Architect
on January 25, 2019

...

All documents issued by Architect
on January 25, 2019

...

Addendum 1 issued by Architect on
February 14, 2019

PAGE 8

Jess Schweinberg Mayor City of Mustang

Ron Brown, President

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:18:44 ET on 03/04/2019 under Order No. 5727018308 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ – 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)



AIA[®] Document A101[™] – 2017 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the 2nd day of April in the year 2019
(In words, indicate day, month and year.)

for the following PROJECT:
(Name and location or address)

Wild Horse Park Splash Pad
Mustang, Oklahoma

THE OWNER:
(Name, legal status and address)

City of Mustang, Other
1501 N. Mustang Rd.
Mustang, Oklahoma 73064

THE CONTRACTOR:
(Name, legal status and address)

RJR Enterprises, Inc., General Corporation
804 N. 42nd Street
Rogers, Arkansas 72756

TABLE OF ARTICLES

- A.1 GENERAL
- A.2 OWNER'S INSURANCE
- A.3 CONTRACTOR'S INSURANCE AND BONDS
- A.4 SPECIAL TERMS AND CONDITIONS

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201[™]-2017, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ A.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

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.

This document is intended to be used in conjunction with AIA Document A201[™]-2017, General Conditions of the Contract for Construction. Article 11 of A201[™]-2017 contains additional insurance provisions.

Init.

§ A.2.3 Required Property Insurance

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 **Causes of Loss.** The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:

(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit
----------------	-----------

§ A.2.3.1.2 **Specific Required Coverages.** The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:

(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit
----------	-----------

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 **Deductibles and Self-Insured Retentions.** If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 **Occupancy or Use Prior to Substantial Completion.** The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ A.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

- ☐ § A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.
- ☐ § A.2.4.2 Ordinance or Law Insurance, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.
- ☐ § A.2.4.3 Expediting Cost Insurance, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.
- ☐ § A.2.4.4 Extra Expense Insurance, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.
- ☐ § A.2.4.5 Civil Authority Insurance, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.
- ☐ § A.2.4.6 Ingress/Egress Insurance, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.
- ☐ § A.2.4.7 Soft Costs Insurance, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

- [] § A.2.5.1 Cyber Security Insurance for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information. (Indicate applicable limits of coverage or other conditions in the fill point below.)

- [] § A.2.5.2 Other Insurance
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage

Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect, and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

See attached Certificate of Liability Insurance for a full list of Contractors insurance limits

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than one million dollars (\$ 1,000,000.00) each occurrence, two million dollars (\$ 2,000,000.00) general aggregate, and two million dollars (\$ 2,000,000) aggregate for products-completed operations hazard, providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal injury and advertising injury;

Init.

- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

- .1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
- .2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
- .3 Claims for bodily injury other than to employees of the insured.
- .4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
- .5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
- .6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
- .7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
- .8 Claims related to roofing, if the Work involves roofing.
- .9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
- .10 Claims related to earth subsidence or movement, where the Work involves such hazards.
- .11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than one million dollars (\$ 1,000,000.00) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

§ A.3.2.4 The Contractor 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 such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, 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.

§ A.3.2.5 Workers' Compensation at statutory limits.

§ A.3.2.6 Employers' Liability with policy limits not less than five hundred thousand dollars (\$ 500,000.00) each accident, five hundred thousand dollars (\$ 500,000.00) each employee, and five hundred thousand dollars (\$ 500,000.00) policy limit.

§ A.3.2.7 Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ A.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ A.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

See attached Certificate of Liability Insurance for a full list of Contractors insurance limits

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section A.3.3.1.

(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

- ☒ § A.3.3.2.1 Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
- (Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)*

Builders Risk Insurance for the portions of the site impacted by the construction project and scope of work under this contract.

- ☐ § A.3.3.2.2 Railroad Protective Liability Insurance, with policy limits of not less than (\$) per claim and (\$) in the aggregate, for Work within fifty (50) feet of railroad property.
- ☐ § A.3.3.2.3 Asbestos Abatement Liability Insurance, with policy limits of not less than (\$) per claim and (\$) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.
- ☐ § A.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.
- ☐ § A.3.3.2.5 Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.

[] § A.3.3.2.6 Other Insurance
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	Limits

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:

(Specify type and penal sum of bonds.)

Type	Penal Sum (\$0.00)
Payment Bond	Comply with title 61 OK State Statute 113
Performance Bond	Comply with title 61 OK State Statute 113

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

See attached Certificate of Liability Insurance for a full list of Contractors insurance limits

Additions and Deletions Report for AIA® Document A101™ – 2017 Exhibit A

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 10:27:28 ET on 03/06/2019.

PAGE 1

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the 2nd day of April in the year 2019

...

Wild Horse Park Splash Pad
Mustang, Oklahoma

...

City of Mustang, Other
1501 N. Mustang Rd.
Mustang, Oklahoma 73064

...

RJR Enterprises, Inc., General Corporation
804 N. 42nd Street
Rogers, Arkansas 72756
PAGE 4

See attached Certificate of Liability Insurance for a full list of Contractors insurance limits

...

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than one million dollars (\$ 1,000,000.00) each occurrence, two million dollars (\$ 2,000,000.00) general aggregate, and two million dollars (\$ 2,000,000) aggregate for products-completed operations hazard, providing coverage for claims including

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§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than one million dollars (\$ 1,000,000.00) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

...

§ A.3.2.6 Employers' Liability with policy limits not less than five hundred thousand dollars (\$ 500,000.00) each accident, five hundred thousand dollars (\$ 500,000.00) each employee, and five hundred thousand dollars (\$ 500,000.00) policy limit.

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See attached Certificate of Liability Insurance for a full list of Contractors insurance limits

- ...
- [X] § A.3.3.2.1 Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
- ...

Builders Risk Insurance for the portions of the site impacted by the construction project and scope of work under this contract.

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Payment Bond

Comply with title 61 OK State Statute 113

Performance Bond

Comply with title 61 OK State Statute 113

...

See attached Certificate of Liability Insurance for a full list of Contractors insurance limits



AIA[®] Document A201[™] – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

Wild Horse Park Splash Pad
Mustang, Oklahoma

THE OWNER:

(Name, legal status and address)

City of Mustang, Other
1501 N. Mustang Rd.
Mustang, Oklahoma 73064

THE ARCHITECT:

(Name, legal status and address)

Red Prairie Design Group, Professional Limited Liability Company
4557 W. Memorial Rd.
Oklahoma, City, Oklahoma 73142

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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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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.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 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.

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§ 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.

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.

§ 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.

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§ 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 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.

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§ 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;

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- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .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.

§ 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

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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

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.

§ 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.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those 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 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 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.

Additions and Deletions Report for AIA® Document A201™ – 2017

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

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PAGE 1

Wild Horse Park Splash Pad
Mustang, Oklahoma

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City of Mustang, Other
1501 N. Mustang Rd.
Mustang, Oklahoma 73064

...

Red Prairie Design Group, Professional Limited Liability Company
4557 W. Memorial Rd.
Oklahoma, City, Oklahoma 73142

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:03:09 ET on 03/04/2019 under Order No. 5727018308 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ – 2017, General Conditions of the Contract for Construction, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

City of Mustang
City Council
Agenda Item Commentary

1. ITEM NO. H-14
2. MEETING DATE: April 2, 2019
3. TITLE: City Council Handbook
4. COUNCIL ACTION: Approve
5. INITIATOR: Lisa Martin, City Clerk
6. BACKGROUND: The OMAG Recognition Program is available to members with active coverage through the OMAG Municipal Liability Protection Plan. The Program seeks to strengthen municipal governance and reduce claims through education and self-assessment. Members who gain OMAG Recognition are awarded a check in an amount that is based on the member's premium charged for the current plan year.

In order to obtain OMAG Recognition, the City must (1) adopt a governing body handbook; (2) receive OMAG prescribed training; (3) complete and review a Stability Test to audit its performance; and (4) review the City's Municipal Liability Protection Plan. OMAG will provide training for Council on Tuesday, May 14, 2019 at 5:00 p.m. which will include the Stability Test and review of the Liability Protection Plan. This Recognition and award may be achieved yearly.
7. FINANCIAL IMPACT: The award for Mustang by achieving OMAG Recognition would be approximately \$8,300.
8. STAFF COMMENTS: None
9. STAFF SOURCE: Timothy Rooney, City Manager, and Lisa Martin, City Clerk
10. RESOLUTION / ORDINANCE: N/A
11. ATTACHMENTS: City Council Handbook, April, 2019

CITY OF MUSTANG, OKLAHOMA



CITY COUNCIL HANDBOOK

APRIL, 2019

INTRODUCTION

The current members of the Mustang City Council, the City Manager, and City employees congratulate you on being elected to serve our City. Governing bodies conduct the public's business by following or at least approximating Robert's Rules of Order.

Although you may have been active in civic affairs or other political arenas, once you are elected to public office, it becomes a different ball game because of the political aspects of many issues. It is hoped that the information in this manual will help you "break in" to your duties and responsibilities as a new member of the City Council. Perhaps it will assist in avoiding errors of protocol that might be embarrassing after you take your seat on the Council.

Some disagreement and dissension are to be expected in the sometimes arduous and time consuming activity of governing a city. At times it may even appear that some Councilmembers arrive at the meetings geared for battle on a certain issue. In a sense, this is true. They have studied an issue, perhaps done some research on their own, listened to input from their constituents, gotten opinions from their colleagues, and formed a strong opinion. They will come to the Council meeting prepared for debate—the political process—and will cast their vote in what they believe to be in the best interests of the public. Sometimes all of this can be disconcerting to a new Councilmember. As time goes on in your service, you will find yourself in this position and realize that it is part and parcel of the governing process.

Appendices are attached for further information and guidance.

Prepare to Serve

Upon certification of your election to the Mustang City Council and swearing in, you will begin receiving Agenda Packets and other materials for the regularly scheduled Council meetings. These will be forwarded electronically or can be delivered to your home or place of business (whichever you prefer).

Prior to being sworn in, you should try to attend all regularly scheduled City Council meetings and work sessions. Once sworn in, attendance should be faithful and prompt. **The City Manager, Assistant City Manager, or City Clerk should be notified in advance if you will be unable to attend.**

Become familiar with the way Council meetings are conducted, especially the opening ceremony. Study the Agenda material and become familiar with the operations of the various city departments. The better prepared you are when you take office, the quicker you will be able to be an active participant on the City Council.

Feel free to contact the City Manager, Assistant City Manager, City Attorney or City Clerk if you have questions. All will endeavor to assist you in your new position as an elected official.

Your First City Council Meeting

Upon being sworn in and taking your position at the podium, turn your nameplate face up. Of course, it is hoped that the incumbent at your new position has helped to make the transition pleasant and courteous and that no bitterness of defeat was publicly shown. Other sections of this manual will address how the Council meeting will proceed and how you should cope with the microphone, television cameras, and other items.

OPEN MEETINGS ACT

The State of Oklahoma has one of the more stringent Open Meetings Act (Title 25 of the Oklahoma Statutes). It covers required notice of meetings of all elected officials, except for some legislative subcommittee members' meetings, and includes administrative staffs and other non-elected public officials' meetings. All meetings of committees, sub-committees and/or ad hoc committees are generally subject to the Open Meetings Act.

Announcement of Meetings

If four or more Councilmembers are going to meet for any purpose of discussing City business, the meeting must meet the public notice requirements of the Open Meetings Act. Telephone or computer communication by a majority of members is also prohibited.

Social Get-Togethers of Councilmembers

Merely social gatherings, such as holiday parties, cookouts, open houses, etc., to which all of the Councilmembers are invited, do not require public notice; however, we still normally post it as a Special Meeting stating no business will be discussed or action taken. Nevertheless, Councilmembers should refrain from discussing City business or pending agenda items at such social gatherings.

Retreats

This form of meeting for the purpose of discussing nonspecific affairs of the City is becoming increasingly popular with City Councils and other governmental bodies. The public notice requirements of the Open Meetings Act must be met. In addition, Oklahoma law requires that the meeting be open to the public, which generally would mean that the meeting location must be accessible to the public.

MUSTANG CITY CHARTER

Councilmembers must be thoroughly familiar with the Charter. The Charter is closely modeled after the form of government authorized by statute as a "Council-Manager" form, in which the day to day operations of the City are directed by the City Manager and the policy decisions are directed by the elected Councilmembers. The article and sections covering the duties and responsibilities of the City Manager and the restrictions on Councilmembers is clear.

What Elected Officials Can and Cannot Do

Councilmembers may not in any way direct or try to influence the hiring, firing, or promotion of any City employee, other than the City Manager and/or City Attorney. Certainly, it is acceptable to have City employees as personal friends; in fact, you may already have friends or neighbors, or even relatives, who are City employees. If you have any family members within the third degree of consanguinity who were already employed by the City before you were elected, they may keep their position (see the Charter section on Nepotism), but under no circumstances should you attempt to use your position to influence what happens in their jobs.

The Firefighters and Police Officers belong to their respective unions, and City Councilmembers may not be involved in any union negotiation.

Each City Manager will establish the method by which he or she wishes Councilmembers to make requests of City departments, but until further notice, Councilmembers should address their requests to the City Manager or Assistant City Manager.

City Manager's Authority

The City Manager is the chief administrative officer of the City. The authority, duties, and responsibilities of the position are outlined in the City Charter. The City Manager is accountable to the City Council, and in accordance with the terms of his/her employment contract. All other City employees are hired, fired, and promoted according to the terms of the Personnel Manual except the Municipal Court Judge and Alternate Judge who are appointed by the City Council for a period of two years and the City Attorney and Prosecuting Attorney who work under the supervision and control of the City Council in accordance with their employment contract.

If Councilmembers violate the City Charter in regard to dealing with City employees, or attempt to influence in any manner the hiring, firing, or promotion of any City employee, it is grounds for removal.

Assistant City Manager

The Assistant City Manager shall assist the City Manager in all work of the City Manager's office in whatever manner and respect as directed by the City Manager. The Assistant City Manager is the project manager for the streets and public works contracts and works closely with the City engineers, contracted by the City Council.

City Attorney

The City Attorney is versed in municipal law and serves at the pleasure of the Council. The City Attorney shall work under the supervision and control of the City Council and in accordance with the terms of his/her employment contract. The City Attorney is chief legal advisor to the City and accessible to City Councilmembers for the purpose of discussing City business. He/She may be designated to represent the City in any proceedings before the court, or to perform any such other duties as may be deemed necessary and desirable by the City Council.

City Clerk

The City Clerk's duties are outlined in the Charter. This position provides advice and information to Councilmembers in regard to City documents, such as ordinances and resolutions and their formats. Councilmembers may contact the City Clerk directly.

City Councilmembers' Salaries

Councilmembers do not receive any salary or compensation for any service rendered the City, but may be reimbursed for expenses incurred in the discharge of their official duties.

CITY CODES

The Mustang Code of Ordinances are ordinances adopted and codified in the Code of Ordinances. They relate to all aspects of licensing and fees, building and inspection codes, zoning, animal control, and all other aspects of public safety, health, and welfare adopted by the City. Generally, the Codes are the rules by which City departments function. The Community Development Department, Planning Commission and Board of Adjustment determine adherence to the zoning codes; the Assistant City Manager in regards to engineering and public works determine adherence to public works codes, and so on. Councilmembers can rely on background material supplied to them in regard to Code matters when such items appear on the Council agenda. From time to time, amendments to the Code may be offered and Councilmembers have a responsibility to consider all aspects and impacts of the proposed amendments and raise any questions they may have with the City Manager or City Attorney prior to making their decisions.

DUTIES OF CITY COUNCILMEMBERS

Set Policy

As the State legislature sets policy for the State when in session and the Congress of the United States sets policy for the nation, so also does a City Council set policy for its City. They are responsible for the public's safety, health, and welfare and the proper administration of the public's money. They conduct the public's business. Thus, every decision on agenda items requires careful thought and decision.

Set Fiscal Year Budgets

One of the most time-consuming parts of serving on the City Council is determining the fiscal year's budget. The City Manager and Finance Director, with participation of the Staff and department heads, prepares a proposed fiscal year budget. In good economic times when revenues are plentiful, it is easy for Councilmembers to approve a fiscal year budget with little thought for the future when times may be lean. Councilmembers may have projects of particular interest to them, such as street repairs in their wards, drainage projects, and so on, but they must always be mindful – and will be reminded – of the long-term effects of putting personal desires ahead of the public's long-term welfare and of the future costs. Funds should always be held in contingency and reserve accounts for unpredictable events – either financial or natural. From early spring until the upcoming fiscal year budget is set in June, there will be meetings that require that Councilmembers do their homework.

Respond to City's Needs

Although Councilmembers are elected from a ward system, with the Mayor elected at large, they should always consider the entire City's needs as well as the needs of their Ward. The big, overall picture should always be clearly established – this is where the huge expenditure of money will be needed. The public understands this. It is impossible to please all of the people all of the time, even your constituents who elected you. Councilmembers must take the broad view and be willing to recognize what is in the public's best interest. How can we best serve the most people, rather than the few who will deal you fits over a minor problem in your ward, is the approach that should be taken.

Respond to Needs of Your Ward

None of the above is meant to detract from your responsibility for the needs of your ward. Initially in your term you may receive a great many phone calls about potholes, defective street lights, clogged drainage channels, vandalism, police patrols, and so on. It is to your advantage to act promptly on these matters and the recommended manner in which to handle them would be to (1) ask the citizen if they have visited with the Department Director or City Manager about their concern; if the answer is no, then the Councilmember should ask them to do so; and (2) if they have spoken to the Department Director and the City Manager and their situation was not resolved, then the Councilmember should take the information and schedule a meeting between the Councilmember and City Manager. If you are doing your job well, the calls will drop off after a time, but be prepared for a lot of responding to the calls of constituents.

Do some advance work before the fiscal year budget study sessions begin so that you can address the capital needs of your ward in conjunction with the rest of the City's needs. You will not get everything for your ward that you believe it deserves, but you can make progress. Understand that City employees' salaries and pay raises are contingent upon a number of factors, including union negotiations, and the City Manager will make recommendations in the proposed fiscal year budget that are sound and based upon projected revenues. This is also true of capital expenditures – a lot of work is done before the Councilmembers become involved in the fiscal year budget process.

Agenda Study

The agenda packets arrive Friday for the regularly scheduled meetings and you have from then until the Council meeting on Tuesday to study the agenda items. In order to make reasoned decisions, you should read all of the backup materials. This takes time and time should be set aside to do this studying. If questions arise for which you need answers, try to have them ready to discuss with the City Manager, Assistant City Manager or City Attorney by Monday. Other than when completely unavoidable, that is, when questions come up during the actual Council meeting, it is not fair to the City Manager, Assistant City Manager, or department heads who will be in attendance at the Council meeting to hit them with surprise questions. They should have the time to prepare to respond either before the Council meeting or to have the answer for you during the meeting. This reflects good preparation for you and City Staff.

Representatives of the City Council

On the first Tuesday in May of each year, the new Councilmembers are sworn in and take their seats and a Vice Mayor, a representative and alternate representative to the Association of Central Oklahoma Government (ACOG) and its committees, a representative and alternate representative to the Oklahoma Environmental Management Association (OEMA) Board of Directors, and a representative to the Traffic Commission are elected by the Councilmembers. The duties of the Vice Mayor are discussed later. As voting representatives of the Council to ACOG, OEMA and Traffic Commission, these members are expected to attend the meetings of these boards and keep the Councilmembers informed.

Mustang Improvement Authority (MIA)

Cities are allowed by State law to create public trusts to carry out projects that otherwise could be conducted by the City. The primary purpose of a public trust is to create more flexibility in financial transactions that the City is able to use in operations, primarily because of constitutional limitations. The trust will qualify as a public trust only if the trust has a purpose that is public in nature and the City has agreed to be the beneficiary of the trust. The MIA is a public trust dedicated to operating the utility facilities of the City. Each Councilmember is on the MIA Board of Trustees, with the Mayor serving as the Chairman and Vice Mayor serving as the Vice Chairman. The MIA is subject to the Open Meeting Act and many of the ordinances and laws that govern the City. The MIA is also subject to state laws that are different from those applicable to the City.

Council Education

A statute was passed by the Oklahoma legislature requiring all Councilmembers elected after January 1, 2005, to attend eight hours of municipal government training within one year of taking office. The "Institute for New Municipal Officials" is provided through the Oklahoma Municipal League at various times and locations throughout the year. Please contact the City Clerk to review the dates, locations, and to register. Taking the required training as soon as possible will position you better to understand the functioning of the City Council and many issues facing the City.

Conflict of Interest

One of the more dangerous and sensitive subjects involving Councilmembers is the question of conflict of interest. The topic is especially troublesome because the penalty involved is severe. In general, the Mustang Charter and state statutes preclude any City officer, employee, or family member of any officer or employee from doing any business of any type with the City. Please see Appendix C regarding Conflict of Interest statutes.

Tort Claims

There are times where an individual will accuse the City of negligence resulting in damage to their personal property or bodily harm. If you are contacted about a possible claim against the City, you should direct the individual to the City Clerk's office. A "Notice of Tort Claim" form will be made available to anyone who wants to assert a claim against the City. Once the claim is submitted, the claim form and backup information is submitted to the City's insurance carrier, Oklahoma Municipal Assurance Group (OMAG) for investigation and review where OMAG will make a recommendation whether to pay or deny the claim. OMAG's recommendation will generally come before the City Council for action.

UNDERSTANDING THE AGENDA

How the Agenda is Formulated

The City Manager is charged with establishing the Council Agenda. The Assistant City Manager, City Clerk, and the department heads assist in formulating the agendas, and the agenda is usually reviewed by the City Attorney. Councilmembers may place an item on the agenda. Such request should be provided to the City Manager at least one week prior to the agenda being posted.

Sometimes Work Sessions are held on forthcoming items so that the Councilmembers can be more fully informed. Work Sessions are considered Special Meetings and are subject to the Open Meetings Act.

Consent Agenda

The Consent Agenda is at the beginning of the agenda and usually consists of routine items such as minutes, claims, resolutions, and so on. If there is any item on the Consent agenda that you wish to have removed for independent discussion, please give the Mayor or City Manager advance notice, even if it is so little as just before the meeting convenes. If you have questions on the item and need additional information, you can ask that the item be removed from the consent agenda and it can then be discussed and voted on separately.

Ordinances

New and Amended ordinances may arise from a department through the City Manager or City Attorney seeing a need for them, through the Planning Commission, or through a Councilmember's request. Every proposed ordinance title shall be read and a vote of the majority of all Councilmembers shall be required for its passage. Please note, this requires an affirmative vote of the majority of all Councilmembers, not just the Councilmembers present, therefore four (4) affirmative votes are required for passage. If adopted, the ordinance becomes effective in 30 days. Emergency ordinances are the exception. The emergency clause requires an affirmative vote of at least three-fourths (3/4) of the Councilmembers, again all Councilmembers, not just Councilmembers present, therefore six (6) affirmative votes are required for passage. If the emergency clause is adopted, the ordinance becomes effective immediately rather than in 30 days.

Ordinances are the permanent law of the City and affect all of its citizens so should be studied carefully.

Resolutions

Resolutions do not have the force and effect of law. Generally, a resolution is an action of a temporary character, and does not set a permanent rule of government. Resolutions may include supplemental appropriations where money received through a grant or donation is placed in the appropriate fund, supporting or commending a certain group, organization, or event, setting election dates, setting fees such as gym fees, required as part of a Note or Bond, and so on.

Amending Agenda Items

Sometimes the need to amend agenda items becomes apparent during discussion at the Council meeting. At other times, some advance knowledge is given to Councilmembers that an amendment is perceived as necessary. In the latter case, the agenda may be amended if done so within the required timeframe for posting the agenda, 24 hours for regularly scheduled meetings and 48 hours for special meetings. On rare occasions, an item can be added as new business where it was not known in sufficient time to place it on the agenda.

Postponing Agenda Items

Items may be postponed upon a majority vote of the Council and for good reason after adequate discussion. Oftentimes, the public presents a strong enough case to cause the Council to vote for postponement for further study. Everything to do with your votes on the agenda deserves careful study, but you should keep an open mind for valid arguments from your colleagues and the public that could lead you to change your mind.

Reconsideration of Agenda Item

A motion to reconsider an item that was previously voted upon can be made only during the same meeting at which the vote was taken and only by a member who voted with the prevailing side; however, it can be seconded by any member regardless of how they voted on the motion to be reconsidered. A request to reconsider must be approved by a majority vote. Reconsideration does not happen often, but it is possible.

CONDUCTING CITY COUNCIL MEETINGS

Mayor's/Vice Mayor's Duties

Each year the Council elects a Vice Mayor who stands in for the Mayor when he/she must be absent from Council meetings. The Mayor/Vice Mayor chairs the Council and MIA meetings and work sessions. It is useful for new Councilmembers to become familiar with how this chairing is done in order to facilitate the work of the Mayor or Vice Mayor.

Voting

All business of the Council shall be transacted by a majority of affirmative votes of Councilmembers present except when Code requires a greater number, such as ordinances and an ordinance emergency clause.

All questions put to the Council shall be voted either affirmatively or negatively and each Councilmember shall vote unless excused (or abstained) for stated reasons before the votes are called for. Any Councilmember excused from voting shall not participate during the debate of such item.

Decorum in Debate

In debate, Councilmembers' remarks must be germane to the question before the assembly – that is, statements must have bearing on whether the pending motion should be adopted.

Councilmembers should refrain from attacking another Councilmember's motives. A Councilmember can condemn the nature or likely consequences of the proposed measure in strong terms, but must avoid personalities, and under no circumstances should he/she attack or question the motives of another Councilmember.

In debate, the maker of a motion, while he can vote against it, is not allowed to speak against his own motion. If he changes his mind while the motion he made is pending, he can, in effect, advise the assembly of this by asking permission to withdraw his motion.

A Councilmember has no right to read from any paper or book as part of his speech without permission of the assembly. Councilmembers are usually permitted to read short, pertinent, printed extracts in debate, so as long as they do not abuse the privilege.

Council Ethics

The Code of Ethics for members of Mustang City Council, Boards and Commissions was adopted by the City Council and is attached as Appendix D. Councilmembers should read the Code of Ethics and are requested to sign them upon appointment or re-appointment to office.

City Manager's Duties

The City Manager and/or Assistant City Manager attends every Council meeting and work session, and many other meetings. The City Manager expects the unexpected and is usually prepared for it, but at times it will be necessary, especially if a question from an applicant or member of the public comes up, for the City Manager to request some time to respond.

City Attorney's Duties

The City Attorney also is required to attend every Council meeting and attempts to be informed on possible questions he/she may have to answer. As with the City Manager, the City Attorney expects the unexpected, but it is useful if Councilmembers give him/her some advance notice if they know a question they wish to pose during a meeting to allow preparation for a response.

City Clerk's Duties

The City Clerk or Deputy City Clerk is present at Council meetings and assists the Mayor. He/she also serves as Staff liaison to assist Councilmembers with other matters, as discussed in the Charter.

Department Heads' Duties

There are nine department heads under the City Manager: Finance Director, Police Chief, Fire Chief, Community Development Director, Parks and Recreation Director, Library Director, Human Resources Director, City Treasurer, and City Clerk. They will be in attendance at the City Council meetings if there are items on the agenda relating to their departments. **However, if Councilmembers have questions, please make these known in advance whenever possible, via the City Manager, in order that the person may have some preparation time.**

COUNCILMEMBERS' COMMUNICATIONS

Central Files

Staff may provide councilmembers with a supply of stationery with the Councilmembers' general letterhead, business cards, and other communication supplies as necessary. The City Clerk's Office will provide clerical assistance. Understand that unless a communication to the City Manager or to the City Attorney is marked "confidential" it is automatically in the public domain under the Open Records Act.

Privileged/Confidential Information

The City Attorney and the City Manager have authority to forward privileged and confidential information to Councilmembers. These communications can relate to a number of matters that require confidentiality, but most likely they relate to legal matters. **The Attorney-Client privilege, between Councilmembers and the City Attorney, prevails and Councilmembers should not reveal the contents of these communications because sharing the communication with third parties will likely waive any privilege and dissemination of the information could have an adverse effect on the City in the related litigation.**

CONDUCT OF ELECTED OFFICIALS DURING COUNCIL MEETINGS

TV Cameras

Become comfortable with the idea that meetings are recorded live and air on Cox Communication Channel 20. You most likely will not think about the camera as it is not noticeable. It normally does not focus on one individual, but has the entire Council in its view. Overall, if you are addressing an item, focus on what you want to say and not the camera.

Managing the Microphone

The mics are turned on at the start of the meeting and remain on throughout the meeting until adjournment. If you wish to speak privately to the colleague next to you, please do so prior to the meeting, away from the microphones. A problem that viewers notice is when the microphone is directly in front of a Councilmember's face is that it is a distraction to the viewers. Move the mike downward so that it is not directly in front of your face, lean toward it a little when you are speaking, and avoid bumping it with your hands or objects.

Conduct Toward Citizens

Our City is one of politically active citizens and some come to Council meetings on a regular basis. At times, people are in attendance because of emotionally-charged issues. Some agenda items attract large crowds of the pro and the con, so be prepared to deal with citizens on a frequent basis.

Citizens expect their Councilmembers to be prompt and in their place when the meeting convenes. It is even wiser to arrive a few minutes early to go over materials at your position that you may not expect and to get a feel for the atmosphere. Often citizens are waiting for you to arrive and you should expect to spend at least a few minutes with them.

When citizens take the microphone to discuss an issue during "Hearing of Citizens or Delegates" or an item during a Public Hearing, they are entitled to be listened to. Councilmembers should present themselves as attentive, they should make eye contact with the speakers, listen appreciatively, and understand the right of the people to speak their opinion.

REQUESTS OF CITY STAFF

You have the right to request information, statistics, copies of documents, tapes of meetings, etc., of City Staff via the City Manager, Assistant City Manager or City Attorney; however, depending upon the nature of the information you want, be reasonable.

Councilmembers should not give direction to employees or interfere with their duties. The following are examples of conduct that should be avoided:

Councilmembers should not appear at City Hall or other departments of the City and direct office personnel to perform any duties on behalf of the Councilmember; if anything is needed from City employees, that request should be directed to the City Manager who can then communicate that request to the appropriate employee;

Councilmembers should not appear at emergency scenes and expect to have any input into the handling of the situation any different than any other citizen;

Councilmembers should not appear at public work sites and offer suggestions as to how the work can be better performed; again, any direction of that type should be directed to the City Manager who can then communicate that direction, if appropriate, to the employees involved.

The best rule of thumb is to keep in mind that Council should consider themselves no more than ordinary citizens when it comes to City employees and public facilities. In this form of government, the Council serves as a policy making legislative body and does not manage day to day operations.

Also, Council should be aware that certain groups within the City are represented by state sanctioned unions. As most of you are probably aware, the various unions representing City employees at different times may attempt to place pressure on Councilmembers to side with them in their pending negotiations. It is important for Councilmembers to limit their participation in negotiations with the Unions and not hold any type of meeting with the unions or their representatives. This would circumvent the goals set by the Council as a group and by the staff in its attempt to reach a conclusion, and could violate Oklahoma law. To allow one Councilmember to be informally involved in negotiations, and to have private meetings with the various unions without the knowledge or involvement of the staff or other Councilmembers, circumvents not only the staff attempts to resolve the dispute but also undermines the authority of the Council as a whole. The best approach in regard to these issues is to have a clear understanding by the Council as a whole and not have individual members handling it on their own.

The above restrictions on the conduct of the City Council are very clear; excluding the City Manager and City Attorney, Council Members have no authority to direct any employee, request the hiring or firing of any specific employee, or participate in the discipline of any City employee. Those duties are left exclusively to the City Manager.

Courtesy Toward Staff

As an elected official, you will be treated with unvarying courtesy by City Staff. As with any employer, you may have occasion to wonder sometimes about the knowledge or efficiency of a particular City employee you have dealt with. It is not our prerogative to criticize or derogate any City employee publicly. If a City employee, whether dealing with you or with a member of the public, acts in a manner that you believe reflects badly on the City government or is inappropriate, it is better to discreetly inform the City Manager of what you have seen or how you have been dealt with.

Under the City Charter, the City Council may inquire into the conduct of any office, department or agency of the City government and investigate municipal affairs, but that must be done very responsibly and in the appropriate circumstances. Except for the purpose of inquiry, the City Council shall not direct or request, in any manner, the appointment or removal of officers and employees of the City and shall deal with the administrative service solely through the City Manager. It would be a violation of the Charter to go to the City Manager and request the removal of any City employee who, for some reason, you feel deserves termination. Councilmembers do not have that authority.

Ninety-nine percent plus of the City's employees are hard-working, honest, courteous, and dedicated to their work. A position with the City of Mustang is a good job and, like you, City employees want to keep their jobs and do their work well. They deserve courtesy from Councilmembers – after all, most are citizens of the City too.

BOARDS AND COMMISSIONS

Upon request, a current list of Boards and Commissions, with names of the many citizens who serve our City will be forwarded to you. As vacancies occur on these Boards and Commissions, applications from citizens who have requested to serve on the particular Board or Commission through the City's online Talent Bank will be brought to Council for appointment. It is helpful, when you are given the opportunity, to inform citizens of opportunities to serve on Boards and Commissions and ask they sign up if interested.

One of the best things about our City is the many citizens who serve on Boards and Commissions. They give their time, service, and expertise without remuneration. Therefore, when you can, attend some of their meetings, accept their invitations, and show your gratitude for all they do for the City.

CIVIC ORGANIZATIONS

The Chamber of Commerce, civic clubs, and other private organizations often invite Councilmembers to receptions, ground-breaking ceremonies, and other functions. Sometimes a group invites Councilmembers to discuss a specific issue. As your personal interests dictate, accept or decline invitations, but often by attending you can gain broader knowledge and insight into what the business leaders of the City are thinking.

DEALING WITH THE MEDIA

The Mustang Times, The Mustang News, and sometimes The Daily Oklahoman and a radio station or television station will cover the Council meetings. Reporters for these media often call Councilmembers from the time they are elected throughout their term to get their opinions on particular Council issues. The first rule in dealing with the media is "Be Consistent". Do not tell one reporter one thing and another something else. It will only make you look bad.

On highly controversial matters, have notes prepared to back up what you say publicly so that if you are misquoted it can be corrected. This is also an instance where requesting a tape of a Council meeting or study session is wise. You have the same rights of free speech that any citizen has, but sometimes discretion is wise. Ad hominem comments (attacks on the person) are foolish and unwise. Stick to comments about issues.

Expect to be attacked, sometimes, for your position on an issue. Remember that public figures – and this can be anyone who is in the public eye, even the writer of letters to the editor – have little chance of winning a libel or slander suit. You have to be thick-skinned and if you believe in your position, stick to it in a calm and rational manner.

If you have no wish to take risks with the media, there is no problem with telling them that you do not wish to comment on the matter, or that you want to do some additional research before you comment. It is better not to plunge into an impassioned defense of what you have said or been quoted as saying; instead, buy some time. Later, if you are brave and steadfast in what you believe, go for it.

SOCIAL MEDIA

Social media is one method the City can use to extend communication efforts. The City currently uses social media outlets (listed below) to provide general information and payment tools as well as a way to push information out real time regarding any issues or special announcements such as water leaks, or recognition and awards.

- City of Mustang website located at www.cityofmustang.org
- City of Mustang Official Facebook page
- Nextdoor App

Councilmembers may choose to have their own social media pages, if desired, to respond to comments/questions posted on other social media sites. Please note, however, these pages are ran and updated by the Councilmember and are not an official page of the City.

There will be times a Councilmember may be asked a question or a comment made through other social media sites and/or pages. If it has to do with a City service, issue, etc., please direct them to the City's website or provide them the phone number to City Hall. For other questions/comments, the Councilmember may respond or choose not to respond. If you do respond, keep to the point, be consistent, and be responsive, not reactive. Social media can be a good tool to get out information, but at times, can turn ugly quickly and once a response is in writing, it is difficult to change.

CONCLUSION

As noted, it is hoped that this manual will assist you as a newly elected Councilmember. It is informal and not set in concrete. Your colleagues on the Council hope to be your friends. Even though there may be debate and argument and strong dissension at times in the meetings, they will endeavor to come away still friends. If they cannot succeed in forming friendships, at least they try to be friendly acquaintances, and they always try to respect each other as elected representatives of the people.

Attachments

Appendix A – Demographics from “Imagine Mustang” 2017 Comprehensive Plan

Appendix B – Charter of the City of Mustang, Oklahoma

Appendix C – Conflict of Interest Statutes

Appendix D – Code of Ethics for Members of Mustang City Council, Boards and Committees

Appendix A

HISTORY



Platted as a town in 1901, modern settlement in Mustang began a few years earlier with the Oklahoma Land Rush of 1889 when new lands in the area were made available for settlement after the passage of the Indian Appropriations Act. Another significant milestone in 1901 was the construction of the Oklahoma City and Western Railroad that passes through Mustang. This railroad is now known as the St. Louis and San Francisco Railway, or Frisco. For the next fifty years, Mustang was most well-known for its bountiful fruit and vegetable crops that were sold in larger Midwest cities. The city was devastated by a tornado in 1927 that demolished several buildings. Despite the bountiful harvest, the community experienced slow growth until the 1960s. Around this time additional transportation facilities made the suburb more

accessible and inner-city blight served as an impetus for many to move further away from Oklahoma City. Mustang attracted many residents from Oklahoma City due to the proximity of high-paying jobs at Dayton Tire plant, Federal Aviation Administration Aeronautical Center, and the Western Electric plant.

Today, many of the former fruit orchards are now residential subdivisions and Mustang is one of the fastest growing cities in the Oklahoma City area. Despite the city's transformation into primarily a bedroom community for the region, Mustang still honors their 'Sooner' culture at the annual Western Days Celebration that features a parade, cook-offs, costume contests, live music, and a great deal of family fun. (Note photographs on pages 14, 15 and 35.)

COMPREHENSIVE PLAN



European explorers were in the area as early as 1541.

Modern roots can be traced back to the Oklahoma Land Run of 1889.

The first U.S. Post Office appeared in 1895, which was named Mustang, presumably in recognition of a creek by the same name which flowed just north of town limits.

1900 - 1920

Agriculture was a community mainstay for many years. In fact, some Oklahomans referred to Mustang as "Down in Egypt" because of the bountiful crops of fruits and vegetables. At one time the area was home to the Mustang Fruit and Truck Growers Association, a group that actively marketed in cities like Chicago, Omaha and St. Louis. The 1911 and 1912 growing season reportedly yielded "tens of thousands of bushels of fruit".

Early Explorers MODERN ROOTS

1960's - 1970's

During the 1960s, a population surge began that would last over 20 years. Between 1960 and 1970 our population exploded by over 1200% as the transportation systems began facilitating longer commutes and families began fleeing the blight of larger communities and heading for the suburbs. Others arrived here because of Mustang's close proximity to high paying jobs at the new Dayton Tire plant, the FAA Aeronautical Center and the Western Electric plant. Mustang was becoming the OKC Metro's area secret, a secret that was simply too good to keep quiet!

1980's - 1990's

Between 1980 and 1990 Mustang still saw a population increase of 184%. During the 1990s, the growth rate had lessened to "only" 39%, but Mustang was witnessing a steady increase, which would continue for more than 15 years. During this time, Canadian County became Oklahoma's fastest growing county and Mustang became one of the fastest growing cities.

Population SURGE

A lot has changed in the past 125 years. Most of our fruit orchards have been replaced with housing additions. There are probably more air traffic controllers living in town than there are farmers. The little dirt road is now a five-lane state highway that carries almost 25,000 cars per day and we have new, beautiful public facilities that accentuate our excellent quality of life.

Information courtesy of the City of Mustang; <http://www.cityofmustang.org/community/page/history>

DEMOGRAPHIC TRENDS



Analyzing past population patterns, assessing current characteristics of the population, and forecasting future trends are critical elements of the comprehensive planning process. The following section describe demographic trends using data from the 2010 Decennial Census and the 2010 American Community Survey. An additional analysis that was conducted is a comparison of the demographic characteristics of Mustang to other cities in the region. The communities included in the comparison are Bethany, Chickasha, Del City, Edmond, El Reno, Midwest City, Moore, Oklahoma City, Shawnee, and Yukon.

HISTORICAL POPULATION GROWTH

Mustang's population has grown steadily since 1960, adding an average of 3,400 people per decade as shown in Figure 2-1. According to the 2010 decennial population, the population was 19,112. The most recent Census population estimates in 2015 was 20,226, indicating that the city is growing faster than previous decades. Mustang is the fourth largest city in Canadian County, which is one of the fastest growing counties in Oklahoma as of 2014.

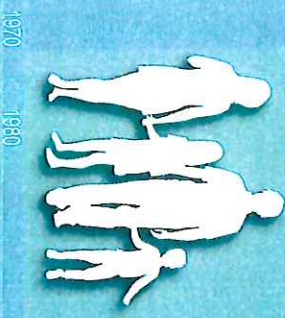
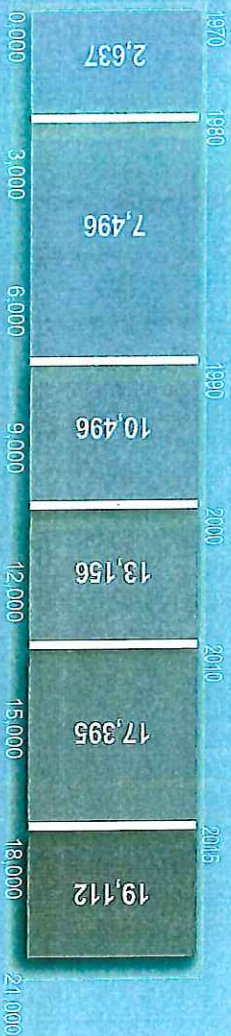


Figure 2-1: Mustang Historical Growth, 1970-2015



Source: www.nhgis.org; US Census

FUTURE GROWTH PROJECTIONS

The Oklahoma City region, of which Mustang is a part, is expected to grow to nearly 1.5 million by 2035, which is a 36% increase from 2005 when the Encompass 2035 long-range transportation plan was adopted. According to the Oklahoma Department of Commerce, Canadian County in particular is expected to increase 47% from 2010 to 2040, with a projected population in 2040 of 169,413. Based on these forecasts, if the City of Mustang has a similar share of Canadian County residents as it has in recent decades, it is expected that the population for Mustang in 2040 will be at least 25,400.

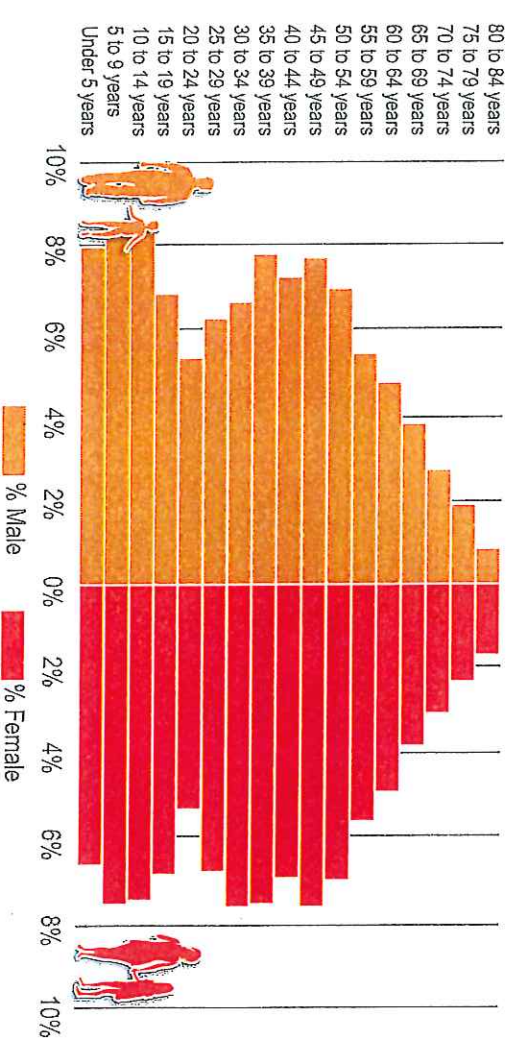
AGE AND GENDER DISTRIBUTION

Evaluating population by age and gender is important to ensure that a community has an appropriate mix of housing and community services. As indicated in Figure 2-2, the largest population group in Mustang in 2015 is made up of 45-49 year olds, followed by 40-44 year olds and 5 to 9 year olds, indicating that the city has a large middle-aged population as well as a large number of young kids. When compared to other cities in the region, Mustang has one of the highest percentage of residents that are between the ages of 0-19. Additionally, the median age in 2015 was 37.1, which is about in the middle of the other communities that were compared. There are also slightly more females in Mustang than males, especially in the older age ranges.

RACE AND ETHNICITY

Evaluating racial and ethnic characteristics is also important to establish an existing profile of a community. Mustang is predominantly white, although the percentage of minorities has been increasing slightly since 1990. In 2015, approximately 17% of residents identified as a minority, which is an increase from 15% in 2010 and 10% in 2000. Compared to other communities in the area, Mustang is less diverse. Table 2-3 shows the race and ethnic make-up of Mustang from 1990 to 2015.

Figure 2-2: Mustang Population Pyramid – 2015



Source: 2015 American Community Survey 5-Year Estimates

Table 2-3: Mustang Race and Ethnicity Trends, 1990-2010

Total Population	1990	2000	2010	2015
% White	10,434	13,156	17,395	19,112
% Black	94.1%	91.6%	88.4%	87.4%
% Asian	0.7%	0.6%	1.0%	0.4%
% American Indian	0.4%*	0.5%	0.9%	0.8%
% Pacific Islander	3.8%	3.3%	3.9%	4.4%
% Other	0.4%*	0.1%	0.1%	0.0%
% Multiple Races	0.1%	0.8%	1.8%	2.9%
% Hispanic Latino Ethnicity	N/A	3.1%	4.0%	4.2%
Total Minority	2.4%	3.0%	6.1%	8.2%
	7.2%	10.1%	15.1%	17.7%

Source: U.S. Decennial Census and NHGIS Data Finder.

*In 1990, Asian and Pacific Islander were combined for reporting purposes.

HOUSEHOLD CHARACTERISTICS:

Characteristics of households can indicate what the future housing mix may look like. Compared to other area cities, Mustang has the lowest vacancy rate and one of the highest median home values and median rents. These factors indicate that the housing market in Mustang is currently in high demand. The median household income has also increased steadily since 1990 and the median household income as of 2015 is \$67,719. Additional housing data and analysis is incorporated into Chapter 9: Housing.

OTHER POPULATION CONSIDERATIONS:

Beyond age, gender, race, ethnicity, and household characteristics, there are additional population characteristics that are important to consider when developing a comprehensive plan. As communities become more diverse, the number of impoverished individuals can rise, as do households with no cars and Limited English Proficient (LEP) individuals. The following section describes these populations that are important to consider to ensure that recommendations in the comprehensive plan are equitable.

Poverty: The percentage of individuals living in poverty in 2015 was 5.7%, which is a slight decrease from 6.1% in 2010. The poverty level is determined annually by the U.S. Department of Health and Human Services.

Educational Attainment: As illustrated in Table 2-4, 93% of residents 25 and older have at least a high school diploma, which is much higher than state and national averages. Since 2000, the percentage of people that do not have a high school degree has decreased by about 3%, which indicates that Mustang is becoming even more educated.

EMPLOYMENT CHARACTERISTICS:

According to the U.S. Census, 35% of employed individuals in Mustang work in management, business, and arts occupations, followed by 27% that work in sales and office occupations. About 11% of employed individuals work in each of the following categories: service occupations; natural resources, construction, & maintenance occupations; and, production, transportation, & material moving occupations. The mean travel time to work in 2015 was 23 minutes, indicating that many are travelling outside of Mustang for work. The latest unemployment rate for Mustang is 4%, which is lower than the latest national rate (4.8%) and the latest rate in Oklahoma (5%).

Table 2-4: Educational Attainment in Mustang, 2000-2015

Educational Attainment

	2000	2010	2015
Less than High School Degree	10.0%	7.6%	6.9%
High School Graduate	35.7%	29.4%	30.9%
Some College or Associates Degree	36.5%	43.6%	40.6%
Bachelor's Degree or Higher	17.8%	19.4%	21.5%

Limited English Proficiency: Residents that have a limited ability to speak, read, write, or understand English are referred to as Limited English Proficient, or LEP. The percentage of LEP individuals in Mustang is very low – just under 2% in 2015 were considered LEP.

Zero-Car: The percentage of households that don't have access to a car in Mustang was only 2.1% in 2015, which is a decrease from 2.8% in 2010.

TAPESTRY SEGMENTS:

ESRI, a mapping and demography company, has developed a market segmentation system called Tapestry Segmentation to help identify consumer markets. Using Tapestry Segmentation, residential areas in the U.S. are divided into segments based on the socioeconomic and demographic composition. Analyzing the tapestry segments of Mustang can give further insight about residential characteristics and potentially about the needs and demands of residents. The top three tapestry segments in Mustang are described below.



Middleburg: Approximately 39% of Mustang fits into this segment, which is composed of residents who are conservative and family-oriented and live in semirural parts of metropolitan areas. The majority of residents are white and the unemployment rate is slightly lower than the national average.



Green Acres: Approximately 26% of Mustang fits into this segment, which is composed of residents who are primarily blue-collar Baby Boomers with and without children. The majority of residents in this segment are white and more than half have attended college. A high percentage of households earn income from being self-employed.



Old and Newcomers: Approximately 11% of Mustang fits into this segment, which is composed of residents who are either just starting their careers or retiring in cities. The majority of households are composed of one person and over 60% have at least some college education.



Images courtesy of Tapestry Segmentation



NATURAL & CULTURAL RESOURCES



The natural environment and cultural resources of a community are important to consider when developing a comprehensive plan as they can pose limitations for growth or create opportunities for preserving resources. The majority of Canadian County falls within the Central Great Plains ecoregion of Oklahoma and thus the topography of Mustang is generally flat, which is attractive to developers seeking to build new development in the city. As noted previously, Mustang has a history of successful crop production, which is due to soils that are conducive to agriculture and a wet climate. However, much of the city has been urbanized over the past 50 years so minimal agricultural land still exists.

Water resources are also important to analyze during the planning process. The primary unit of water planning is the watershed. In a watershed, all of the water from rivers and streams drain to a single source, often a lake. Mustang falls within two watersheds – the Lower Canadian-Walnut and the Middle North Canadian. Although there are no major lakes or rivers in the city limits, there are a few streams that provide natural and vegetative relief. A critical issue noted by stakeholders is flooding, especially in the Lakehoma Estates, Canadian Estates, and Cedar Ridge areas. Portions of the city are in the 100-year floodplain, which means that these areas have a 1% chance of experiencing a devastating flood each year. Flooding issues and recommendations are discussed in more detail in Chapter 10 – Stormwater Management.

Within the city, there is one structure listed on the National Register of Historic Places; the Meloy House, located near Mustang Road, just north of the railroad tracks, was built around 1902 and is the only remaining structure from the founding of Mustang. While Oklahoma is known for the presence of Native Americans, there are no federally-recognized tribal boundaries within the city limits. The closest recognized tribe is the Chickasaw Nation who have tribal lands in Grady and McClain counties directly to the south of Mustang.



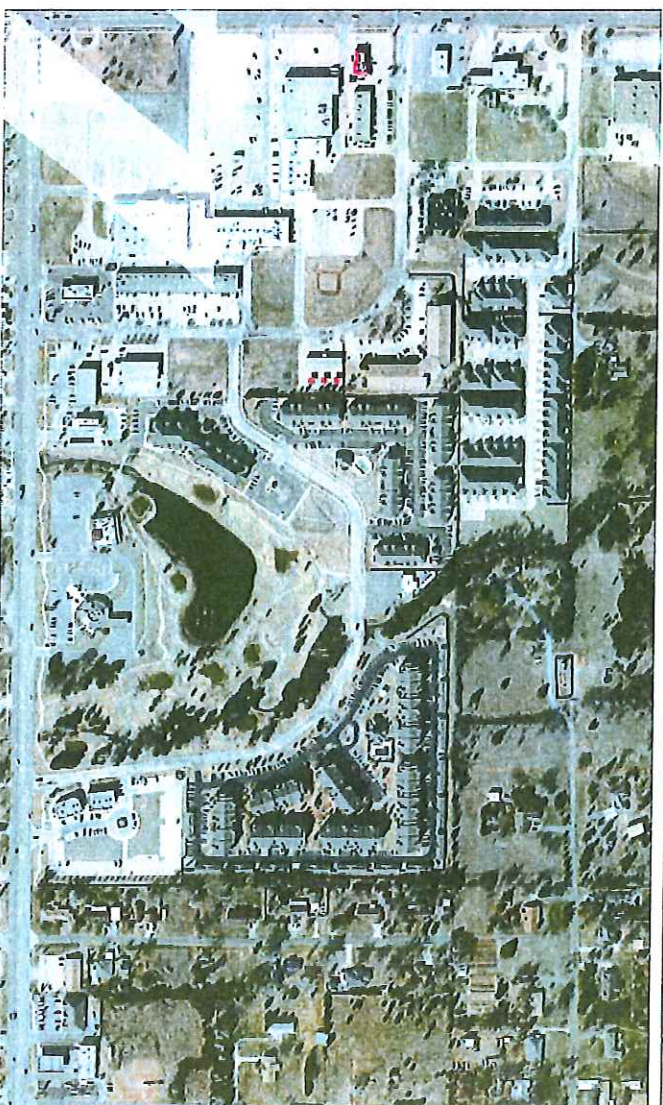
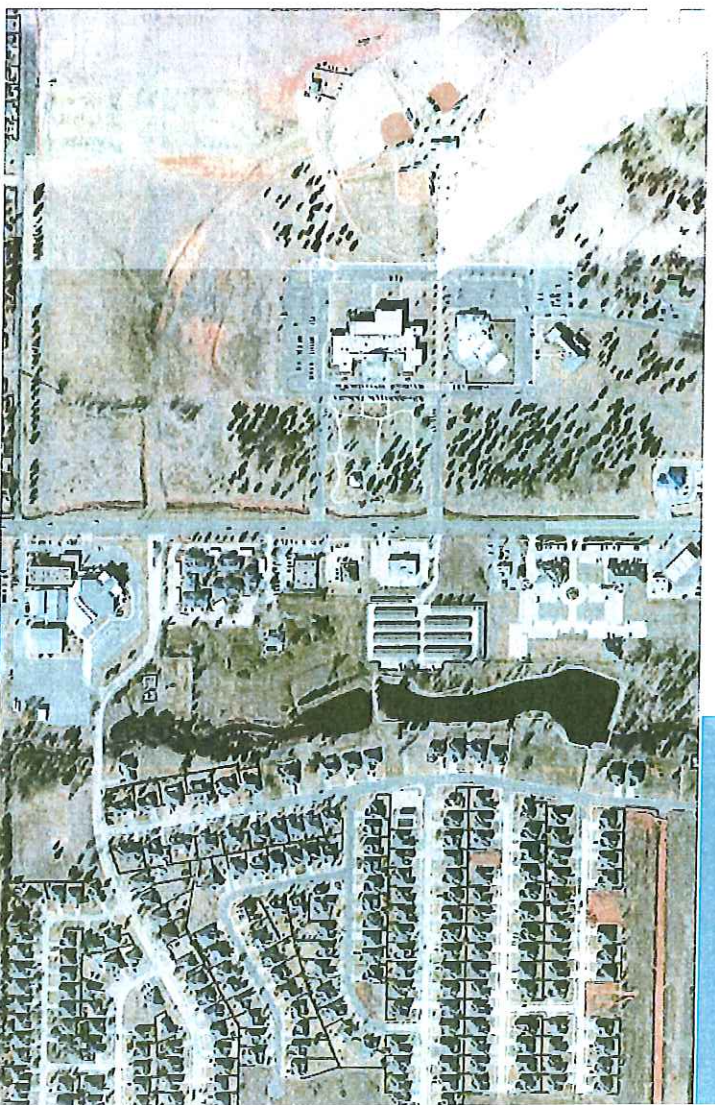
BUILT ENVIRONMENT

Within the 12 square miles of Mustang, approximately 5,091 acres or 66% is currently developed. Of the developed land, 80% is residential, which adds to the perception that Mustang is a bedroom community. Multi-family makes up a very small percentage of the residential uses in Mustang.

Retail and office makes up only 8% of the developed area, which should be increased to support the number of residences and to decrease the number of residents leaving the city to shop and eat. Large employers include the school district, St. Anthony Healthplex, Wal-Mart, and Lowe's.

Educational uses make up 3% of developed land in Mustang. The city has its own school district, Mustang Public Schools (MPS), which extends beyond the city limits and includes 12 total schools. Within the city limits, there are 6 MPS schools – 3 elementary schools, 1 intermediate school, 1 middle school, and 1 high school. During the public involvement process, the quality of schools in the city was greatly emphasized.

Finally, parks and open space make up about 4% of developed land in Mustang. In the parks system there are 8 developed and 2 undeveloped parks which are discussed more fully in [Chapter 6 – Parks, Recreation and Trails](#).



PART I - CHARTER OF THE CITY OF MUSTANG, OKLAHOMA

PREAMBLE

We, the people of the City of Mustang, exercising the powers of home rule granted to us by the Constitution and the Laws of the State of Oklahoma, in order to provide for more efficient, adequate, and economical government, do hereby ordain, ratify, and establish the Charter of the City of Mustang, Oklahoma.

ARTICLE 1. - INCORPORATION, FORM OF GOVERNMENT, POWERS

Section 1-1. - Incorporation.

- (a) The City of Mustang, Oklahoma, within the corporate limits as now established, or as hereafter may be established, shall be a municipal body politic and corporate in perpetuity under the name of "City of Mustang." The City is the legal successor of the Town; and as such, it succeeded to and possesses all the property and rights belonging to the Town, and shall be liable for all debts and other obligations for which the Town was legally bound at the time of the succession in government.
- (b) The City of Mustang, Oklahoma, may not be annexed by or to, or be consolidated with, any other city or other political subdivision, or merged into a combined county-city government, unless a majority of the qualified electors of the City of Mustang voting on the question approve such annexation, consolidation, or merging; and such questions may be submitted to the qualified electors of the City only by the City Council or by the Mayor on proper initiative petition at special election; provided that nothing herein shall prohibit the City of Mustang from annexing additional territory to the City as provided by law.

Section 1-2. - Form of Government.

The municipal government provided by this Charter shall be known as a "Council-Manager Government." All powers of the City shall be exercised in the manner prescribed by this Charter, or, if the manner is not thus prescribed, then in such manner as the Council may prescribe by ordinance.

Section 1-3. - Powers of the City.

- (a) The City shall have all powers, functions, rights, privileges, franchises, and immunities granted to cities by the State Constitution and Law, and all the implied powers necessary to carry into execution all the powers granted. Except as prohibited by the State Constitution or Law, the City shall have all municipal powers, functions, rights, privileges, franchises, and immunities of every name and nature whatsoever.
- (b) The City shall have the power to adopt a corporate seal and to alter it at pleasure, to sue and to be sued, and to make contracts. It shall have power to acquire property within or without its corporate limits for any City purpose, including public utilities, works and ways, in fee simple or any lesser [lessor] interest or estate, by purchase, gift, devise, lease, condemnation, or other legal means; and to hold, maintain, improve, enlarge, manage, control, operate, lease, sell, convey, or otherwise dispose of, such property as its interests may require, including public utilities, works, and ways. It shall have power to incur indebtedness and to issue bonds within the limitations prescribed by the State Constitution. It shall have power to accept and administer federal and state grants-in-aid and to do everything necessary to

accomplish the purpose or purposes for which such grants may be made. It shall have power to ordain and to enforce local legislation for the proper organization and functioning of the city government, for the preservation and enforcement of good government and order, for the protection of health, life, morals, and property, for the prevention, summary abatement, and removal of nuisances, and otherwise for the promotion of the common welfare. It shall have power to grant, extend, and renew franchises in accordance with the State Constitution.

- (c) The enumeration or mention of particular powers by this Charter shall not be deemed to be exclusive or limiting; and in addition to the powers enumerated or mentioned herein or implied hereby, the City shall have all powers which, under the State Constitution and Law, it would be competent for this Charter specifically to enumerate or mention.
- (d) Provisions of State Law relating to matters which may be regulated by cities operating under charters, shall be in effect only insofar as they are applicable and are not superseded by this Charter or by ordinance.

ARTICLE 2. - THE COUNCIL

Section 2-1. - Councilmembers: Number, Qualifications.

There shall be a Council of seven (7) members, which shall consist of the Mayor as Councilmember at large, and one Councilmember from each of the six (6) wards of the City, as the wards are constituted in this Charter, or as they may hereafter be constituted by ordinance.

- (a) Qualified electors who are candidates for the office of Mayor shall meet a residency requirement of at least one (1) year before the closing of the filing period.
- (b) Qualified electors who are candidates for the office of Councilmember shall meet a residency requirement of at least one (1) year in the ward they are to represent, before the filing period.
- (c) The Mayor shall be a resident and a registered voter of the City. If he ceases to be a resident of the City, he shall thereupon cease to be Mayor.
- (d) A Councilman shall be a resident and registered voter of the ward in which he was elected. If he ceases to be a resident of the ward in which he was elected, he shall cease to be a Councilman; however, a temporary loss of residency in said ward of no more than six (6) months shall not disqualify said Councilman, provided, he shall remain a resident of the City.
- (e) No Councilmember may hold any office in the City Government by appointment by the City Manager or by any subordinate of the City Manager.
- (f) If the Mayor or any other Councilmember is convicted of a crime involving moral turpitude, the office shall become vacant immediately when the case is finally determined.
- (g) An incumbent Councilmember whose term is not expiring in the current election year shall be required to resign as Councilmember in order to become eligible as a candidate for Mayor.

Section 2-2. - Mayor and Vice-Mayor.

- (a) The Mayor shall preside at meetings of the Council. The Mayor shall be recognized as head of the City

Government for all ceremonial purposes and by the Governor for purposes of military law. The Mayor shall have no regular administrative duties except that the Mayor shall sign written obligations of the City as the Council may require. As a Councilmember, the Mayor shall have all powers, rights, privileges, duties and responsibilities of a Councilmember, including the right to vote on questions.

- (b) At the first meeting after the time prescribed for the beginning of the terms of newly elected Council members, or as soon thereafter as practicable, the Council shall elect from its membership, a Vice-Mayor, who shall serve as such until the next such first meeting. The Vice-Mayor shall act as Mayor during the absence, disability, or suspension of the Mayor, until another Mayor is elected by the Council for the completion of the unexpired term and qualifies. If the office of Vice-Mayor becomes vacant, the Council shall elect from its membership another Vice-Mayor for completion of the unexpired term.

Section 2-3. - Councilmembers: Compensation.

Neither the Mayor nor any other Councilmember may receive any compensation as Mayor or Councilmember, nor for any other service rendered the City, but may be reimbursed for expenses incurred in the discharge of their official duties.

Section 2-4. - Council: Powers.

Except as otherwise provided for in this Charter, all powers of the City, including the determination of all matters of policy, shall be vested in the Council. Without limitation of the foregoing, the Council shall have the power, subject to the State Constitution, Law, and this Charter:

- (a) To appoint and remove the City Manager.
- (b) By ordinance, to enact municipal legislation.
- (c) To raise revenue and make appropriations, and to regulate bond elections, the issuance of bonds, sinking funds, and refunding of indebtedness, set salaries and wages, and all other fiscal affairs of the City.
- (d) To inquire into the conduct of any office, department, or agency of the City Government, and investigate municipal affairs.
- (e) To appoint or elect and remove the City Attorney, the members of the Personnel Board, the members of the Planning Commission, the members of the Board of Adjustments, and other quasi-legislative, quasi-judicial, or advisory officers and authorities, now or when and if established, or to prescribe the method of appointing or electing and removing them.
- (f) To grant pardons for violations of the Charter and Ordinances, including the remission of fines and costs, upon application by a person convicted and public hearing thereon.
- (g) To regulate elections, the initiative and referendum, and recall.
- (h) To create, change, and abolish all offices, departments, and agencies of the City Government other than the offices, departments, and agencies created by this Charter; and to assign additional powers, duties and functions to offices, departments and agencies created by this Charter.

Section 2-5. - Council Not to Interfere in Appointments and Removals.

Neither the Council, the Mayor, nor any of its other members may direct or request the appointment of any person to, or removal from, office or employment by the City Manager or by any other authority, or except as provided in this Charter, participate in any manner in the appointment or removal of officers and employees of the City. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager; and neither the Council nor any member thereof may give orders on administrative matters to any subordinate of the City Manager, either publicly or privately.

Section 2-6. - Council: Meetings.

The Council shall hold at least one regular meeting every month, at such time as it may prescribe by ordinance or otherwise. The Mayor or majority of Councilmembers may call special meetings. The City Clerk shall attempt to notify all Councilmembers by special delivery, certified mail, registered mail, or other verifiable means, at least twenty-four (24) hours before such special meetings. All meetings of the Council shall be open to the public, and the journal of its proceedings shall be open to the public inspection, provided the Council may hold executive sessions when authorized by the Oklahoma Open Meeting Law.

Section 2-7. - Councilmembers: Absences to Terminate Membership.

If the Mayor or any other Councilmembers shall be absent from more than one-half of all the meetings of the Council, regular and special, held within any period of four consecutive calendar months, the member shall thereupon cease to hold office.

Section 2-8. - Councilmembers: Removal.

The Mayor or any other Councilman may be removed from office for any cause specified by applicable State Law for the removal of officers, and by the method or methods prescribed thereby, and by recall as provided in this Charter.

State Law reference— Grounds for removal of officers and procedures therefor, 22 O.S. § 1181 et seq.

Section 2-9. - Councilmembers: Vacancies in Office.

- (a) When a vacancy occurs in the office of a Councilmember, except the Mayor, the governing body shall appoint, by a majority vote of the remaining members, a person who resides in the ward of the vacant office to fill the vacancy until the next general municipal election, and until a successor is elected and qualifies. Any vacancy shall then be filled at the next general municipal election by election of a person to complete the balance of any unexpired term. If the vacancy has not been filled within sixty (60) days after it occurs, the governing body shall call for a special election for the purpose of filling the vacancy for the duration of the unexpired term, unless such vacancy occurs within one hundred twenty (120) days prior to the first day of a filing period for the next general municipal election.
- (b) When a majority of governing body offices are vacant more than sixty (60) days before the beginning of a regular filing period for general municipal elections, the remaining members of the governing body shall call for a special election to be held in the municipality for the purpose of filling all vacant offices for the remainder of their unexpired terms.
- (c) When a vacancy occurs in the office of Mayor, a special election shall be held to fill that vacancy.

11/22/2019 Mustang, OK Code of Ordinances
Section 2-10. - Council: Quorum, Rules, Yeas and Nays.

A majority of all the members of the Council shall constitute a quorum, but a smaller number may adjourn from day to day or from time to time. The Council may determine its own rules. On the demand of any member, the vote on any question shall be by yeas and nays, and shall be entered in the journal.

Section 2-11. - Ordinances: Enacting Clause.

The enacting clause of all ordinances passed by the Council shall be, "Be it ordained by the Council of the City of Mustang, Oklahoma," and of all ordinances proposed by the voters under their power of initiative, "Be it ordained by the People of the City of Mustang, Oklahoma."

Section 2-12. - Ordinances: Passage, When in Effect.

Every proposed ordinance shall be read, and a vote of the majority of all Councilmembers shall be required for its passage. The vote on final passage of every ordinance shall be by yeas and nays, and shall be entered in the journal. The Mayor shall have no power of veto. Within ten (10) days after its passage, every ordinance shall be published in full, or by number and title, in a newspaper of general circulation within the City. Every ordinance, except an emergency ordinance, so published, shall become effective thirty days after its final passage, unless it specifies a later time; provided that an ordinance granting a franchise to a public utility or an ordinance de-annexing territory from the City shall not go into effect until the ordinance has been published in full in a newspaper of general circulation within the City, and has been approved at an election by a vote of a majority of the qualified electors voting on the question.

Section 2-13. - Ordinances: Emergency.

An emergency ordinance is an ordinance which, in the judgment of the Council, is necessary for the immediate preservation of peace, health, or safety, and which should become effective prior to the time when an ordinary ordinance would become effective. Every such ordinance shall contain, as a part of its title, the words, "and declare an emergency"; and in a separate section, herein called the emergency section, shall declare the emergency, and state the reasons why it is necessary that the measure become effective immediately. An affirmative vote of at least three-fourths of the Councilmembers shall be required for the passage of an emergency ordinance. An emergency ordinance shall take effect immediately upon passage and publication.

Section 2-14. - Ordinances: Adoption by Reference.

The Council, by ordinance, may adopt by reference codes, ordinances, standards, and regulations relating to building, plumbing, electrical installations, milk and milk products, and other matters which it has power to regulate otherwise. Such code, ordinance, standard, or regulation so adopted need not be enrolled in the Book of Ordinances; but three (3) copies shall be filed and kept in the office of the City Clerk.

Section 2-15. - Ordinances: Codification.

The permanent, general ordinances of the City shall be codified and published in book or pamphlet form at least every ten (10) years, unless the Council, by use of looseleaf system, provides for keeping the code up-to-date. The ordinances and parts of ordinances included in the code may be revised, rearranged, and reorganized; and the code

may contain new matter, provisions of the State Constitution and Law Applicable to City, and this Charter. Three (3) copies of the published code shall be filed in the office of the City Clerk after the Council adopts the code by ordinance, but the code need not be enrolled in the Book of Ordinances. The ordinances shall be made available in book or pamphlet form for distribution or sale to the public, at the costs of copies.

State Law reference— Ordinance codification, 11 O.S. § 14-108; compilation of penal ordinances, 11 O.S. § 14-109 et seq.

ARTICLE 3. - CITY MANAGER AND ADMINISTRATIVE DEPARTMENTS

Section 3-1. - City Manager; Appointment, Term, Qualifications, Removal.

There shall be a City Manager. The Council shall appoint the City Manager for an indefinite term, by a vote of the majority of all its members. The Council shall choose the City Manager solely on the basis of executive and administrative qualifications, with special reference to actual experience in, or knowledge of, accepted practice in respect to the duties of the office. Neither the Mayor nor any members of the City Council may be appointed City Manager during the terms for which the Councilmember shall have been elected, nor within two (2) years after the expiration of the Councilmember's term. At the time of the City Manager's appointment, the City Manager need not be a resident of the City or State, but, during the tenure of office, the City Manager shall reside within the City, except, if part-time, the Council may give permission to live outside the City. The Council may suspend or remove the City Manager at any time by a vote of a majority of all its members; provided that the Council shall give written statement of the reason for removal at least twenty (20) days before removal, and on request, shall give the City Manager an opportunity for a public hearing thereon after the expiration of such time before removal.

Section 3-2. - Designation of Acting City Manager.

The City Manager, by letter filed with [the] City Clerk, may appoint a qualified administrative officer of the City to be Acting City Manager during the temporary absence or disability of the City Manager. The Council may appoint an Acting City Manager whenever:

- (a) The City Manager fails to make such designation.
- (b) The Council suspends the City Manager.
- (c) There is a vacancy in the office of the City Manager.

Section 3-3. - City Manager: Powers and Duties.

The City Manager shall be the Chief Executive Officer and head of the administrative branch of the City Government. The City Manager shall execute the laws and administer the government of the City, and shall be responsible therefor to the Council. The City Manager shall:

- (a) Appoint, and when necessary for the good of the service, remove, demote, lay off or suspend all heads of administrative departments and other administrative officers and employees of the City, except as otherwise provided by law. The Manager, or the Council, by ordinance, may authorize the

head of a department, office or agency to appoint and remove the subordinates in such departments, office or agency.

- (b) Supervise and control all administrative departments, officers and agencies.
- (c) Prepare a budget annually and submit it to the Council and be responsible for the administration of the budget after it goes into effect and recommend to the Council any changes in the budget which the City Manager deems desirable.
- (d) Submit to the Council a report after the end of the fiscal year on the finances and administrative activities of the City for the preceding year.
- (e) Keep the Council advised of the financial condition and future needs of the City, and make recommendations as he deems desirable.
- (f) Perform such other duties as may be prescribed by law or ordinance.

Section 3-4. - City Clerk: Creation and Duties.

The City Clerk shall be an officer of the City, appointed by the City Manager for an indefinite term. The City Clerk shall serve as clerical officer for the Council. Subject to such regulations as the Council may prescribe, the City Clerk shall:

- (a) Keep the journal of the proceedings of the Council.
- (b) Enroll in a book or books kept for the purpose, all ordinances and resolutions passed by the Council.
- (c) Have custody of documents, records and archives as may be provided by law or ordinance and have custody of the seal of the City.
- (d) Attest and affix the seal of the City to documents as required by law or ordinance.
- (e) Have such other powers, duties and functions as may be prescribed by law or ordinance.

Section 3-5. - Administrative Departments, Offices and Agencies.

There shall be a Department of Finance and such other administrative departments, offices, and agencies as this Charter establishes and as the Council may establish.

ARTICLE 4. - DEPARTMENT OF FINANCE, FISCAL AFFAIRS

Section 4-1. - Finance Director: Office Created, Duties.

There shall be a Finance Director, who shall be an officer of the City appointed by the City Manager for an indefinite term, and who shall be head of the Department of Finance. Except as the Council, by ordinance, provides otherwise, the Finance Director shall collect or receive revenue and other money for the City and shall deposit the same with the City Treasurer. The Finance Director shall maintain a general accounting system for the City Government. The Finance Director shall have such other powers, duties and functions as may be prescribed by the Charter, by applicable law, or by ordinance.

Section 4-2. - City Treasurer: Office Created, Duties.

Within the Department of Finance, there shall be a City Treasurer, who shall be an officer of the City, appointed by the City Manager for an indefinite term. Subject to such regulations as the Council may prescribe, the City Treasurer shall deposit daily, all funds received for the City in such depositories as the Council shall designate. The City Treasurer shall have such other powers, duties, and functions as may be prescribed by the Charter, by applicable law, or by ordinance.

Section 4-3. - Purchases and Sales.

- (a) The City Manager, subject to any regulations which the Council may prescribe, shall contract for and purchase or issue purchase authorizations for, all supplies, materials, and equipment for the offices, departments, and agencies of the City Government or sell surplus or obsolete supplies, materials, and equipment, subject to such regulations as the Council may prescribe.
- (b) Before the purchase of, or contract for, any supplies, materials, or equipment, or sales of any surplus or obsolete supplies, materials, or equipment, ample opportunity for competitive bidding, under such regulations and with such general exceptions, as the Council may prescribe, shall be given; but the Council shall not exempt an individual contract, purchase or sale from the requirement of competitive bidding.
- (c) The Council, by ordinance, may transfer some or all of the powers granted to the City Manager by this section to an administrative officer appointed by, and subordinate to, the City Manager.

Section 4-4. - Sale of Property Valued at More than \$10,000.

The sales of any property, real or personal, including public utilities, or of any interest therein, the cash value of which is more than \$10,000, may be made only by (1) authority of an affirmative vote of a majority of the qualified electors of the City who vote on the question of approving or authorizing the sale at an election, or by (2) authority of a special nonemergency ordinance. Such ordinance shall be published in full in a newspaper of general circulation within the City within ten (10) days after its passage, and shall include a section reading substantially as follows: "Section _____. This ordinance shall be referred to a vote of the electors of the City if a legal and sufficient referendum petition is properly filed within thirty (30) days after its passage; otherwise, it shall go into effect thirty (30) days after its passage." The sale of an entire public utility may be authorized only as provided in (1) hereinabove.

Section 4-5. - Public Improvements.

Public improvements may be made by the City Government itself or by contract. The Council shall award all contracts for such improvements; provided that the Council may authorize the City Manager to award such contracts not exceeding an amount to be determined by the Council and subject to such regulations as the Council may prescribe. A contract for public improvements of more than \$25,000.00 may be awarded only to the lowest and best responsible bidder after such notice and opportunity for competitive bidding as the Council may prescribe. All bids may be rejected, and further notice and opportunity for competitive bidding may be given. As used herein, "Public Improvement" means any beneficial or valuable change or addition, betterment, enhancement, or amelioration of or upon any real property or interest thereon. The term does not include the direct purchase of materials, equipment or supplies by a public agency.

(Election of 4-6-2004)

Section 4-6. - Fiscal Year.

The fiscal year for the City Government shall begin on the first day of July, and shall end on the last day of June, of every calendar year.

Section 4-7. - Independent Annual Audit.

The Council shall designate a qualified public accountant or accountants who shall make an independent audit of the accounts and evidences of financial transactions of the Department of Finance and of all other departments, offices and agencies keeping separate or subordinate accounts or making financial transactions, as of the end of every fiscal year at least, and who shall report to the Council and to the City Manager.

Section 4-8. - Publication of City Financial Statements.

The Council shall cause to be published in October of each year, a condensed statement of the receipts, expenditures and indebtedness of the City for the period ending the last day of June. This condensed statement shall be published in a newspaper of general circulation in the City. A full and detailed statement of the receipts, expenditures and indebtedness of the City shall be made available to the public for review.

ARTICLE 5. - MUNICIPAL COURT

Section 5-1. - Municipal Court.

Cases arising out of violations of the Charter and ordinances of the City shall continue to be tried by the municipal court created by State Law; provided, that the Council, by ordinance, shall have the power to create a municipal court to hear and determine such cases if and when it deems it necessary or desirable to do so.

ARTICLE 6. - ELECTIONS

Section 6-1. - Nomination and Election, Terms, Nonpartisan Elections.

- (a) The Mayor and Councilmembers shall be elected for three (3) year terms. A change in the name, boundaries or number of wards shall not disqualify a Councilmember from completing the term for which the member was elected.
- (b) Their terms shall begin on the first Monday in May in the year in which they are elected. If a Mayor-Elect or other Councilmember-Elect fails to qualify within one month after the beginning of his term, that member's office shall become vacant, and the vacancy shall be filled as other vacancies in the Council are filled.
- (c) Beginning with the 1985 elections, the candidates for Mayor shall be nominated at large, and the Mayor shall be elected at large by the qualified electors of the entire city; the candidates for Councilmembers from the wards shall be nominated by ward, by the qualified electors of their respective wards, and the

Councilmembers from the wards shall be elected by the qualified electors of their respective wards.

- (d) Both the primary and the general election shall be nonpartisan; and no party designation or emblem shall be placed on the ballots.
- (e) Nothing in this Charter shall prohibit the use of voting machines.

Section 6-2. - Primary Election: Filing

Any qualified person may have their name placed on the ballot of the primary election as a candidate for Mayor or other Councilmember by filing, no earlier than 8:00 a.m. on the first Monday in December and no later than 4:30 p.m. on the next succeeding Wednesday (three full days), with the secretary of the County Election Board, a sworn statement of candidacy, specifying the office for which the individual is a candidate.

(Election of 4-3-2001, § 1; Election of 7-25-2006, § 1; Election of 2-5-2008, §§ 1, 2)

Section 6-3. - Primary Election: Time, etc.

A primary election shall be held on the second Tuesday in February of every year to nominate candidates for Mayor and other Councilmembers to succeed those whose terms are expiring in the respective year, except in any year when a Presidential Preferential Primary Election is held in February, the date for the primary election shall be the same date as the Presidential Preferential Primary Election. In the event that a regular or special election date occurs on an official state holiday, the election shall be scheduled for the next following Tuesday. If only one (1) person is a candidate for an office to be filled, the candidate shall be not only nominated, but also elected ipso facto; and the candidate's name shall not appear on the primary or general election ballot. If only two (2) persons are candidates for Councilmember from the same ward, they shall both be nominated ipso facto; and their names shall not appear on the primary election ballot. Every qualified elector of the City shall be entitled to vote for one candidate for Mayor, and every qualified elector of a ward shall be entitled to vote for one candidate for Councilmember from their respective ward.

(Election of 4-5-2005, § 1; Election of 2-5-2008, §§ 1, 2)

Section 6-4. - Primary Election: Who Nominated or Elected.

In a primary election, the two (2) candidates for each office to be filled receiving the greatest number of votes for that office shall be nominated except as otherwise provided in the next sentence. If one of the candidates for each office to be filled for both Mayor and Council Member received a majority of all votes cast for all candidates for that office to be filled, the candidate shall be not only nominated, but also elected ipso facto; and the candidate's name shall not appear on the ballot for the general election. In case of failure to nominate one or both nominees because of a tie, the nominee or nominees, as the case may be, shall be determined from among those tying, fairly by lot, by the County Election Board in a public meeting. If one of the two candidates for an office nominated in a primary election dies or withdraws before the general election, the remaining candidate shall be elected ipso facto; and the candidate's name need not appear on the ballot for the general election.

(Election of 4-6-2004)

Section 6-5. - General Election: Time, Who Elected.

A general election shall be held in the City on the first Tuesday in April of every year to elect the Mayor and Councilmembers to succeed those whose terms are expiring in the respective year. Every qualified elector of this City shall be entitled to vote for one of the two candidates for the office of Mayor. Every qualified elector of a ward shall be entitled to vote for one of the two candidates for the office of Councilmember from their respective ward.

Section 6-6. - Elections: When Not Held.

If there are no candidates and no questions to be voted upon at a primary or general election, the election shall not be held.

Section 6-7. - Registered Qualified Electors.

Only electors residing in this City who have the qualifications prescribed for electors by the State Constitution and Law, and who are registered, as may be required by law, may vote in City elections.

Section 6-8. - Political Activity of Officers and Employees.

- (a) No officer or employee of the City, except for the Mayor and other Councilmembers and personnel who receive no compensation for their services, may work for or against, or attempt to influence, the nomination, election or defeat of any candidate for Mayor or other Councilmember, or the recall of the Mayor or any other Councilmember, except as may be specifically allowed by State Law, which controls over this Charter, but this shall not prohibit the ordinary exercise of one's right to express individual opinions and to vote.
- (b) Any person who violates this section shall be guilty of an offense, and upon conviction, shall be punished by a fine not exceeding Seventy Dollars (\$70.00) including costs. Such violation shall constitute cause of removal from office or employment; and if the regular removal authority has not already removed a person who violates this section, he or she shall be automatically removed by conviction of violating this section effective at the time the conviction becomes final.

State Law reference— Political activities by municipal employees, 11 O.S. § 22-101.1.

Section 6-9. - Elections Prior to 1985.

At the elections in 1983, the Mayor and Councilmembers from Wards ONE and THREE shall be elected for two-year terms. At the elections in 1984, the Councilmembers from Wards TWO and FOUR shall be elected for two-year terms. In the 1983 election, the candidates for Mayor shall be nominated, and the Mayor shall be elected, at large, by the qualified electors of the entire City. The candidates for Councilmembers from the four wards shall be nominated by ward, by the qualified electors of their respective wards, but the Councilmembers from the wards shall be elected at large by the qualified electors of the entire City for both the 1983 and 1984 elections.

Section 6-10. - Initial Elections Under New Wards.

Beginning with the elections in 1985, the Mayor and Councilmembers from Wards ONE and THREE shall be elected for three-year terms, and Councilmembers from Wards FIVE and SIX shall be elected for two-year terms. In 1986, the Councilmembers from Wards TWO and FOUR shall be elected for three-year terms, and in 1987, Councilmembers from

Wards FIVE and SIX shall be elected for three-year terms.

Section 6-11. - State Constitution and Law to Govern.

The provisions of the State Constitution and Law applicable to City elections, shall govern such elections in this City insofar as they are applicable and are not superseded by this Charter or by ordinance.

State Law reference— Municipal elections, 11 O.S. § 16-101 et seq.

ARTICLE 7. - RECALL

Section 7-1. - Recall Authorized.

The incumbent for any elective City office, including a person appointed to fill a vacancy in any such office, may be recalled from office by the electors qualified to vote for the election of a successor to the incumbent, in the manner provided in this article.

Section 7-2. - Recall Petition.

- (a) To initiate recall proceedings, a written statement in duplicate, proposing the recall of the incumbent of an elective office, shall be signed by a number of registered qualified electors of the ward for Councilmember, or City at large for Mayor, equal to at least twenty (20) percent of the qualified electors of the ward for Councilmember, or City at large for Mayor, who voted at the last general state-wide election, and shall be filed with the City Clerk after the incumbent has held office at least six months. The statement shall also contain the reason or reasons for which the recall is sought, in not more than two hundred (200) words. Within five days, the City Clerk shall mail a copy of such statement by registered, certified, or similar special mail to the officer at the incumbent's residential address. Within ten days after the statement is mailed to the officer, the officer may make and file with the City Clerk a written statement in duplicate, justifying the officer's conduct in office, in not more than two hundred (200) words; and the City Clerk, on request, shall deliver one copy to one of the persons filing the statement proposing the recall.
- (b) The petition for recall shall include a demand that a successor to the incumbent sought to be recalled be elected, and shall also include, before the space where the signatures are to be written, the statement giving the reason or reasons for recall under the heading "STATEMENT FOR RECALL," and if the officer has filed a statement as authorized, the statement justifying his conduct in office under the heading "STATEMENT AGAINST RECALL." The two statements shall be in letters of the same size. A copy of the petition shall be filed with the City Clerk within one month after recall proceedings are initiated by the filing of the first statement, and before the petition is circulated.
- (c) A number of registered qualified electors of the ward for Councilmember, or City at large for Mayor, equal to at least thirty-three and one-third ($33 \frac{1}{3}$) percent of the qualified electors of the ward for Councilmember, or City at large for Mayor, who voted at the last general state-wide election must sign the petition. Each signer shall write after the signer's name, his or her address within the City, giving street or avenue and number, if any. Not more than one hundred (100) signatures may appear on a

single copy of the Petition. Petitions may be circulated only by registered qualified electors of the area; and the person who circulates each copy of the petition shall sign an affidavit on the copy stating that each signer signed the petition in his or her presence, and that each signature on the petition is genuine, and that he or she believes each signer to be a registered qualified elector of the ward or City at large, as the case may be.

- (d) The circulated petition shall be filed with the City Clerk no later than one month after the filing of a copy as provided in Section 7-2(a). Within one month after the date of filing of the circulated petition, the City Clerk shall examine it and ascertain whether the required number of registered qualified electors of the ward, or City at large, as the case may be, have signed it. The City Clerk shall then attach his or her certificate to the petition. If his or her certificate states that the petition has not been prepared and circulated as required and/or lacks a sufficient number of signatures, the petition shall have no effect. But, if the City Clerk's certificate states that the petition has been prepared and circulated as required and has a sufficient number of signatures, the City Clerk shall submit the petition and certificate to the Council at its next meeting.

Section 7-3. - Recall Election: Council to Order.

- (a) The Council, by resolution or ordinance passed at the next regularly scheduled Council Meeting, after receiving the petition and certificate of the City Clerk, shall order and fix the date for a recall election, which shall be held not less than forty (40) days, nor more than fifty (50) days, after passage of the resolution or ordinance. The City Clerk shall cause the resolution or ordinance ordering the election to be published in full in a newspaper of general circulation within the City within ten (10) days after its passage; and such publication shall be sufficient notice of the election.
- (b) The qualified electors of the affected ward or the City at large, as the case may be, may vote in a recall election on the election of successors to more than one officer on the same day.

Section 7-4. - Recall Election: How Held.

- (a) The recall election shall be an election to fill the office held by the incumbent sought to be recalled. There shall be no primary. Any qualified person, including the incumbent, may file as a candidate for the office. The candidate receiving the greatest number of votes in the recall election shall be elected. If a candidate other than the incumbent is elected, the incumbent shall be recalled from office effective as of the time when the result of the election is certified. The successful candidate must qualify within one month thereafter; and if he or she fails to do so, the office shall be vacant, and the vacancy shall be filled as other vacancies in the Council are filled. A candidate thus elected and qualifying shall serve for the unexpired term. If the incumbent is a candidate and receives the greatest number of votes, he or she shall continue in office without interruption; and recall proceedings may not again be initiated against him or her within one year after the election.
- (b) The provisions of this Charter relating to City elections shall also govern recall elections insofar as they are applicable and are not superseded by the provisions of this article.

Section 7-5. - Persons Recalled or Resigning.

A person who has been recalled from an office or who has resigned from such office while recall proceedings were pending against him or her, may not hold any office or position of employment in the City Government within three years after his or her recall or resignation.

ARTICLE 8. - OFFICERS AND EMPLOYEES GENERALLY

Section 8-1. - Appointments, Removals, Etc.

- (a) Appointments and promotions in the service of the City shall be made solely on the basis of merit and fitness; and layoffs, suspensions, demotions, and removals shall be made solely for the good of the service.
- (b) The Council, by ordinance, may establish a merit system.

Section 8-2. - Nepotism.

Neither the City Manager, the Council, nor any other authority of the City Government, may appoint or elect any person related to the Mayor or any other Councilmember, to the City Manager, or to himself or herself, or, in the case of a plural authority, to one of its members, by affinity or consanguinity within the third degree, to any office or position of profit in the City Government; but this shall not prohibit an officer or employee already in the service of the City from continuing therein.

Section 8-3. - Holding More Than One Office.

Except as may be otherwise provided in this Charter or by ordinance, the same person may hold more than one such office, through appointment by himself, by the Council, or by other City authority having power to fill the particular office, subject to any regulations which the Council may make by ordinance; but he or she may not receive compensation for service in such other offices. Also, the Council, by ordinance, may provide that the City Manager shall hold ex officio designated offices subordinate to the City Manager, as well as other designated compatible City offices, notwithstanding any other provisions of this Charter.

Section 8-4. - Official Bonds.

The City Manager, the City Clerk, the City Treasurer, and such other officers and employees as the Council may designate, before entering upon their duties, shall provide bonds for the faithful performance of their respective duties, payable to the City, in such form and in such amounts as the Council may prescribe, with a surety company authorized to operate within the state. The City shall pay the premiums on such bonds.

Section 8-5. - Oath or Affirmation of Office.

Every officer of the City, before entering upon the duties of office, shall take and subscribe to the oath or affirmation of office prescribed by the State Constitution. The oath or affirmation shall be filed in the City Clerk's office.

Section 8-6. - Who May Administer Oaths and Affirmations.

All officers authorized by Federal or State Law, the Mayor, the City Manager, the City Clerk, the Municipal Judge, and such other officers as the Council may authorize, may administer oaths and affirmations in any manner pertaining to the affairs and government of the City.

Section 8-7. - Removal, Etc., of Officers and Employees.

The power to lay off, suspend, demote and remove accompanies the power to appoint or elect, and the City Manager, the Council, or other appointing or electing authority at any time may lay off, suspend, demote, or remove any officer or employee to whom he or she, the Council, or the other appointing or electing authority respectively may appoint or elect a successor.

Section 8-8. - Acting Officers and Employees.

The appointing or electing authority who may appoint or elect the successor of an officer or employee, may appoint or elect a person to act during the temporary absence, leave, disability, or suspension of such officer or employee, or, in case of a vacancy, until a successor is appointed or elected and qualifies, unless the Council provides by general ordinance that a particular superior or subordinate of such officer or employee shall act. The Council, by general ordinance, may provide for a deputy to act in such cases.

Section 8-9. - Officers to Continue Until Successors are Elected or Appointed and Qualify.

Every Officer who is elected or appointed for a term ending at a definite time, shall continue to serve thereafter until his or her successor is elected or appointed and qualifies, unless his or her services are sooner terminated by resignation, removal, disqualification, death, abolition of the office, or other legal manner.

Section 8-10. - Conflict of Interest.

- (a) Neither the Mayor, any other Councilmember, nor the City Manager shall sell or barter anything to the City or to a contractor to be supplied to the City; or to make any contract with the City; or purchase anything from the City other than those things which the City offers generally to the public (as for example, utility services) and then only on the same terms as are offered to the public. Any such officer violating this section, upon conviction thereof, shall thereby forfeit his or her office. Any violation of this section, with the knowledge, express or implied, of the person or corporation contracting with the City, shall render the contract voidable by the City Manager or the Council. This subsection shall not apply in cases where the City acquires property by condemnation or threat of condemnation.
- (b) The Council, by ordinance, or the City Manager, by personnel rules, may further regulate conflict of interest and ethics of officers and employees of the City.

ARTICLE 9. - GENERAL AND MISCELLANEOUS PROVISIONS

Section 9-1. - Feminine Gender.

When the masculine gender is used in this Charter, it shall also include the feminine.

Section 9-2. - Initiative and Referendum.

The powers of initiative and referendum are reserved to the people of the City. In the exercise of these powers, the requirements of the State Constitution and Law shall be observed.

State Law reference— Municipal initiative and referendum, 11 O.S. § 15-101 et seq.

ARTICLE 10. - AMENDMENT AND SEPARABILITY OF CHARTER

Section 10-1. - Amendment: Proposal, Ratification, Approval.

This Charter may be amended by proposals thereof submitted by the Council or by the Mayor upon initiative petition of the electors as provided by the State Constitution, at a general or special election, ratified by a majority of the qualified electors voting thereon, and approved by the Governor as provided by the State Constitution. If more than one amendment is proposed, all of them, except those which are so interrelated that they should be ratified or rejected together, shall be submitted in such a manner that the electors may vote on them separately. A proposition to amend this Charter may be either in the form of a proposed amendment to a part or parts of the Charter or of a proposed new Charter.

Section 10-2. - Separability.

- (a) If a court of competent jurisdiction holds any section or part of the Charter invalid, such holding shall not affect the remainder of this Charter, nor the context in which such section or part so held invalid may appear, except to the extent that an entire section or part may be inseparably connected in meaning and effect with that section or part.
- (b) If a court of competent jurisdiction holds a part of this Charter invalid, or if a change in the State Constitution or Law renders a part of this Charter invalid or inapplicable, the Council, by ordinance, may take such appropriate action as will enable the City Government to function properly.

ARTICLE 11. - SUCCESSION IN GOVERNMENT

Section 11-1. - When Charter Goes into Effect.

This Charter shall go into effect immediately upon its ratification by a vote of a majority of the qualified electors of the City voting upon the question at an election and its approval by the Governor as provided by the State Constitution; and the government created by this Charter shall supersede the heretofore existing City Government as of that time.

Section 11-2. - Wards.

Beginning with 1985, there shall be six wards in the City of Mustang which shall be created and/or adjusted based on compactness and contiguity of territory and distribution of population. The six wards shall be created and defined by the City Council by ordinance by January, 1985, and the additional wards shall be filled as provided in this Charter. Until 1985, the City of Mustang will continue with the present four wards.

Section 11-3. - Reapportionment.

As soon as practicable, following each federal census, and again ten years later, the municipal governing body shall review the wards and ward boundaries of the municipality. Any change in the boundaries of wards shall be made by ordinance with due regard to the convenience and contiguity of the wards. The effective date of a change in the names or boundaries of wards shall be the effective date of the governing body ordinance making such change, unless the governing body provides otherwise. Election of Councilmembers for wards which have no representation due to such change shall take place at the next regular municipal elections and their terms of office shall be as provided by the Charter or ordinances adopted hereunder.

Section 11-4. - Ordinances Continued.

All ordinances, insofar as they are not inconsistent with this Charter, shall continue in effect until they are repealed or until they expire by their own limitations.

Section 11-5. - Pending Actions and Proceedings.

The adoption of this Charter shall not abate or otherwise affect any action or proceeding, civil or criminal, pending when it takes effect, brought by or against the municipality or any office, department, agency, or officer thereof.

Section 11-6. - Review of Charter.

This City Charter shall be reviewed at least every ten years by a committee of freeholders, appointed by the City Council, commencing with the year, 1982.

Certified by:

Richard L. Weathers, Mayor

March 7, 1983

Attest:

Linda R. Hazell, City Clerk

Appendix C

CONFLICTS OF INTEREST

It is useful to begin any discussion of conflicts of interest with a statement by the Oklahoma Supreme Court: "Government officials and employees must exercise great care to avoid even the appearance of impropriety in their duties; for they, like Caesar's wife, must be above reproach." *Westinghouse Electric Corp. v. Grand River Dam Authority*, 1986 OK 20, 720 P.2d 713. This statement is a useful guide in determining whether an actual or potential conflict of interest exists in any case.

OKLAHOMA CONSTITUTION

Section 11, Article X of the Oklahoma Constitution contains a broad provision designed to preclude conflicts of interest by absolutely prohibiting transactions. Section 11 provides:

The receiving, directly or indirectly, by any officer of the State, or of any county, city, or town, or member or officer of the Legislature, of any interest, profit, or perquisites, arising from the use or loan of public funds in his hands, or moneys to be raised through his agency for State, city, town, district, or county purposes shall be deemed a felony. Said offense shall be punished as may be prescribed by law, a part of which punishment shall be disqualification to hold office.

In its broadest terms, §11 prohibits public officers "from receiving benefits from the use of public funds in their hands or raised through their agencies for governmental purposes." As Oklahoma's Attorney General noted, §11 prohibits public officers "from receiving a direct or indirect profit from the use of public funds." Oklahoma Attorney General Opinion, 1985 OK AG 138. As noted by the Attorney General:

This provision is broad in its sweep, and severe in its punishment of violations. Since violation of this provision results in punishment for a felony crime and disqualification to hold office it must be strictly construed, as are all penal statutes. Strict construction of Article X, Section 11 shows it covers only officers of the State, or any county, city, town or member of the Legislature. It does not, for example, prohibit conduct of members of a board of education of a school district, since a school district is not the State, nor a county, city or town, but a separate entity, nor does it include trustees of a public trust, which is also a separate and distinct legal entity.

Oklahoma Attorney General Opinion, 2004 OK AG 40 (12/15/2004).

Because § 11 is an absolute prohibition, "the conflict cannot be avoided by having the city official recuse himself or herself from any vote concerning payment of city funds to the

private entity.” *Id.* Nor can the conflict be avoided if the private company insulates the municipal officer from receiving any benefit from the transaction. Oklahoma Attorney General Opinion, 2004 OK AG 40 (12/15/2004).

MUSTANG CHARTER

Mustang Charter, Section 8-10. Conflict of Interest.

(a) Neither the Mayor, any other Councilmember, nor the City Manager shall sell or barter anything to the City or to a contractor to be supplied to the City; or to make any contract with the City; or purchase anything from the City other than those things which the City offers generally to the public (as for example, utility services) and then only on the same terms as are offered to the public. Any such officer violating this section, upon conviction thereof, shall thereby forfeit his or her office. Any violation of this section, with the knowledge, express or implied, of the person or corporation contracting with the City, shall render the contract voidable by the City Manager or the Council. This subsection shall not apply in cases where the City acquires property by condemnation or threat of condemnation.

(b) The Council, by ordinance, or the City Manager, by personnel rules, may further regulate conflict of interest and ethics of officers and employees of the City.

OKLAHOMA STATUTES

In the 1989 legislative session, the statutes were changed to make Title 11, Section 8-113 take precedence over the conflict of interest sections of other titles. However, for any official not covered by Title 11, Section 8-113, the following sections might apply: Title 21, Section 344; Title 21, Section 353; Title 21, Section 355; Title 21, Section 356; Title 21, Section 357; Title 62, Section 371.

Title 11, Section 8-113

- A. Except as otherwise provided by this section, no municipal officer or employee, or any business in which the officer, employee, or spouse of the officer or employee has a proprietary interest, shall engage in:
1. Selling, buying, or leasing property, real or personal, to or from the municipality;
 2. Contracting with the municipality; or
 3. Buying or bartering for or otherwise engaging in any manner in the acquisition of any bonds, warrants, or other evidence of indebtedness of the municipality.

- B. The provisions of this section shall not apply to any officer or employee of any municipality of this state with a population of not more than five thousand (5,000) according to the latest Federal Decennial Census, who has a proprietary interest in a business which is the only business of that type within five (5) miles of the corporate limits of the municipality. However, any activities permitted by this subsection shall not exceed Two Thousand Five Hundred Dollars (\$2,500.00) for any single activity and shall not exceed Fifteen Thousand Dollars (\$15,000.00) for all activities in any calendar year. Provided, however, such activity may exceed Fifteen Thousand Dollars (\$15,000.00) per year if the municipality purchases items therefrom that are regularly sold to the general public in the normal course of business and the price charged to the municipality by the business does not exceed the price charged to the general public.
- C. Provisions of this section shall not apply where competitive bids were obtained consistent with municipal ordinance or state law and two or more bids were submitted for the materials, supplies, or services to be procured by the municipality regardless of the population restrictions of subsection B of this section, provided the notice of bids was made public and open to all potential bidders.
- D. All bids, both successful and unsuccessful, and all contracts and required bonds shall be placed on file and maintained in the main office of the awarding municipality for a period of five (5) years from the date of opening of bids or for a period of three (3) years from the date of completion of the contract, whichever is longer, shall be open to public inspection and shall be matters of public record.
- E. For purposes of this section, "employee" means any person who is employed by a municipality more than ten (10) hours in a week for more than thirteen (13) consecutive weeks and who enters into, recommends or participates in the decision to enter into any transaction described in subsection A of this section. Any person who receives wages, reimbursement for expenses, or emoluments of any kind from a municipality, any spouse of the person, or any business in which the person or spouse has a proprietary interest shall not buy or otherwise become interested in the transfer of any surplus property of a municipality or a public trust of which the municipality is beneficiary unless the surplus property is offered for sale to the public after notice of the sale is published.
- F. For purposes of this section, "proprietary interest" means ownership of more than twenty-five (25%) of the business or of the stock therein or any percentage which constitutes a controlling interest but shall not include any interest held by a blind trust.
- G. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor. Any transaction entered into in violation of the provisions of this section is void. Any member of a governing body who approves any transaction in violation of

the provisions of this section shall be held personally liable for the amount of the transaction.

- H. Notwithstanding the provisions of this section, any officer, director or employee of a financial institution may serve on a board of a public body. Provided, the member shall abstain from voting on any matter relating to a transaction between or involving the financial institution in which they are associated and the public body in which they serve.

Title 60, Section 178.8 - Conflict of Interest - Transactions Exempt

- A. Except with regard to residents of a facility for aged persons operated by a public trust, who are trustees of the public trust operating the facility and who comprise less than a majority of the trustees, a conflict of interest shall be deemed to exist in any contractual relationship in which a trustee of a public trust, or any for-profit firm or corporation in which such trustee or any member of his or her immediate family is an officer, partner, principal stockholder, shall directly or indirectly buy or sell goods or services to, or otherwise contract with such trust. Upon a showing thereof, such trustee shall be subject to removal and such contract shall be deemed unenforceable as against such trust unless the records of such trust shall reflect that such trustee fully and publicly disclosed all such interest or interests, and unless such contractual relationship shall have been secured by competitive bidding following a public invitation to bid.

The following types of transactions are exempt from the aforementioned provisions of this section:

1. The making of any loan or advance of any funds to, or the purchase of any obligations issued by such public trust, in connection with the performance of any of its authorized purposes;
2. Any legal advertising required by law or indenture or determined necessary by the trustees of such public trust;
3. The performance by any bank, trust company or similar entity or any services as a depository; or
4. The sale of any public utility services to such public trust, in which the price of said services is regulated by law.

It shall be the duty of each public trust to compile a list of all conflicts of interest for which its trustees have made disclosure. It shall also be the duty of each trust to compile a list of all dealings between its trustees and the trust which involve the exempted transactions listed above. Such lists shall be compiled semiannually for periods ending June 30 and December 31 of each year. Such lists shall be compiled on forms prescribed by the

Oklahoma Tax Commission and shall be matters of public record. Copies of such lists shall be filed with the Secretary of State by September 1 and March 1 of each year.

- B. The provisions of this section shall be inapplicable to any public trust created and existing prior to July 1, 1988, if all bonds issued by such public trust are required to be issued under and pursuant to a single bond indenture by amendment or supplement thereto and if the instrument or will creating such public trust and the bond indenture under which such trust must issue all bonds shall have been held to be valid and binding agreements in an opinion of the Supreme Court of the State of Oklahoma; and nothing in this section shall impair or be deemed to impair the trust indenture, the bond indenture, or existing or future obligations of such public trust.

Title 62, Section 371 - Contract with Members - Making of Contract

- A. Except as otherwise provided in this section, no board of county commissioners, nor city council, nor board of trustees of any town, nor any district board of any school district in this state, nor any board of any local subdivision of this state shall make any contract with any of its members, or in which any of its members shall be directly or indirectly interested. All contracts made in violation of this section shall be wholly void.

However, for the purposes of this section, the following shall not be considered the making of a contract:

1. The depositing of any funds in a bank or other depository;
2. Any contract with a qualified nonprofit Internal Revenue Code Section 501(c)(3) organization, except for contracts paying salaries or expenses or except a contract entered into by a school district involving the counseling or instruction of students or staff;
3. Monthly billings submitted to any county or local subdivision of the state for public utility companies, electric cooperatives or telephone companies, whose services are regulated by the Oklahoma Corporation Commission, or billings of the utility companies, electric cooperatives or telephone companies pertaining to installations or changes in service, where tariffs for the charges or billings by the companies are on file with the Oklahoma Corporation Commission.

In addition, the governing board of a technology center school district may enter into a contract for the technology center school district to provide training for a company, individual, or business concern by which a member of the board is employed. A board member shall abstain from voting on any such contract between the technology center school district board and the company, individual, or business concern by which the member is employed.

B. The provisions of this section shall not apply to:

1. Those municipal officers who are subject to Section 8-113 of Title 11 of the Oklahoma Statutes; or
2. A member of any board of education of a school district or a director or member of any rural water, sewer, gas and solid waste management district organized pursuant to Section 1324.1 et seq. of Title 82 of the Oklahoma Statutes in this state which does not include any part of a municipality with a population greater than two thousand five hundred (2,500) according to the latest Federal Decennial Census when the board member is the only person who owns or operates a business which is the only business of that type within ten (10) miles of the corporate limits of the municipality.

However, any activities permitted by this subsection shall not exceed Five Hundred Dollars (\$500.00) for any single activity and shall not exceed Ten Thousand Dollars (\$10,000.00) for all activities in any calendar year.

- C. The provisions of this section shall not apply to conservation district board members participating in programs authorized by Section 3-2-106 of Title 27A of the Oklahoma Statutes.
- D. Notwithstanding the provisions of this section, any officer, director or employee of a financial institution may serve on a board of a public body. Provided, the member shall abstain from voting on any matter relating to a transaction between or involving the financial institution in which the member is associated and the public body in which the member serves.
- E. The provisions of this section shall not apply to any board of county commissioners purchasing motor fuel for exclusive use by the county from a cooperative agricultural association in which a member of the board of county commissioners has a financial or proprietary interest. The county commissioner having a financial or proprietary interest in the cooperative agricultural association shall abstain from voting on any such purchase or contract between the county and the cooperative agricultural association. Except as provided in this subsection, the purchasing procedures required by law for counties and county officers shall not otherwise be modified.
- F. A member of a board of county commissioners, city council, board of trustees of any town, district board of any school district in this state, or of any board of any local subdivision of this state shall not be considered to be directly or indirectly interested in any contract with a person or entity that employs such member or the spouse of the member, if the member or the spouse of the member has an interest in the employing entity of five percent (5%) or less.

Appendix D

**Code of Ethics
for members of
Mustang City Council,
Boards and Commissions
Adopted by the Mustang City Council
March 21, 2006**

Preamble

The citizens and businesses of Mustang are entitled to have fair, ethical and accountable local government, which has earned the public's full confidence for integrity. In keeping with the City of Mustang commitment to excellence, the effective functioning of democratic government therefore requires that:

Public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government; public officials be independent, impartial and fair in their judgment and actions; public office be used for the public good, not for personal gain; and public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Mustang City Council has adopted a Code of Ethics for members of the City Council and of the City's boards and commissions to assure public confidence in the integrity of local government and its effective and fair operation.

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of Mustang and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before the Mustang City Council, boards and commissions.

2. Comply with the Law

Members shall comply with the laws of the nation, the State of Oklahoma and the City of Mustang in the performance of their public duties. These laws include, but are not limited to: the United States and Oklahoma constitutions; the Mustang City Charter; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

3. Conduct of Members

The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of Council, boards and commissions, the staff or public.

4. Respect for Process

Members shall perform their duties in accordance with the processes and rules of order established by the City Council and board and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the City Council by City staff.

5. Conduct of Public Meetings

Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.

6. Decisions Based on Merit

Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

7. Communication

Members shall publicly share substantive information that is relevant to a matter under consideration by the Council or boards and commissions, which they may have received from sources outside of the public decision-making process.

8. Conflict of Interest

In order to assure their independence and impartiality on behalf of the common good, members shall not use their official positions to influence government decisions in which they have a material financial interest, or where they have an organizational responsibility or personal relationship, which may give the appearance of a conflict of interest.

In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and they shall abstain from participating in deliberations and decision-making where conflicts may exist.

9. Confidential Information

Members shall respect the confidentiality of information concerning the property, personnel or affairs of the City. They shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial or other private interests.

10. Use of Public Resources

Members shall not use public resources not available to the public in general, such as City staff time, equipment, supplies or facilities, for private gain or personal purposes.

11. Advocacy

Members shall represent the official policies or positions of the City Council, board or commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Mustang, nor will they allow the inference that they do.

12. Policy Role of Members

Members shall respect and adhere to the council-manager structure of Mustang city government as outlined by the Mustang City Charter. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by the public, boards and commissions, and City staff.

Except as provided by the City Charter, members therefore shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.

13. Independence of Boards and Commissions

Because of the value of the independent advice of boards and commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of board and commission proceedings.

14. Positive Work Place Environment

Members shall support the maintenance of a positive and constructive work place environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

15. Implementation

As an expression of the standards of conduct for members expected by the City, the Mustang Code of Ethics is intended to be self-enforcing. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions.

For this reason, ethical standards shall be included in the regular orientations for candidates for City Council, applicants to board and commissions, and newly elected and appointed officials. Members entering office shall sign a statement affirming they read and understood the City of Mustang code of ethics. In addition, the Code of Ethics shall be annually reviewed by the City Council, boards and commissions, and the City Council shall consider recommendations from boards and commissions and update it as necessary.

16. Compliance and Enforcement

The Mustang Code of Ethics expresses standards of ethical conduct expected for members of the Mustang City Council, boards and commissions. Members

themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government.

All members of boards and commissions have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics are brought to their attention.

A violation of this code of ethics shall not be considered a basis for challenging the validity of a Council, board or commission decision.

I affirm I have read and understand the City of Mustang Code of Ethics.

Signature

Position

Printed Name

AGENDA

A. CALL TO ORDER

B. ROLL CALL

C. NEW BUSINESS

D. CONSENT AGENDA

These items are considered on the Consent Agenda so that members of the Improvement Authority by unanimous consent can designate routine agenda items to be approved by one motion. If any item proposed on the Consent Agenda does not meet with approval of all Trustees that item will be removed and heard in regular order.

1. Approval of **03/05/2019** City Council Minutes
- *2. Claims List for **FY 2019**
- *3. Approval to Turn **Past Due Utility Accounts** over to the Collection Agency.
- *4. Acknowledgement of **Receipt of DEQ Permit** No. WL000009190153 to Construct Water Lines for Prairie Hills Estates Addition, Phase 2, Section 1
- *5. Acknowledgement of **Receipt of DEQ Permit** No. SL000009190154 to Construct Sewer Lines for Prairie Hills Estates Addition, Phase 2, Section 1.

E. INFORMATION/REPORTS

1. Trustee Manager
2. Trustees

F. DISCUSSION ITEMS

- *1. **Discussion, Consideration and Possible Action** regarding Water System Policy for the City of Mustang.
- *2. **Discussion, Consideration and Possible Action** regarding Interlocal Agreement dated as of April 2, 2019, between the Oklahoma Environmental Management Authority ("OEMA") and the City of Mustang providing and setting rates for the long term disposal of solid wastes.
- *3. **Discussion, Consideration and Possible Action** regarding Agreement between the City of Mustang and the City of Oklahoma City for Easement Acquisition along SW 59th Street and Sara Road for Oklahoma Turnpike Authority Project JKT-MC-11.

- *4. **Discussion, Consideration and Possible Action** regarding Contract between the City of Mustang and RJR Enterprises, Inc. and Approval of Bonds from RJR Enterprises, Inc. for Project labeled Wild Horse Park Splash Pad.

G. CITY ATTORNEY'S REPORT

- 1. **Discussion, Consideration and Possible Action** regarding Employment Agreement with City Attorney; and, proposed Executive Session as Authorized by 25 Okla. Stat. §307(B)(1,2).

H. ADJOURNMENT

*Items Considered Concurrently on the City Council Agenda.

**MUSTANG IMPROVEMENT AUTHORITY
MARCH 5, 2019**

The Mustang Improvement Authority met in regular session on Tuesday, March 5, 2019, at 7:00 p.m. in the Mustang Municipal Building Council Chambers. Notice of the meeting was posted as required on Friday, March 1, 2019, at 9:50 a.m. in compliance with the Open Meeting Law, 25 O.S., Section 301, et. seq.

A. CALL TO ORDER

Chairman Schweinberg called the meeting to order at **8:22 p.m.**

B. ROLL CALL

Trustees Present: Ray
Leete
Grider
Jones
McKenzie
Noblitt
Schweinberg

Trustees Absent: None

C. NEW BUSINESS

City Manager Rooney requested Item D-4 be removed from the Consent Agenda:

D-4 - Approval of February 5, 2019 Employment Agreement with City Attorney; and, if pulled from Consent Agenda for discussion, Executive Session as Authorized by 25 O.S. §307(B)(1,2), be removed from the Consent Agenda.

MOTION was made by **Trustee Noblitt**, seconded by **Trustee McKenzie**, to remove Item D-4 from the Consent Agenda and Table to a later date.

AYE: Ray, Leete, Grider, Jones, McKenzie, Noblitt, Schweinberg

NAY: None

D. CONSENT AGENDA

1. Approval of **02/05/2019** City Council Minutes
- *2. Claims List for **FY 2019**
- *3. Approval to Turn **Past Due Utility Accounts** over to the Collection Agency.

MOTION was made by **Trustee Grider**, seconded by **Trustee Leete**, to approve Items D-1 through D-3 of the Consent Agenda.

AYE: Ray, Leete, Grider, Jones, McKenzie, Noblitt, Schweinberg

NAY: None

E. INFORMATION/REPORTS

1. **Trustee Manager**
None.
2. **Trustees**
None.

F. DISCUSSION ITEMS

- *6. **Discussion, Consideration and Possible Action** regarding:
- a. Acceptance of Bids for Project Labeled Wild Horse Park Splash Pad.
 - b. Awarding Lowest Qualified Bid for Project Labeled Wild Horse Splash Pad.

MOTION was made by **Trustee Grider**, seconded by **Trustee Noblitt**, to Accept Bid for Project Labeled Wild Horse Park Splash Pad.

AYE: Ray, Leete, Grider, Jones, McKenzie, Noblitt, Schweinberg
NAY: None

MOTION was made by **Trustee Noblitt**, seconded by **Trustee McKenzie**, to Award Bid for Project Labeled Wild Horse Park Splash Pad to RJR Enterprises, Inc. in the amount of \$296,189.00

AYE: Ray, Leete, Grider, Jones, McKenzie, Noblitt, Schweinberg
NAY: None

G. ADJOURNMENT

MOTION was made by **Trustee Grider**, seconded by **Trustee Ray**, to adjourn.

AYE: Ray, Leete, Grider, Jones, McKenzie, Noblitt, Schweinberg
NAY: None

Meeting was adjourned at **8:24 p.m.**

Jess Schweinberg, Chairman

Attest:

Lisa Martin, Secretary

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 68 GENERAL GOVERNMENT						
19-0518	01-A1067	AC-OWEN CONSTRUCTION	TOWN CENTER EXPANSION	3/2019	17-706-18	64,313.22
19-1574	01-A1067	AC-OWEN CONSTRUCTION	TOWN CENTER EXPANSION	3/2019	17-706-18A	129,403.64
19-0011	01-I0015	TYLER TECHNOLOGIES, INC	MONTHLY SUPPORT & HOST WE	3/2019	025-251318A	192.00
19-1536	01-S0258	TRAVIS E. GROOMS	2017 IRRIGATION RELOCATIO	3/2019	6611	2,208.36
19-1296	01-S0332	SMITH ROBERTS LAND SERVICES	RIGHT-OF-WAY AND EASEMENT	3/2019	639-05	11,937.50
DEPARTMENT TOTAL:						208,054.72
DEPARTMENT: 72 WATER						
19-0054	01-C0135	THE CITY OF OKLAHOMA CITY	WATER PURCHASE	2/2019	201903139512	53,065.56
19-0078	01-I0006	WATER HOLDINGS ACQUISITIONS	PUBLIC WORKS CONTRACTOR	3/2019	38810	95,955.41
19-0091	01-00035	OKLAHOMA ELECTRIC COOPERATIVE	ELECTRIC SERVICES	3/2019	201903119441	6,161.40
19-0094	01-00055	OKLAHOMA GAS & ELECTRIC COME	ELECTRIC SERVICES	3/2019	201903129446	2,262.08
19-1630	01-01076	OK WATER RESOURCES BOARD	2018 GROUNDWATER USE REPO	3/2019	201903139516	75.00
DEPARTMENT TOTAL:						157,519.45
DEPARTMENT: 75 SEWER						
19-0051	01-C0117	CLEARWATER ENTERPRISE, LLC	GAS SERVICE	2/2019	201903139514	639.04
19-0078	01-I0006	WATER HOLDINGS ACQUISITIONS	PUBLIC WORKS CONTRACTOR	3/2019	38810	53,974.91
19-0091	01-00035	OKLAHOMA ELECTRIC COOPERATIVE	ELECTRIC SERVICES	3/2019	201903119441	1,101.00
19-0094	01-00055	OKLAHOMA GAS & ELECTRIC COME	ELECTRIC SERVICES	3/2019	201903129446	1,036.58
19-0215	01-W0161	WYNN CONSTRUCTION CO., INC	WASTEWATER TREATMENT PLAN	3/2019	201903119443	240,066.94
DEPARTMENT TOTAL:						296,818.47
FUND TOTAL:						662,392.64

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 68						
GENERAL GOVERNMENT						
19-1699	01-A0280	ABC GARAGE DOOR, INC	REPAIR ROLL-UP DOOR	3/2019	4715	250.00
19-0002	01-B0024	BANCFIRST	2009 CWRB LOAN PAYMENT	4/2019	201903269533	21,939.67
19-0003	01-B0024	BANCFIRST	2016 NOTE PAYMENT	4/2019	201903269534	98,396.05
19-0004	01-B0024	BANCFIRST	2017 NOTE PAYMENT	4/2019	201903269535	78,877.92
19-0006	01-B0024	BANCFIRST	2014B NOTE PAYMENT	4/2019	201903269536	94,935.41
19-0048	01-B0024	BANCFIRST	ADMIN FEES	3/2019	5002483	750.00
19-0057	01-C0108	COWAN GROUP ENGINEERING, L	ENGINEERING FEES	3/2019	4110A	2,158.50
19-1578	01-C0281	MIA - 4TH PENNY EXCESS 90%	PENNY EXTENSION - 90% EXC	4/2019	201903269551	55,000.00
19-1639	01-C1191	CEC CORPORATION	CONSRUCTION MATERIALS TES	3/2019	1701220316.000-12	350.00
19-1676	01-D0032	COMMUNICATIONS LEASING CORP	REPAIR HANDHELD FOR UB	3/2019	INV1706	617.50
19-1600	01-E1106	EST, INC.	CONSTRUCTION MANAGEMENT	3/2019	44383	4,122.04
19-0008	01-G0030	GENERAL FUND	TRANSFER OPERATING FUNDS	4/2019	201903269542	245,000.00
19-0011	01-I0015	TYLER TECHNOLOGIES, INC	MONTHLY SUPPORT & HOST WE	4/2019	025-253531A	192.00
19-0015	01-L0045	LIMITED PURPOSE FUND	3RD PENNY EXCESS	4/2019	201903269545	140,000.00
19-0018	01-M0210	MUSTANG IMPROVEMENT AUTHORITY	TRANSFER CIP FEE	4/2019	201903269547	32,000.00
19-0026	01-P0132	PERSONAL SERVICES FUND	PENNY EXTENSION 10% P.S.	4/2019	201903269548	25,000.00
19-1261	01-R0078	RED PRAIRIE DESIGN GROUP, P	PLANS & BID DOCUMENTS	3/2019	201903279577	2,590.00
19-1638	01-R0078	RED PRAIRIE DESIGN GROUP, P	CONSTRUCTION ADMIN. /T.C.	3/2019	201903279578	1,726.25
19-1710	01-R0078	RED PRAIRIE DESIGN GROUP, P	PLANS & BID DOCUMENTS	3/2019	201903279574	519.21
19-0028	01-R0090	RISK MANAGEMENT FUND	WORKERS COMP FEES	4/2019	201903269539	8,335.00
19-0030	01-S0205	STREET IMPROVEMENT FUND	12.5% FRANCHISE FEE	4/2019	201903269550	15,000.00
19-1296	01-S0332	SMITH ROBERTS LAND SERVICES	RIGHT-OF-WAY AND EASEMENT	3/2019	639-06	7,250.00
DEPARTMENT TOTAL:						835,009.55
DEPARTMENT: 72						
WATER						
19-0057	01-C0108	COWAN GROUP ENGINEERING, L	ENGINEERING FEES	3/2019	4110A	830.00
DEPARTMENT TOTAL:						830.00
DEPARTMENT: 75						
SEWER						
19-1539	01-C0108	COWAN GROUP ENGINEERING, L	2016 WWTP PH II C & D	3/2019	4114	8,053.04
19-0095	01-O0010	ONE GAS, INC.	GAS SERVICE	3/2019	201903269565	359.26
19-0215	01-W0161	WYNN CONSTRUCTION CO., INC	WASTEWATER TREATMENT PLAN	1/2019	EIGHT	116,927.88
DEPARTMENT TOTAL:						125,340.18

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 78		SANITATION				
19-0724	01-00121	OKLAHOMA ENVIRONMENTAL MANASANITATION SERVICES		3/2019	19656	90,102.42
					DEPARTMENT TOTAL:	90,102.42
					FUND TOTAL:	1,051,282.15

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 70 ADMINISTRATION						
19-1317	01-D1042	DUKE'S ROOT CONTROL, INC	ROOT CONTROL	4/2019	15196	20,000.00
DEPARTMENT TOTAL:						20,000.00
FUND TOTAL:						20,000.00

P.O.#	VENDOR #	NAME	SUMMARY DESCRIPTION	DATE	INVOICE	AMOUNT
DEPARTMENT: 82		ADMINISTRATION				
19-0057	01-C0108	COWAN GROUP ENGINEERING, LLENGINEERING FEES		3/2019	4110A	896.50
DEPARTMENT TOTAL:						896.50
FUND TOTAL:						896.50
GRAND TOTAL:						1,712,689.86