



MIDWEST CITY  
MEETING AGENDAS FOR  
April 24, 2018

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**STAFF BRIEFING**

City Hall - Midwest City Council Conference Room, second floor  
100 N. Midwest Boulevard

April 24, 2018 – 6:00 PM

To make a special assistance request for any meeting, call 739-1215 or email [pmenefee@midwestcityok.org](mailto:pmenefee@midwestcityok.org) no less than 24 hours prior to the start of a meeting.

If special assistance is needed during a meeting, call 739-1388.

**DISCUSSION.**

Clarification of agenda items, handouts, and presentation of new or additional information for items on the agendas for the Special Capital Improvement Projects Committee, City Council, Memorial Hospital Authority, Municipal Authority, and Special Utilities Authority for April 24, 2018.



**CITY OF MIDWEST CITY**

**SPECIAL CAPITAL IMPROVEMENT PROJECTS COMMITTEE AGENDA**

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

April 24, 2018 – 6:45 PM

A. CALL TO ORDER.

B. DISCUSSION ITEMS.

1. Discussion and consideration of approving the minutes of the October 24, 2017 meeting, as submitted. (Secretary - S. Hancock)
2. Discussion and consideration of a request to fund the construction of approximately one hundred sixty feet of underground public drainage improvements in the 1600 block of Albert Drive at the approximate amount of \$26,000 to serve properties located in the Willow Wind subdivision located in Section 12, T11N, R2W, Midwest City. (Community Development - P. Menefee)
3. Discussion and consideration of a request to partially fund the construction of approximately three hundred fifty feet of water line improvements along the 10300 block of N.E. 7th Street located between North Pine Street and North White Oak Street, at the approximate amount of \$20,000, to serve properties located in the Harper subdivision located in Section 31, T12N, R1W, Midwest City. (Community Development - P. Menefee)

C. ADJOURNMENT.





DISCUSSION ITEMS



Notice of this special Capital Improvement Program Committee meeting was filed with the City Clerk of Midwest City and copies of the agenda for this meeting were posted at City Hall and on the City's website, accessible to the public for at least 48 hours in advance of this meeting.

**MINUTES OF THE SPECIAL STAFF BRIEFING OF THE  
CAPITAL IMPROVEMENT PROGRAM COMMITTEE MEETING**

October 24, 2017 – 6:50 PM

This special meeting was held in the Midwest City Council Conference Room on the second floor of City Hall, 100 N. Midwest Boulevard, Midwest City, County of Oklahoma, State of Oklahoma.

Chairman Matt Dukes called the meeting to order at 6:11 PM with the following members present: Committee Members Gary Bachman, Pat Byrne, Susan Eads, Rick Dawkins, Sean Reed, Christine Allen; and Secretary Sara Hancock. Absent: Stan Griel and Jeff Moore.

**DISCUSSION.**

**Clarification of agenda items, handouts, and presentation of new or additional information for items on the Special Capital Improvement Program Committee agenda for October 24, 2017.**

Staff discussed individual agenda items with the Committee Members.

Chairman Dukes adjourned the meeting at 6:21 p.m.

ATTEST:

\_\_\_\_\_  
MATTHEW D. DUKES, II, Chairman

\_\_\_\_\_  
SARA HANCOCK, Secretary

Notice of this special Capital Improvement Program Committee meeting was filed with the City Clerk of Midwest City and copies of the agenda for this meeting were posted at City Hall and on the City's website, accessible to the public for at least 48 hours in advance of this meeting.

**MINUTES OF THE SPECIAL  
CAPITAL IMPROVEMENT PROGRAM COMMITTEE MEETING**

October 24, 2017 – 6:50 PM

This special meeting was held in the Midwest City Council Chambers at City Hall, 100 N. Midwest Boulevard, Midwest City, County of Oklahoma, State of Oklahoma. Chairman Dukes called the meeting to order at 7:03 PM with the following Committee Members present: Gary Bachman, Susan Eads, Rick Dawkins, Pat Byrne, Sean Reed, and Christine Allen; and Secretary Sara Hancock. Absent: Stan Griel and Jeff Moore.

**Discussion Items.**

1. **Discussion and consideration of approving the minutes of the October 10, 2017 meeting, as submitted.** Dawkins made a motion to approve the minutes, as submitted, seconded by Eads. Voting aye: Bachman, Eads, Byrne, Dawkins, Reed, Allen, and Chairman Dukes. Nay: none. Absent: Griel and Moore. Motion carried.
  
2. **Discussion and consideration of a request to fund the survey of the Caldwell Drive corridor in the amount of \$3,450.00.** After discussion, Byrne made a motion to approve the request, as submitted, seconded by Eads. Voting aye: Bachman, Eads, Byrne, Dawkins, Reed, Allen, and Chairman Dukes. Nay: none. Absent: Griel and Moore. Motion carried.

**Adjournment.**

There being no further business, Chairman Dukes adjourned the meeting at 7:05 PM.

ATTEST:

\_\_\_\_\_  
MATTHEW D. DUKES, II, Chairman

\_\_\_\_\_  
SARA HANCOCK, Secretary



The City of  
**MIDWEST CITY**  
COMMUNITY DEVELOPMENT DEPARTMENT -  
ENGINEERING DIVISION

Billy Harless, Community Development Director  
Patrick Menefee, P.E., City Engineer

ENGINEERING DIVISION  
Patrick Menefee, City Engineer  
CURRENT PLANNING DIVISION  
Kellie Gilles, Manager  
COMPREHENSIVE PLANNING  
Julie Shannon, Comprehensive Planner  
BUILDING INSPECTION DIVISION  
Christine Allison, Building Official  
GIS DIVISION  
Greg Hackman, GIS Coordinator

TO : Capital Improvements Committee

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

DATE : April 24th, 2018

SUBJECT : Discussion and consideration of a request to fund the construction of approximately one hundred sixty feet of underground public drainage improvements in the 1600 block of Albert Drive at the approximate amount of \$26,000 to serve properties located in the Willow Wind subdivision located in Section 12, T11N, R2W, Midwest City.

The proposed item addresses an ongoing drainage problem affecting the properties located along Albert Drive in the Willow Wind subdivision. The Willow Wind subdivision was platted and the streets and drainage improvements were constructed in 1978. The homes located along Albert Drive have always drained their yards using the gutter line of the street, carrying it south to a flume that's located across from the intersection of Beth Drive. Over the decades, the road has settled to the point that gutter of the street no longer carries all the water to the flume. Ponding water has become an issue for the residents located along the east side of the 1600 block of Albert Drive.

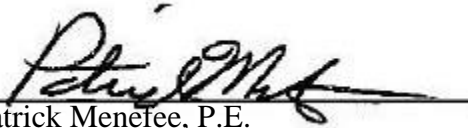
The residents reached out to Mayor Dukes and staff was tasked with providing a solution to address the situation. Staff has had on site meetings with the citizens of the area of request, and has surveyed the area to access the situation. Constructing curb inlets and installing an underground drainage pipe will be most cost effective and least disruptive option to eliminate the pooling storm water. The improvement would begin in the street right of way adjacent to 1614 Albert Drive and would extend south to the existing concrete flume. The improvement would be located totally inside the existing street right of way, no additional utility easement would be necessary. The estimated cost to construct this drainage system is approximately \$26,000. If approved, city staff will design the improvement and will enter into an agreement with a local contractor to install the system.

The funds for the project would be taken from the 157 Capital Improvement Account.

Please note the following updates on other recently approved drainage projects:

The previously approved concrete flume located in the Pine Ridge Addition has been surveyed and designed for the past few months. The City's on call concrete contractor has been unavailable / unwilling to come to the City to complete the work. The initial plan was to have the work complete before the end of the calendar year. Due to their delays, Staff has pursued other estimates for the project, collecting six other bids for the work. Primo's Construction Services moved on site March 2nd and has begun the project. Although the low bidder, the project's cost is higher than the initial \$10,000 estimate provided by the on call contractor's unit prices.

The previously approved survey work located along Caldwell Drive has been completed. The improvement plans staff are preparing for the road and the proposed drainage work north of Caldwell Drive are progressing and will be ready for construction when funding is available. Note the drainage easements necessary for the project have been acquired from the property owners.



Patrick Menefee, P.E.  
City Engineer

Attachments



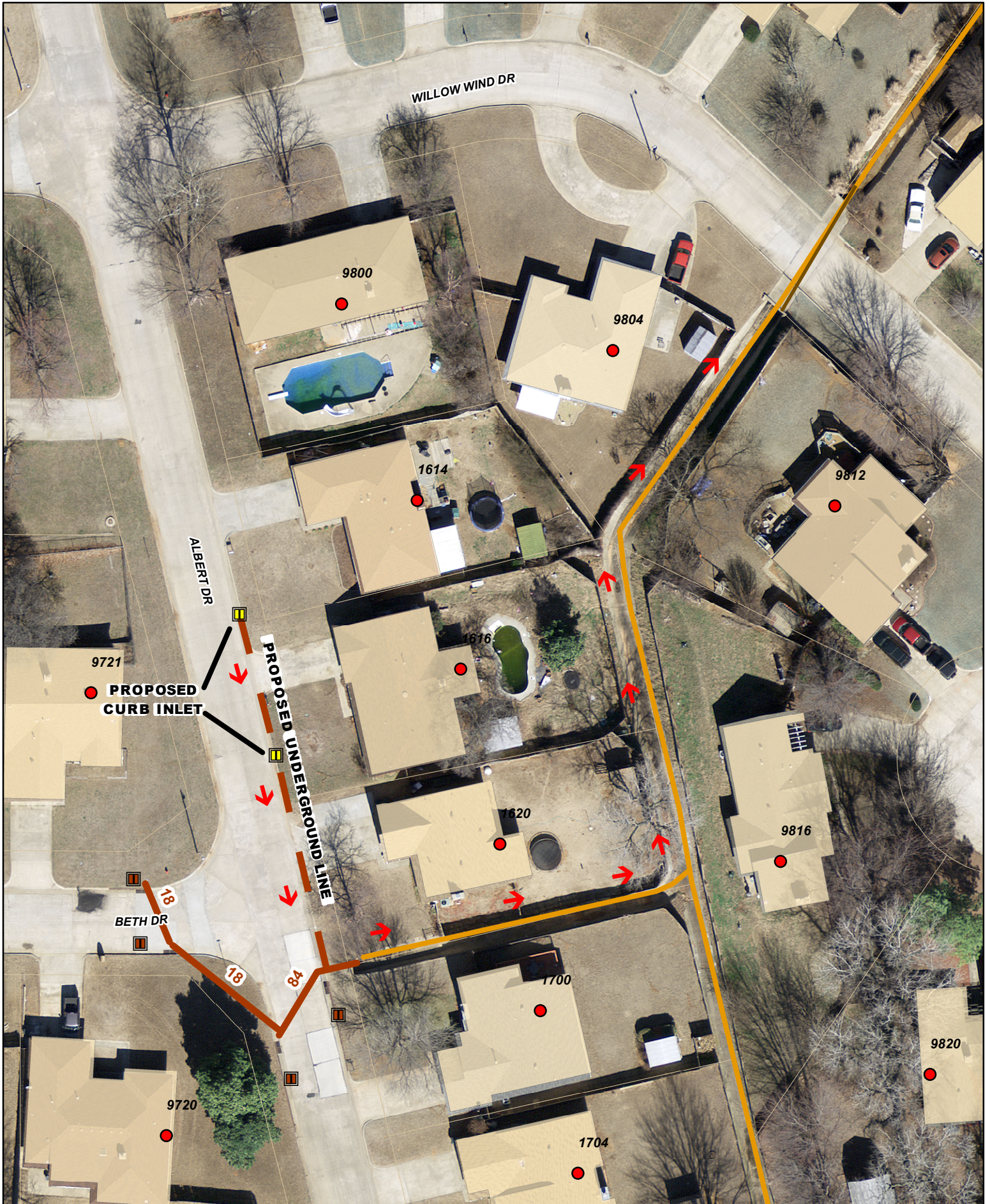


Proposed Curb Inlets



Proposed Underground Storm Line

1 inch = 50 feet





**Engineer Estimate: 1600 block Albert Dr, Pipe**

|                  |                                       |    |     |    |          |                      |                     |
|------------------|---------------------------------------|----|-----|----|----------|----------------------|---------------------|
| 202(H) 0185      | Earthwork                             | LS | 1   | \$ | 2,000.00 | \$                   | 2,000.00            |
| 230(A) 2806      | Solid Slab Sodding                    | SY | 240 | \$ | 1.28     | \$                   | 307.20              |
| 303(A) 2100      | Aggregate Base Type A                 | CY | 8   | \$ | 47.62    | \$                   | 396.83              |
| 414(B) 5725      | Dowel Jointed P.C.C.Pavt. (Placement) | SY |     | \$ | 21.22    | \$                   | -                   |
| 414(G) 5275      | P.C. Concrete for Pavement            | CY | 0   | \$ | 136.27   | \$                   | -                   |
| 609(A) 5864      | Conc. Curb (6" Barrier-Dowelled)      | LF |     | \$ | 24.69    | \$                   | -                   |
| 610(B) 0604      | 6" Concrete Driveway                  | SY | 75  | \$ | 52.97    | \$                   | 3,972.75            |
| 611(G) 5112      | Inlet CI Des. 2 (STD)                 | EA | 2   | \$ | 2,586.38 | \$                   | 5,172.76            |
| 613(E) 5610 (SP) | 18" Corrugated Polypropylene Pipe     | LF | 120 | \$ | 42.36    | \$                   | 5,083.20            |
| 613(S) 1186      | Standard Bedding Material, Class B    | CY | 46  | \$ | 37.39    | \$                   | 1,731.90            |
| 619(B) 4766      | Removal of Concrete Driveway          | SY | 75  | \$ | 7.45     | \$                   | 558.75              |
| 880(J) 8905      | Construction Traffic Control          | LS | 1   | \$ | 1,000.00 | \$                   | 1,000.00            |
| 641 1552         | Mobilization                          | LS | 1   | \$ | 2,629.04 | \$                   | 2,629.04            |
| 642(B) 0096      | Construction Staking Level II         | LS |     | \$ | 606.70   | \$                   | -                   |
|                  |                                       |    |     |    |          | <hr/>                |                     |
|                  |                                       |    |     |    |          | SubTotal             | \$ 22,852.44        |
|                  |                                       |    |     |    |          | 10% Contigent        | \$ 2,285.24         |
|                  |                                       |    |     |    |          | <b>Total Project</b> | <b>\$ 25,137.68</b> |



The City of  
**MIDWEST CITY**  
COMMUNITY DEVELOPMENT DEPARTMENT -  
ENGINEERING DIVISION

Billy Harless, Community Development Director  
Patrick Menefee, P.E., City Engineer

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Christine A, Building Official  
GIS DIVISION  
Greg Hackman, GIS Coordinator

TO : Capital Improvements Committee

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

DATE : April 24th, 2018

SUBJECT : Discussion and consideration of a request to partially fund the construction of approximately three hundred fifty feet of water line improvements along the 10300 block of N.E. 7th Street located between North Pine Street and North White Oak Street, at the approximate amount of \$20,000, to serve properties located in the Harper subdivision located in Section 31, T12N, R1W, Midwest City.

The proposed item addresses a gap in the city's water infrastructure system affecting the properties located along N.E. 7th Street in the Harper subdivision. The water infrastructure in the area was extended in the past by the city through bond proposals, servicing the local residents. However, this section of line was not constructed during those water system expansion projects.

The applicant, Jeff Moore, has asked the city's assistance in funding the construction of this line. The improvement would begin in the street right of way of North Pine Street and would extend east approximately three hundred and fifty feet, covering the full frontage of the subject properties. The improvement would be located totally inside the existing street right of way, no additional utility easement would be necessary. The estimated cost to construct this water line is approximately \$20,000. In the case of previous, similar, funding requests, the City has funded up to 50% (\$10,000) of the construction costs for this type of public improvement not including engineering fees.

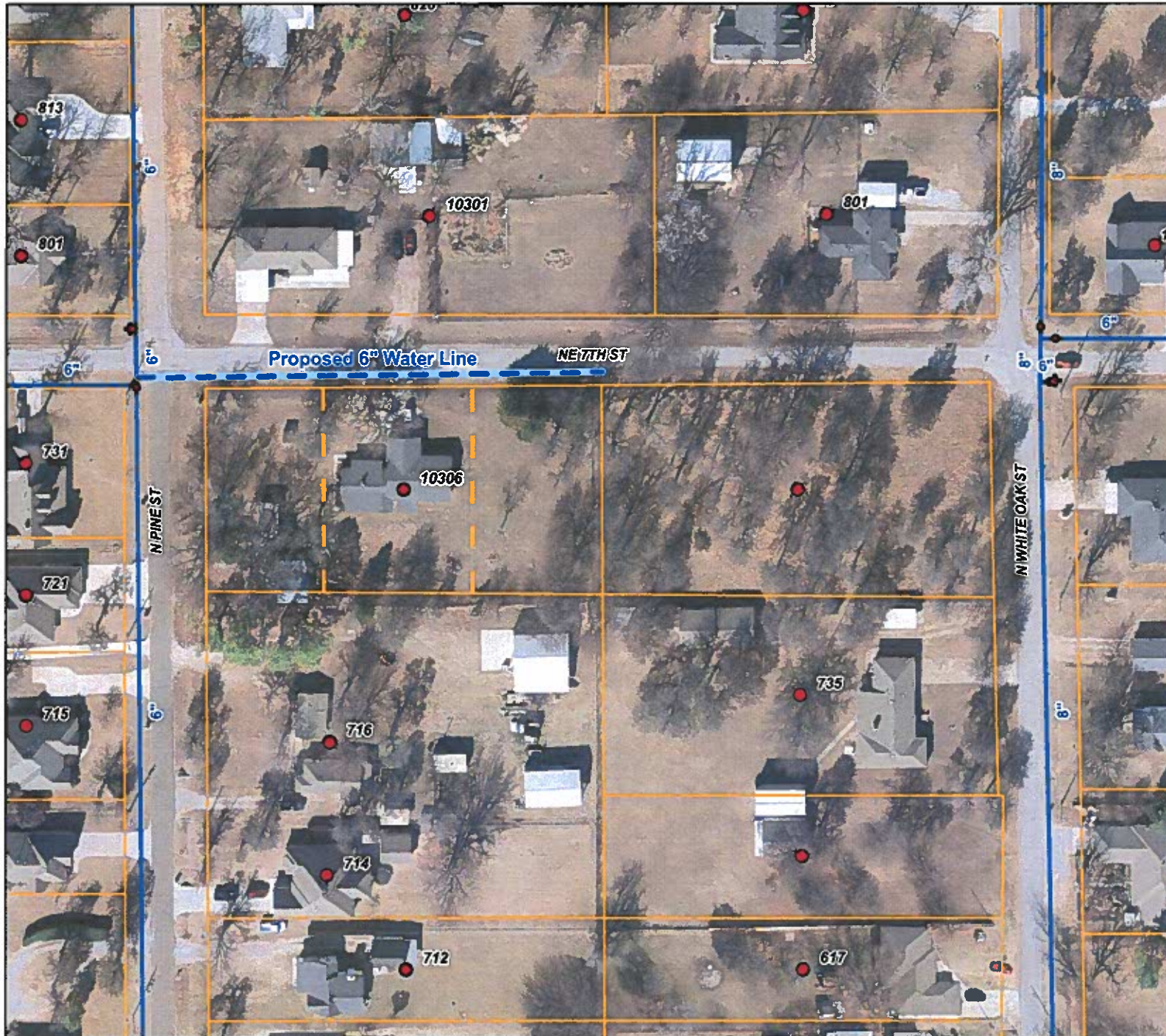
If approved, staff would recommend the city contribute funds not to exceed \$10,000 to extend the water line. The funds for the project will be taken from the 157 Capital Improvement Account.

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Patrick Menefee, P.E.  
City Engineer

Attachments





## C.I.P. REQUEST

### NE 7TH STREET WATER LINE

- ◆ Fire Hydrants
- Butterfly Valve
- Gate Valve
- Unknown
- Water Lines
- - - Proposed Water Line



1 inch = 100 feet

#### DISCLAIMER

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

To: Capital Improvement Program Members

I would like to take the time to request assistance from the City through the Capital Improvement Program. I have a 1-acre lot on the southeast corner of NE 7<sup>th</sup> and Pine in Midwest City. There is an existing sewer line across the frontage on NE 7th. I would like City assistance to run water across the frontage to my east boundary. I am proposing that if the city will share this expense, I can create two new buildable home sites. The proposed lot on the corner, west of the existing house, I have sold if I can get this done. The middle lot with existing house would remain as an existing house where there have already been some improvements made. I would tie this house onto city water. The east lot would be available for sale and would be an attractive home site.

This proposed water line would also serve an existing house across the street and would potentially attract a couple of new home sites there. The bordering property to the east would also be more attractive for 3 – 6 more potential new homes.

Please take this into consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Moore', with a long horizontal flourish extending to the right.

Jeff Moore





## CITY COUNCIL AGENDA



The 7:00 PM meetings will be shown live on Channel 20.



The recorded video will be available on Youtube and the City's website Within 48 hours at [www.youtube@midwestcityok.org](http://www.youtube@midwestcityok.org).



The meeting minutes and video can be found on the City's website in the Agenda Center: <https://midwestcityok.org/AgendaCenter>.



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## CITY OF MIDWEST CITY COUNCIL AGENDA

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

April 24, 2018 – 7:00 PM

- A. CALL TO ORDER.
- B. OPENING BUSINESS.
- Invocation by Vaughn Sullivan
  - Pledge of Allegiance by Jr. ROTC Cadets Alexys Sandlin
  - Community-related announcements and comments and Arbor Week Proclamation
- C. CONSENT AGENDA. These items are placed on the Consent Agenda so the Council, by unanimous consent, can approve routine agenda items by one motion. If any item proposed does not meet with the approval of all Council, or members of the audience wish to discuss an item, it will be removed and heard in a regular order.
1. Discussion and consideration of approving the minutes of the special meeting, staff briefing, and regular meeting of April 10, 2018, as submitted. (City Clerk - S. Hancock)
  2. Discussion and consideration of accepting the City Manager's Report for the month of March, 2018. (Finance - C. Barron)
  3. Discussion and consideration of accepting the monthly report on the City of Midwest City Employees' Health Benefits Plan by the City Manager and action as deemed necessary by the Council to maintain the plan. (Human Resources - C. Wilson)
  4. Discussion and consideration of passing and approving a resolution to notify the public of publication of the most recent supplement, supplement #14, dated April 2018, to the Midwest City Code of ordinances and to ratify all other previous supplements and codifications. (City Clerk - Hancock)
  5. Discussion and consideration of naming the Human Resource Director as the lead negotiator working with the Fire Chief, and Human Resources Assistant Director as the City's bargaining team for the purposes of negotiating the Fiscal Year 2018-2019 successor Collective Bargaining Agreement between the City of Midwest City and the International Association of Firefighters Local 2066 (IAFF). (Human Resources - C. Wilson)
  6. Discussion and consideration of naming the Human Resource Director as the lead negotiator working with the Police Chief, and Human Resources Officer as the City's bargaining team for the purposes of negotiating the Fiscal Year 2018-2019 successor Collective Bargaining Agreement between the City of Midwest City and the Fraternal Order of Police Lodge 127 (FOP). (Human Resources - C. Wilson)
  7. Discussion and consideration of renewing for the Fiscal Year 2018/2019 contracts with DB Compensation Software in the amount of \$2,000.04 to maintain the City's non-represented employees' compensation plan and job descriptions. There is no cost increase over last year. (Human Resources - C. Wilson)

8. Discussion and consideration of entering into a Contract with Empyrean Benefits Solutions Inc. to implement an electronic Administrative Benefits platform that will allow eligible employees to enroll in the City Health, Dental, FSA, Life and Voluntary insurances. Implementation fees for the Administrative platform are a onetime charge of \$8,000 with an annual enrollment maintenance fee of \$2,000 and a monthly \$4.00 per eligible participant per month service fee. In addition, there is a onetime implementation fee for the Affordable Care Act (ACA) SafeHarbor compliance tool of \$5,000 and a monthly service fee of \$1,500 for tracking and look back measurement calculations to be in compliance with the ACA. In Addition there will be a \$1.49 fee per eligible participant to process and generate the ACA 1094C and 1095C reports and file with the IRS. (Human Resource - C. Wilson)
9. Discussion and consideration of the approval of a Medical Retirement Application made by Mr. Christopher Sudderth through the Oklahoma Municipal Retirement Fund (OMRF). (Human Resources - C. Wilson)
10. Discussion and consideration of awarding the bid for Kiwanis Park Temporary Concessions to Tasty Snow LLC., in the amount of \$770.00 per month from April 1st to October 1st each year for a total of \$4,620.00 annually. (Public Works - V. Sullivan)
11. Discussion and consideration of rejecting the bids submitted for the 2018 ADA Restroom Renovations, City Offices. (Community Development - P. Menefee)
12. Discussion and consideration of the acceptance of and making a matter of record Permit No. WL000055170443 from the State Department of Environmental Quality for the South Sooner Road and I-40 Waterline Relocation, Midwest City, Oklahoma. (Community Development - P. Menefee)
13. Discussion and consideration of the acceptance of and making a matter of record Permit No. SL000055180213 from the State Department of Environmental Quality for the Sundance Addition Section 6 Sewer Line Extension, Midwest City, Oklahoma. (Community Development - P. Menefee)
14. Discussion and consideration of approving the purchase of ten (10) Code 3 LED light bars for police vehicles through state bid contract. (Police - B. Clabes)
15. Discussion and consideration of approving the Tree Board's 2018-19 Landscape Plan. (Public Works - V. Sullivan)
16. Discussion and consideration of reappointing Jim Campbell to the Builders' Advisory Board for an additional three-year term. (Community Development - B. Harless)

D. DISCUSSION ITEMS.

1. (PC-1942) Public hearing with discussion and consideration of a resolution to amend the Comprehensive Plan from Low Density Residential to Commercial and an ordinance to redistrict from R-6, Single Family Detached Residential to SPUD, Simplified Planned Unit Development, for the property described as the west ½ of Lot 4, Block 2 of the Couch Heights Addition, located at 9200 NE 10th Street. (Community Development - B. Harless)

2. (PC-1943) Public hearing with discussion and consideration of a an ordinance to redistrict from HOS, Hospitality to SPUD, Simplified Planned Unit Development, for the property described as lots 15 and 16 of block 5 of the Aviation Acres Addition, located at 1721 Hudiburg Drive. (Community Development - B. Harless)
3. (PC –1944) Public hearing with discussion and consideration of approval of a resolution for a Special Use Permit to allow the use of Child Care Center in the O-1, Restricted Office district, for the property described as a part of the SE/4 of Section 36 T-12-N, R-2-W, located at 9909 E. Reno Ave. (Community Development - B. Harless)
4. (PC – 1945) Public hearing with discussion and consideration of approval of an ordinance to amend the Planned Unit Development for the property described as Red Oak Development, a tract of land lying in the NE/4 of Section 11, T-11-N, R-2-W, of the Indian Meridian, City of Midwest City. (Community Development - B. Harless)
5. Discussion and Consideration of accepting a preliminary feasibility study report associated with land near the Water Resource Recovery Facility (WRRF) from C. H. Guernsey Engineers, Architects and Consultants. (Public Works - V. Sullivan)
6. Discussion and consideration of filling the position left vacant on the Subdivision Regulations Update Task Force Committee when Rick Dawkins concluded his City Council term. (Community Development - B. Harless)
7. Discussion And Consideration Of A Resolution Approving The Issuance By The Midwest City Memorial Hospital Authority Of Its “Tax Apportionment Refunding Bonds, Taxable Series 2018 (Sooner Rose Increment District Project)” (The “Bonds”); Waiving Competitive Bidding On The Sale Of The Bonds; Approving The Negotiated Sale Of The Bonds; Authorizing Officers To Take Additional Actions Relating To The Bonds; And Other Matters Relating Thereto. (Economic Development - R. Coleman)
8. Discussion and consideration of 1) approving and entering into an Economic Development Agreement with Sooner Investment, Incorporated and the Midwest City Memorial Hospital Authority in the approximate amount of \$875,000 and other goods and valuable consideration, to establish the terms and conditions under which the parties will participate in the development of approximately 6.874 acres located between Buena Vista Avenue and Crosby Boulevard north of Southeast 15th Street; and 2) authorizing the chairman and/or the general manager/ administrator to enter into such other agreements and execute such other documents as may be necessary or appropriate to effect the provisions of the Agreement. (Economic Development - R. Coleman)
9. Discussion and consideration of 1) approving and entering into an Economic Development Agreement with Allison’s Fun, Inc. and the Midwest City Memorial Hospital Authority in the approximate amount of \$1,170,000 and other goods and valuable consideration, to establish the terms and conditions under which the parties will participate in the development of approximately 3.04 acres located between Buena Vista Avenue and Crosby Boulevard north of Southeast 15th Street; and 2) authorizing the chairman and/or the general manager/ administrator to enter into such other agreements and execute such other documents as may be necessary or appropriate to effect the provisions of the Agreement. (Econ. Dev. - R. Coleman)

- E. NEW BUSINESS/PUBLIC DISCUSSION. The purpose of the "Public Discussion Section" of the Agenda is for members of the public to speak to the City Council on any Subject not scheduled on the Regular Agenda. The Council shall make no decision or take any action, except to direct the City Manager to take action, or to schedule the matter for discussion at a later date. Pursuant to the Oklahoma Open Meeting Act, the Council will not engage in any discussion on the matter until that matter has been placed on an agenda for discussion. **THOSE ADDRESSING THE COUNCIL ARE REQUESTED TO STATE THEIR NAME AND ADDRESS PRIOR TO SPEAKING TO THE COUNCIL.**
- F. FURTHER INFORMATION.
1. Discussion and consideration of approving an ordinance amending the Midwest City Municipal Code, Chapter 32, Peddlers and Solicitors, by amending Article III, Foodstuffs; Section 32-60, Food trucks, license required; and providing for repealer and severability. (City Clerk - Hancock)
  2. Discussion and consideration of passing and approving an ordinance amending the Midwest City Municipal Code, Chapter 18, Garbage and Refuse, by amending Article II, Municipal Collection and Disposal Service, Section 18-25, Container Required; Duty to Use; Section 18-26 (c), Sanitation Containers at Commercial Establishments; Section 18-27(a), Residential Service Fees; Section 18-28, Business and Commercial Service Fees; Setting an effective Date; and providing for repealer and severability (This item is under further information on the April 24, 2018 agenda). (Public Works - R. P. Streets)
  3. Discussion and consideration of approving and passing an ordinance amending Chapter 30, Parks and Recreation, of the Midwest City Code, Article IV, In General, by amending Section 30-46(b), Golf course rates; establishing an effective date; and providing for repealer and severability (This item to be under Further Information on the April 24, 2018 agenda). (Public Works - V. Sullivan)
- G. ADJOURNMENT.



CONSENT AGENDA





A notice for this special Midwest City Council meeting was filed with the City Clerk of Midwest City 48 hours prior to the meeting. Public notice of this agenda was accessible at least 24 hours before this meeting at City Hall and on the Midwest City website ([www.midwestcityok.org](http://www.midwestcityok.org)).

### **Special Midwest City Council Meeting Minutes**

April 10, 2018 – 5:30 PM

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

Mayor Matt Dukes called the meeting to order at 5:34 PM with the following members present: Councilmembers: Susan Eads, Pat Byrne, Sean Reed, Christine Allen, and Jeff Moore; and City Clerk Sara Hancock. Absent: Rick Dawkins.

#### **Discussion Items.**

1. **Discussion and consideration of swearing in the Mayor-elect, Matthew D. Dukes II, and the Councilmember-elects: Susan Eads, Española Bowen, and Christine Price Allen.**
  - Bishop Donny McKnight and Fumiko Jenkins swore in Councilmember-elect Española Bowen.
  - Judge David Howell swore in Councilmember-elect Susan Eads followed by Mayor-elect, Matthew D. Dukes II.
  - Judge Joel Porter and Pastor Jeremy Sims swore in Councilmember-elect Christine Allen

#### **Adjournment.**

There being no further business, Mayor Dukes adjourned the meeting at 5:49 PM.

ATTEST:

\_\_\_\_\_  
MATTHEW D. DUKES, II, Mayor

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

A notice for staff briefings for the Midwest City Council was filed for the calendar year with the City Clerk of Midwest City. Public notice of this agenda was accessible at least 24 hours before this meeting at City Hall and on the Midwest City website ([www.midwestcityok.org](http://www.midwestcityok.org)).

### **Midwest City Council Staff Briefing Minutes**

April 10, 2018 – 6:00 PM

This staff briefing was held in the Midwest City Council Conference Room on the second floor of City Hall, 100 N. Midwest Boulevard, Midwest City, County of Oklahoma, State of Oklahoma.

Mayor Matt Dukes called the meeting to order at 6:14 PM with the following members present: Councilmembers Susan Eads, Pat Byrne, Española Bowen, Sean Reed, and Christine Allen; and City Clerk Sara Hancock. Absent: Jeff Moore.

#### **DISCUSSION.**

#### **Clarification of agenda items, handouts, and presentation of new or additional information for items on the City Council agenda for April 10, 2018.**

Council and Staff made community-related announcements and discussed individual agenda items.

Mayor Dukes adjourned the meeting at 6:58 PM.

ATTEST:

\_\_\_\_\_  
MATTHEW D. DUKES, II, Mayor

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

A notice for the regular Midwest City Council was filed for the calendar year with the City Clerk of Midwest City. Public notice of this agenda was accessible at least 24 hours before this meeting at City Hall and on the Midwest City website ([www.midwestcityok.org](http://www.midwestcityok.org)).

## **Midwest City Council Minutes**

April 10, 2018 – 7:00 PM

This meeting was held in the Midwest City Council Chambers at City Hall, 100 N. Midwest Boulevard, Midwest City, County of Oklahoma, State of Oklahoma. Mayor Matt Dukes called the meeting to order at 7:07 PM with the following members present: Councilmembers Susan Eads, Pat Byrne, Española Bowen, Sean Reed, Christine Allen, and Jeff Moore; and City Clerk Sara Hancock. Absent: none.

**Opening Business.** Public Works Director, Vaughn Sullivan opened with the invocation, followed by the Pledge of Allegiance led by Jr. ROTC Cadets Miss. Wylde and Mr. Waskom. Council made community-related announcements, followed by a Fair Housing Month Proclamation by the Mayor.

**Consent Agenda.** Eads made a motion to approve the Consent Agenda, as submitted, except for item two, seconded by Byrne. Voting aye: Eads, Byrne, Bowen, Reed, Allen, Moore and Mayor Dukes. Nay: none. Absent: none. Motion carried.

1. Discussion and consideration of approving the minutes of the staff briefing and regular meeting of March 27, 2018, as submitted.
2. **Discussion and consideration of supplemental budget adjustments to the following funds for FY 2017-2018, increase: Reimbursed Projects Fund, revenue/ Intergovernmental (64) \$90,239; expenses/Fire (64) \$90,239; revenue/Intergovernmental (37) \$4,100; expenses/ Housing (37) \$4,100 revenue/Inter-governmental (62) \$78,811; expenses/Police (62) \$78,811; revenue/Inter-governmental (06) \$15,000; expenses/Park & Rec (06) \$15,000; revenue/Intergovernmental (05) \$7,200; expenses/Community Development (05) \$7,200; revenue/Intergovernmental (43) \$67,000; expenses/Wastewater (43) \$67,000; revenue/Inter-governmental (55) \$2,520; expenses /Senior Center (55) \$2,520; expenses/General Gov't (14) \$1,019. Police Lab Fee Fund, revenue/ Miscellaneous (00) \$3,195; expenses/Police (62) \$3,195. Jail Fund, revenue/Miscellaneous (00) \$24,000; expenses/Police (62) \$24,000.** Doug Beabout, 13200 Shirley Ln, spoke to the Council. After discussion, Eads made a motion to approve as submitted, seconded by Byrne. Voting aye: Eads, Byrne, Bowen, Reed, Allen, Moore and Mayor Dukes. Nay: none. Absent: none. Motion carried.
3. Discussion and consideration of approving the management representation letters to Grant Thornton LLP and accepting the associated Combined Financial Statements and Report of Certified Public Accountants of Sooner Town Center (STC), LLC, and STC Lowe's LLC; STC II, LLC; and STC III, LLC for calendar years ending December 31, 2015 and 2016.
4. Discussion and consideration of approving and entering into five-year lease and maintenance agreements with OneSource Managed Services for one (1) Xerox Altalink C8055 Multifunctional Full Color Device and one (1) Xerox Altalink C8045.
5. Discussion and consideration of contract renewals without modification, for FY 2018/19 commercial cleaning services with Crush Enterprises Inc., dba Jan-Pro of OKC, the Charles Johnson, Welcome Center and Public Works Administration offices.

6. Discussion and consideration of the acceptance of and making a matter of record Permit No. WL000055170631 from the State Department of Environmental Quality for the Sooner Rose Addition Phase II Waterline Extension, Midwest City, Oklahoma.
7. Discussion and consideration of the reappointment of Valencia Howell and Theresa Mortimer to the Original Mile Reinvestment Committee for additional three-year terms.
8. Discussion and consideration of reappointing Jim Campbell to the Builders Advisory Board for an additional three year term.
9. Discussion and consideration of declaring items from the Street, Parks, Golf, Welcome Center and Public Works Departments surplus property and authorizing their disposal by sealed bid or auction.

### **Discussion Items.**

1. **Discussion and consideration of electing a Councilmember as Vice-Mayor.** Eads made a motion to appoint Pat Byrne, seconded by Moore. Voting aye: Eads, Bowen, Reed, Allen, Moore and Mayor Dukes. Nay: none. Absent: none. Abstain: Byrne. Motion carried.
2. **Discussion and consideration of proposed capital projects associated with a potential G.O. Bond.** Eads made a motion to approve the proposed capital projects, as submitted, seconded by Allen. Voting aye: Eads, Byrne, Bowen, Reed, Allen, Moore and Mayor Dukes. Nay: none. Absent: none. Motion carried.
3. **Discussion and consideration of entering into an Economic Development Financing Assistance Agreement with Tomcat Aviation, L.L.C, not to exceed \$150,000 for the creation of primary jobs in Midwest City at 1720 National Boulevard.** Economic Development Director, Robert Coleman, addressed the Council. Eads made a motion to approve and enter into the agreement, as submitted, seconded by Moore. Voting aye: Eads, Byrne, Bowen, Reed, Allen, Moore and Mayor Dukes. Nay: none. Absent: none. Motion carried.
4. **Discussion and consideration of appointing an Alternate Delegate Councilmember to each of the following Committees replacing Rick Dawkins: 1) the Association of Central Oklahoma Governments (ACOG) Board of Directors; and 2) the 9-1-1 ACOG Board of Directors; and 3) the Intermodal Transportation Policy Committee; and 4) the Garber-Wellington Association Policy Committee; and 5) the Central Oklahoma Regional Transit Authority Task Force.** Eads made a motion to appoint Christine Allen to the ACOG Boards; and to appoint Pat Byrne to the Regional Transit Authority, seconded by Reed. Voting aye: Eads, Byrne, Bowen, Reed, Allen, Moore and Mayor Dukes. Nay: none. Absent: none. Motion carried.
5. **Discussion and consideration of appointing a Councilmember to replace Rick Dawkins on the Sidewalk Committee.** Reed made a motion to appoint Española Bowen, seconded by Eads. Voting aye: Eads, Byrne, Bowen, Reed, Allen, Moore and Mayor Dukes. Nay: none. Absent: none. Motion carried.

6. **Discussion and consideration of appointing a Councilmember to replace Rick Dawkins on the Retiree Health Insurance Committee.** Eads made a motion to appoint Española Bowen, seconded by Allen. Voting aye: Eads, Byrne, Bowen, Reed, Allen, Moore and Mayor Dukes. Nay: none. Absent: none. Motion carried.
7. **Discussion and consideration of 1) reappointing Councilmember Susan Eads to the Original Mile Reinvestment Committee for a full two-year term; and 2) appointing a replacement Councilmember to fill former Councilmember Rick Dawkins' seat on the Committee for a full two-year term with both Councilmember's terms to end April 14, 2020.** Reed made a motion to reappoint Eads and appoint Española Bowen, seconded by Byrne. Voting aye: Eads, Byrne, Bowen, Reed, Allen, Moore and Mayor Dukes. Nay: none. Absent: none. Motion carried.
8. **Discussion and consideration of the new Midwest City Police Homeless Outreach Team.** Chief Clabes and Major Conelison addressed the Council. No action needed.

### **New Business/Public Discussion.**

#### **Executive Session.**

1. **Discussion and consideration of (1) entering into executive session, as allowed under 25 O.S., § 307(B)(4), to discuss Hosford v. City of Midwest City, Case No. CJ-2016-5092, and (2) in open session, authorizing the city manager to take action as appropriate based on the discussion in executive session.** This executive session was not needed.
2. **Discussion and consideration of 1) entering into executive session as allowed under 25 O.S. §307 (B) (2) to discuss negotiations concerning employees and representatives of employee groups; and 2) in open session, authorizing the city manager to take action as appropriate based on the discussion in executive session.**

Allen made a motion to enter into executive session, seconded by Reed. Voting aye: Eads, Byrne, Bowen, Reed, Allen, Moore and Mayor Dukes. Nay: none. Absent: none. Motion carried. The Council went into executive session at 7:37 PM.

Eads made a motion to exit executive session and return to open session, seconded by Byrne. Voting aye: Eads, Byrne, Bowen, Reed, Allen, Moore and Mayor Dukes. Nay: none. Absent: none. Motion carried. The Council returned to open session at 7:55 PM. No action was taken.

**Adjournment.** There being no further business, Mayor Dukes adjourned the meeting at 7:57 PM.

ATTEST:

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MATTHEW D. DUKES, II, Mayor

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SARA HANCOCK, City Clerk



# The City of MIDWEST CITY

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100 N. MIDWEST BLVD \* MIDWEST CITY, OKLAHOMA 73110  
(405) 739-1245 \* FAX (405) 739-1247 \* TDD (405) 739-1359

## Memorandum

**TO:** Honorable Mayor and Council

**FROM:** Christy Barron, Finance Director

**DATE:** April 24, 2018

**Subject:** Discussion and consideration of accepting the City Manager's Report for the month of March, 2018.

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

**Technology Fund (14)** decreased \$17,074 due to lower than expected technology fee collections.

**Hotel/Conference Center (195)** had an operational gain of \$47,588 in March.

**Golf (197)** had an operating loss of \$19,314.

**Capital Improvement Revenue Bond (250)** decreased due to the payments for:

|  |             |
|--|-------------|
| 2011 semi-annual debt service interest (Hotel/Conf Center) | <\$413,075> |
| 2011A semi-annual debt service interest (Sewer)            | <\$676,181> |

**MWC Hospital Authority (425)** activities for March:

|   |               |
|---|---------------|
| Compounded Principal (9010) - unrealized loss on investment | <\$1,296,577> |
| Discretionary (9050) - unrealized loss on investment        | < \$186,931>  |
| - payments for Sooner Rose Phase II                         | <\$442,451>   |

This item is at Council's discretion.

Christy Barron  
Finance Director

City of Midwest City  
Financial Summary by Fund  
for Period Ending March, 2018  
(Unaudited)

| Fund Number | Fund Description             | Assets    | Liabilities | 6-30-17 Fund Balance | Revenues   | Expenditures | Gain or (Loss) | Fund Balance | Fund Balance Reserve |
|-------------|------------------------------|-----------|-------------|----------------------|------------|--------------|----------------|--------------|----------------------|
| 9           | GENERAL GOVERNMENT SALES TAX | 1,904,418 | -           | 1,674,435            | 608,464    | (378,482)    | 229,982        | 1,904,418    | -                    |
| 10          | GENERAL                      | 4,781,077 | (132,718)   | 4,336,960            | 28,537,460 | (28,226,062) | 311,398        | 4,648,358    | -                    |
| 11          | CAPITAL OUTLAY RESERVE       | 920,321   | -           | 910,331              | 9,990      | -            | 9,990          | 920,321      | -                    |
| 13          | STREET AND ALLEY FUND        | 1,112,140 | -           | 855,701              | 427,001    | (170,562)    | 256,439        | 1,112,140    | -                    |
| 14          | TECHNOLOGY FUND              | 258,374   | -           | 409,613              | 235,450    | (386,690)    | (151,240)      | 258,374      | 24,684               |
| 15          | STREET LIGHT FEE             | 955,975   | -           | 522,584              | 433,391    | -            | 433,391        | 955,975      | -                    |
| 16          | REIMBURSED PROJECTS          | 641,465   | (184,129)   | 547,839              | 102,942    | (193,446)    | (90,503)       | 457,336      | -                    |
| 17          | 29TH & DOUGLAS PROPERTY      | 5,500,000 | -           | 5,434,937            | 69,166     | (4,104)      | 65,063         | 5,500,000    | -                    |
| 20          | MWC POLICE DEPARTMENT        | 1,349,982 | (1,475)     | 1,246,407            | 9,835,365  | (9,733,264)  | 102,101        | 1,348,507    | 644,347              |
| 21          | POLICE CAPITALIZATION        | 492,358   | -           | 890,210              | 191,914    | (589,766)    | (397,852)      | 492,358      | -                    |
| 25          | JUVENILE FUND                | 41,649    | -           | 10,774               | 82,528     | (51,653)     | 30,875         | 41,649       | 5,332                |
| 30          | POLICE STATE SEIZURES        | 66,823    | -           | 60,510               | 11,541     | (5,227)      | 6,313          | 66,823       | -                    |
| 31          | SPECIAL POLICE PROJECTS      | 80,155    | -           | 73,425               | 12,186     | (5,455)      | 6,731          | 80,155       | -                    |
| 33          | POLICE FEDERAL PROJECTS      | 66,686    | -           | 69,900               | 450        | (3,664)      | (3,214)        | 66,686       | -                    |
| 34          | POLICE LAB FEE FUND          | 18,562    | -           | 17,610               | 7,735      | (6,783)      | 952            | 18,562       | -                    |
| 35          | EMPLOYEE ACTIVITY FUND       | 19,929    | (45)        | 19,641               | 9,715      | (9,472)      | 243            | 19,884       | -                    |
| 36          | JAIL                         | 111,977   | -           | 130,475              | 59,362     | (77,860)     | (18,498)       | 111,977      | -                    |
| 37          | POLICE IMPOUND FEE           | 212,902   | -           | 197,845              | 48,986     | (33,929)     | 15,057         | 212,902      | -                    |
| 40          | MWC FIRE DEPARTMENT          | 946,873   | (4)         | 967,831              | 7,904,197  | (7,925,159)  | (20,962)       | 946,869      | 517,796              |
| 41          | FIRE CAPITALIZATION          | 639,312   | -           | 574,356              | 281,848    | (216,893)    | 64,955         | 639,312      | -                    |
| 45          | MWC WELCOME CENTER           | 335,907   | (139)       | 351,874              | 143,613    | (159,719)    | (16,105)       | 335,768      | 9,933                |
| 46          | CONV / VISITORS BUREAU       | 156,286   | -           | 166,636              | 235,581    | (245,931)    | (10,350)       | 156,286      | 17,622               |
| 50          | DRAINAGE TAX FUND            | 29,737    | -           | 61,453               | 1,284      | (33,000)     | (31,716)       | 29,737       | -                    |
| 60          | CAPITAL DRAINAGE IMP         | 458,095   | -           | 427,064              | 342,461    | (311,430)    | 31,031         | 458,095      | 21,618               |
| 61          | STORM WATER QUALITY          | 993,746   | -           | 943,553              | 569,207    | (519,014)    | 50,193         | 993,746      | 37,141               |
| 65          | STREET TAX FUND              | 1,424,153 | (2,200)     | 1,241,274            | 337,578    | (156,900)    | 180,679        | 1,421,953    | -                    |
| 70          | EMERGENCY OPER FUND          | 503,236   | -           | 598,793              | 302,771    | (398,329)    | (95,557)       | 503,236      | 20,932               |
| 75          | PUBLIC WORKS ADMIN           | 282,079   | -           | 291,156              | 731,929    | (741,006)    | (9,077)        | 282,079      | -                    |
| 80          | INTERSERVICE FUND            | 279,923   | -           | 272,360              | 1,715,054  | (1,707,491)  | 7,563          | 279,923      | -                    |
| 81          | SURPLUS PROPERTY             | 363,232   | (291,681)   | 65,589               | 36,403     | (30,441)     | 5,962          | 71,551       | -                    |
| 115         | ACTIVITY FUND                | 347,436   | (457)       | 335,598              | 130,041    | (118,660)    | 11,381         | 346,979      | -                    |
| 123         | PARK & RECREATION            | 622,502   | -           | 641,380              | 404,244    | (423,121)    | (18,878)       | 622,502      | -                    |
| 141         | COMM. DEV. BLOCK GRANT       | 6,039     | (10)        | 6,029                | 356,376    | (356,376)    | -              | 6,029        | -                    |
| 142         | GRANTS/HOUSING ACTIVITIES    | 180,408   | (3,167)     | 159,993              | 101,401    | (84,152)     | 17,249         | 177,241      | -                    |
| 143         | GRANT FUNDS                  | 96,449    | (36,449)    | 60,000               | 135,555    | (135,555)    | -              | 60,000       | -                    |

City of Midwest City  
Financial Summary by Fund  
for Period Ending March, 2018  
(Unaudited)

| Fund Number | Fund Description             | Assets      | Liabilities   | 6-30-17 Fund Balance | Revenues    | Expenditures  | Gain or (Loss) | Fund Balance | Fund Balance Reserve |
|-------------|------------------------------|-------------|---------------|----------------------|-------------|---------------|----------------|--------------|----------------------|
| 157         | CAPITAL IMPROVEMENTS         | 2,486,898   | -             | 2,286,008            | 438,141     | (237,250)     | 200,891        | 2,486,898    | -                    |
| 172         | CAP. WATER IMP-WALKER        | 692,364     | -             | 435,881              | 364,757     | (108,274)     | 256,483        | 692,364      | -                    |
| 178         | CONST LOAN PAYMENT REV       | 2,517,775   | -             | 2,047,301            | 570,520     | (100,045)     | 470,475        | 2,517,775    | -                    |
| 184         | SEWER BACKUP FUND            | 80,174      | -             | 79,795               | 873         | (495)         | 378            | 80,174       | -                    |
| 186         | SEWER CONSTRUCTION           | 3,502,473   | (175,000)     | 3,125,875            | 1,111,935   | (910,337)     | 201,598        | 3,327,473    | 1,111,650            |
| 187         | UTILITY SERVICES             | 553,396     | (924)         | 526,935              | 899,475     | (873,938)     | 25,537         | 552,472      | 50,769               |
| 188         | CAP. SEWER IMP.-STROTH       | 334,322     | -             | 120,773              | 310,685     | (97,136)      | 213,549        | 334,322      | -                    |
| 189         | UTILITIES CAPITAL OUTLAY     | 2,058,048   | (67,390)      | 1,606,173            | 510,453     | (125,969)     | 384,485        | 1,990,658    | -                    |
| 190         | MWC SANITATION DEPARTMENT    | 2,366,295   | -             | 2,196,682            | 4,638,240   | (4,468,627)   | 169,612        | 2,366,295    | 214,079              |
| 191         | MWC WATER DEPARTMENT         | 1,972,043   | -             | 1,227,918            | 4,856,048   | (4,111,923)   | 744,125        | 1,972,043    | 252,832              |
| 192         | MWC SEWER DEPARTMENT         | 1,039,813   | (73)          | 1,249,298            | 4,093,093   | (4,302,652)   | (209,559)      | 1,039,739    | 241,173              |
| 193         | MWC UTILITIES AUTHORITY      | 911,842     | -             | 907,294              | 9,898       | (5,350)       | 4,548          | 911,842      | -                    |
| 194         | DOWNTOWN REDEVELOPMENT       | 3,574,650   | -             | 4,070,581            | 727,769     | (1,223,700)   | (495,931)      | 3,574,650    | 783,950              |
| 195         | HOTEL/CONFERENCE CENTER      | 755,300     | (693,997)     | 40,888               | 3,728,215   | (3,707,800)   | 20,415         | 61,304       | -                    |
| 196         | HOTEL 4% FF&E                | 846,881     | -             | 885,809              | 149,129     | (188,057)     | (38,928)       | 846,881      | -                    |
| 197         | JOHN CONRAD REGIONAL GOLF    | 43,397      | (4,332)       | 115,510              | 715,976     | (792,422)     | (76,445)       | 39,064       | 56,561               |
| 201         | URBAN RENEWAL AUTHORITY      | 59,874      | -             | 63,260               | 686         | (4,071)       | (3,385)        | 59,874       | -                    |
| 202         | RISK MANAGEMENT              | 3,964,098   | (37)          | 3,625,418            | 1,543,129   | (1,204,486)   | 338,643        | 3,964,061    | 1,804,000            |
| 220         | ANIMALS BEST FRIEND          | 69,712      | -             | 95,010               | 25,544      | (50,842)      | (25,298)       | 69,712       | -                    |
| 225         | HOTEL MOTEL FUND             | -           | -             | -                    | 407,997     | (407,997)     | -              | -            | -                    |
| 230         | CUSTOMER DEPOSITS            | 1,433,846   | (1,433,846)   | -                    | 15,502      | (15,502)      | -              | -            | -                    |
| 235         | MUNICIPAL COURT              | 76,220      | (76,220)      | -                    | 748         | (748)         | -              | -            | -                    |
| 240         | L & H BENEFITS               | 2,252,433   | (24,350)      | 1,784,337            | 5,580,326   | (5,136,579)   | 443,747        | 2,228,083    | -                    |
| 250         | CAPITAL IMP REV BOND         | 2,264,062   | (52,923,123)  | (53,371,923)         | 11,100,238  | (8,387,376)   | 2,712,861      | (50,659,061) | -                    |
| 269         | 2002 G.O. STREET BOND        | 455,742     | -             | 560,306              | 5,719       | (110,284)     | (104,565)      | 455,742      | -                    |
| 310         | DISASTER RELIEF              | 1,337,651   | (165,130)     | 1,231,487            | 103,732     | (162,698)     | (58,966)       | 1,172,521    | -                    |
| 340         | REVENUE BOND SINKING FUND    | -           | -             | -                    | 4,170,462   | (4,170,462)   | -              | -            | -                    |
| 350         | G. O. DEBT SERVICES          | 442,732     | -             | 182,275              | 288,812     | (28,355)      | 260,457        | 442,732      | -                    |
| 352         | SOONER ROSE TIF              | 5,363,579   | (16,475,000)  | -                    | 30,423      | (11,141,844)  | (11,111,421)   | (11,111,421) | -                    |
| 353         | ECONOMIC DEV AUTHORITY       | 49,401,974  | (49,401,974)  | -                    | -           | -             | -              | -            | -                    |
| 425-9010    | MWC HOSP AUTH-COMP PRINCIPAL | 88,997,496  | (8,014,752)   | 75,604,656           | 7,124,968   | (1,746,880)   | 5,378,088      | 80,982,744   | -                    |
| 425-9020    | MWC HOSP AUTH-LOAN RESERVE   | 2,961,646   | (461,646)     | 2,500,000            | 48,535      | (48,535)      | -              | 2,500,000    | -                    |
| 425-9050    | MWC HOSP AUTH-DISCRETIONARY  | 10,673,303  | (12,703)      | 8,016,068            | 3,705,337   | (1,060,805)   | 2,644,532      | 10,660,601   | -                    |
| 425-9060    | MWC HOSP IN LIEU OF/ROR/MISC | 5,960,392   | (154,711)     | 4,781,110            | 2,833,899   | (1,809,326)   | 1,024,573      | 5,805,682    | -                    |
|             | TOTAL                        | 225,650,636 | (130,737,681) | 90,568,860           | 114,524,456 | (110,180,359) | 4,344,097      | 94,912,957   | 5,814,419            |





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

### **Memorandum**

**TO:** Honorable Mayor and Council

**FROM:** Catherine Wilson, Human Resources Director

**DATE:** April 24, 2018

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

This item is placed on the agenda at the request of the Council. Attached to this memo is information regarding the current financial condition of the City Employees' Health Benefits Plan for the month of March 2018.

This is a staff update

A handwritten signature in black ink, appearing to read "Catherine Wilson", with a long horizontal flourish extending to the right.

Catherine Wilson, Human Resources Director

| <b>FISCAL YEAR 2017-2018</b>          | <b>**Jul -17**</b> | Aug - 17  | <b>Sep - 17**</b> | <b>*Oct - 17*</b> | Nov - 17  | Dec - 17  | Jan - 18           | Feb - 18  | <b>Mar - 18**</b> | Apr - 18  | May - 18  | Jun - 18  |
|---------------------------------------|--------------------|-----------|-------------------|-------------------|-----------|-----------|--------------------|-----------|-------------------|-----------|-----------|-----------|
| <b>PLAN INCOME</b>                    |                    |           |                   |                   |           |           |                    |           |                   |           |           |           |
| Budgeted (MTD)                        | 583,812            | 583,812   | 875,718           | 583,812           | 583,812   | 583,812   | 583,812            | 583,812   | 875,718           | 583,812   | 583,812   | 583,812   |
| Actual (MTD)                          | 549,884            | 581,809   | 762,314           | 573,509           | 575,591   | 584,948   | 639,389            | 575,734   | 780,330           |           |           |           |
| Budgeted (YTD)                        | 583,812            | 1,167,624 | 2,043,342         | 2,627,154         | 3,210,966 | 3,794,778 | 4,378,590          | 4,962,402 | 5,838,120         |           |           |           |
| Actual (YTD)                          | 549,884            | 1,131,693 | 1,894,007         | 2,467,516         | 3,043,107 | 3,628,055 | 4,267,444          | 4,843,178 | 5,623,508         |           |           |           |
|                                       |                    |           |                   |                   |           |           |                    |           |                   |           |           |           |
| <b>PLAN CLAIMS/ADMIN COSTS</b>        | <b>**Jul -17**</b> | Aug - 17  | <b>Sep - 17</b>   | <b>*Oct - 17*</b> | Nov - 17  | Dec - 17  | <b>**Jan - 18*</b> | Feb - 18  | <b>Mar - 18</b>   | Apr - 18  | May - 18  | Jun - 18  |
| Budgeted (MTD)                        | 583,489            | 583,489   | 875,235           | 583,489           | 583,489   | 583,489   | 583,489            | 583,489   | 875,235           | 583,489   | 583,489   | 583,489   |
| Actual (MTD)                          | 570,148            | 531,432   | 564,791           | 564,182           | 535,313   | 709,157   | 594,992            | 427,810   | 594,358           |           |           |           |
| Budgeted (YTD)                        | 583,489            | 1,166,978 | 1,731,769         | 2,295,951         | 2,831,264 | 3,540,421 | 4,135,413          | 4,563,223 | 5,157,581         |           |           |           |
| Actual (YTD)                          | 570,148            | 1,101,580 | 1,666,371         | 2,230,553         | 2,765,866 | 3,475,023 | 4,070,015          | 4,497,825 | 5,092,183         |           |           |           |
|                                       |                    |           |                   |                   |           |           |                    |           |                   |           |           |           |
| <b>EXCESS INCOME vs. EXPENDITURES</b> | <b>**Jul -17**</b> | Aug - 17  | <b>Sep - 17</b>   | <b>*Oct - 17*</b> | Nov - 17  | Dec - 17  | <b>**Jan - 18*</b> | Feb - 18  | <b>Mar - 18</b>   | Apr - 18  | May - 18  | Jun - 18  |
| Budgeted (MTD)                        | 323                | 323       | 483               | 323               | 323       | 323       | 323                | 323       | 483               | 323       | 323       | 323       |
| Actual (MTD)                          | -20,264            | 50,377    | 197,523           | 9,327             | 40,278    | -124,209  | 44,397             | 147,924   | 185,972           |           |           |           |
| Budgeted (YTD)                        | 323                | 646       | 311,573           | 331,203           | 379,702   | 254,357   | 243,177            | 399,179   | 680,539           |           |           |           |
| Actual (YTD)                          | -20,264            | 30,113    | 227,636           | 236,963           | 277,241   | 153,032   | 197,429            | 345,353   | 531,325           |           |           |           |
|                                       |                    |           |                   |                   |           |           |                    |           |                   |           |           |           |
| <b>FISCAL YEAR 2016-2017</b>          | Jul -16            | Aug - 16  | <b>Sep - 16**</b> | Oct - 16          | Nov - 16  | Dec - 16  | Jan - 17           | Feb - 17  | <b>Mar - 17**</b> | Apr - 17  | May - 17  | Jun - 17  |
| <b>PLAN INCOME</b>                    |                    |           |                   |                   |           |           |                    |           |                   |           |           |           |
| Budgeted (MTD)                        | 572,353            | 572,353   | 572,353           | 572,363           | 572,363   | 572,363   | 572,363            | 572,363   | 572,363           | 572,363   | 572,363   | 572,363   |
| Actual (MTD)                          | 531,527            | 538,079   | 727,097           | 538,294           | 539,198   | 539,768   | 552,582            | 539,534   | 725,689           | 540,627   | 542,944   | 659,736   |
| Budgeted (YTD)                        | 572,353            | 1,144,706 | 1,717,059         | 2,289,422         | 2,861,785 | 3,434,148 | 4,006,511          | 4,578,874 | 5,151,237         | 5,723,600 | 6,295,963 | 6,868,326 |
| Actual (YTD)                          | 531,527            | 1,069,606 | 1,796,703         | 2,334,997         | 2,874,195 | 3,413,963 | 3,966,545          | 4,506,079 | 5,231,768         | 5,772,395 | 6,315,339 | 6,975,075 |
|                                       |                    |           |                   |                   |           |           |                    |           |                   |           |           |           |
| <b>PLAN CLAIMS/ADMIN COSTS</b>        | Jul -16            | Aug - 16  | Sep - 16          | Oct - 16          | Nov - 16  | Dec - 16  | Jan - 17           | Feb - 17  | Mar - 17          | Apr - 17  | May - 17  | Jun - 17  |
| Budgeted (MTD)                        | 559,896            | 559,896   | 559,896           | 559,896           | 559,896   | 559,896   | 559,896            | 559,896   | 559,896           | 559,896   | 559,896   | 559,896   |
| Actual (MTD)                          | 629,294            | 570,126   | 572,340           | 694,343           | 537,963   | 524,514   | 696,790            | 430,232   | 443,512           | 511,423   | 713,962   | 526,785   |
| Budgeted (YTD)                        | 559,896            | 1,119,792 | 1,679,688         | 2,239,584         | 2,799,480 | 3,359,376 | 3,919,272          | 4,479,168 | 5,039,064         | 5,598,960 | 6,158,856 | 6,718,752 |
| Actual (YTD)                          | 629,294            | 1,199,420 | 1,771,760         | 2,466,103         | 3,004,066 | 3,528,580 | 4,225,370          | 4,655,602 | 5,099,114         | 5,610,537 | 6,324,499 | 6,851,284 |
|                                       |                    |           |                   |                   |           |           |                    |           |                   |           |           |           |
| <b>EXCESS INCOME vs. EXPENDITURES</b> | Jul -16            | Aug - 16  | Sep - 16          | Oct - 16          | Nov - 16  | Dec - 16  | Jan - 17           | Feb - 17  | Mar - 17          | Apr - 17  | May - 17  | Jun - 17  |
| Budgeted (MTD)                        | 12,457             | 12,457    | 12,457            | 12,467            | 12,467    | 12,467    | 12,467             | 12,467    | 12,467            | 12,467    | 12,467    | 12,467    |
| Actual (MTD)                          | -97,767            | -32,047   | 154,757           | -156,049          | 1,235     | 15,254    | -144,208           | 109,302   | 282,177           | 29,204    | -171,018  | 132,951   |
| Budgeted (YTD)                        | 12,457             | 24,914    | 37,371            | 49,838            | 62,305    | 74,772    | 87,239             | 99,706    | 112,173           | 124,640   | 137,107   | 149,574   |
| Actual (YTD)                          | -97,767            | -129,814  | 24,943            | -131,106          | -129,871  | -114,617  | -258,825           | -149,523  | 132,654           | 161,858   | -9,160    | 123,791   |

Mar. 9/FY 2018:\$2,223,991  
 Mar. 9/FY 2017 \$1,793,608  
 Mar. 9/FY 2016 \$1,512,163  
 Mar. 9/FY 2015 \$1,590,288

**SEPT. AND MARCH HAVE 3 PAYROLLS**

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



**Memorandum**

TO: Honorable Mayor and Council

FROM: Sara Hancock, City Clerk

DATE: April 24, 2018

SUBJECT: Discussion and consideration of passing and approving a resolution to notify the public of publication of the most recent supplement, supplement #14, dated April 2018, to the Midwest City Code of ordinances and to ratify all other previous supplements and codifications.

The approval of the resolution is necessary to notify the public of the most recent supplement of the city's penal ordinances of the Midwest City Code of ordinances in compliance with title 11 of the Oklahoma Statutes, section 14-110 and to ratify all other previous supplements and codifications. As required by state statutes, this resolution shall be filed in the office of the county clerk of Oklahoma County.

Supplement #14 includes previous ordinances passed by the Midwest City Council, all available for public review at [https://library.municode.com/ok/midwest\\_city/codes/code\\_of\\_ordinances](https://library.municode.com/ok/midwest_city/codes/code_of_ordinances).

Staff recommends approval.

Sara Hancock  
Sara Hancock, City Clerk

**RESOLUTION NO. 2018-**

**A RESOLUTION TO NOTIFY THE PUBLIC OF PUBLICATION OF THE MOST RECENT SUPPLEMENT, SUPPLEMENT #14, DATED APRIL 2018, TO THE MIDWEST CITY CODE OF ORDINANCES AND TO RATIFY ALL OTHER PREVIOUS SUPPLEMENTS AND CODIFICATIONS.**

**WHEREAS**, Title 11 of the Oklahoma Statutes, Section 14-110, requires that the governing body of a municipality adopt a resolution notifying the public of the publication of a supplement of the city's penal ordinances; and

**WHEREAS**, the most recent supplement, supplement #14, dated April 2018, to the Midwest City Code of ordinances has been published and a copy of the Code is available for public inspection in the office of the City Clerk; and

**WHEREAS**, a permanent volume and each supplement of the code has been deposited free of cost in the county law library;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MIDWEST CITY that:

- 1) The public is hereby notified that the most recent supplement, supplement #14, dated April 2018, to the Midwest City Code of ordinances has been published; and
- 2) All other previous supplements and codifications of the Midwest City Code are hereby ratified.

PASSED AND APPROVED BY THE Mayor and Council of the City of Midwest City, Oklahoma, this 24<sup>th</sup> day of April, 2018.

CITY OF MIDWEST CITY, OKLAHOMA

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MATTHEW D. DUKES II, Mayor

ATTEST:

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SARA HANCOCK, City Clerk

APPROVED as to form and legality this \_\_\_\_\_ day of April, 2018.

---

PHILIP W. ANDERSON, City Attorney



**City Manager**  
100 N. Midwest Boulevard  
Midwest City, OK 73110  
[ghenson@midwestcityok.org](mailto:ghenson@midwestcityok.org)  
Office: 405.739.1204/Fax: 405.739.1208  
[www.midwestcityok.org](http://www.midwestcityok.org)

MEMORANDUM

TO: Mayor and Council

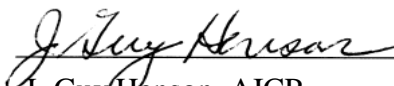
FROM: J. Guy Henson, City Manager

DATE: April 24, 2018

SUBJECT: Discussion and consideration of naming the Human Resource Director as the lead negotiator working with the Fire Chief, and Human Resources Assistant Director as the City's bargaining team for the purposes of negotiating the Fiscal Year 2018-2019 successor Collective Bargaining Agreement between the City of Midwest City and the International Association of Firefighters Local 2066 (IAFF).

---

As allowed under the collective bargaining provisions of the Oklahoma Fire and Police Arbitration Act, the City is preparing to negotiate with the IAFF. Working under my direction will be Catherine Wilson, Chief Norton, and Lisa Harper.

  
\_\_\_\_\_  
J. Guy Henson, AICP  
City Manager



**City Manager**  
100 N. Midwest Boulevard  
Midwest City, OK 73110  
[ghenson@midwestcityok.org](mailto:ghenson@midwestcityok.org)  
Office: 405.739.1204/Fax: 405.739.1208  
[www.midwestcityok.org](http://www.midwestcityok.org)

MEMORANDUM

TO: Mayor and Council

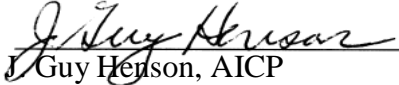
FROM: J. Guy Henson, City Manager

DATE: April 24, 2018

SUBJECT: Discussion and consideration of naming the Human Resource Director as the lead negotiator working with the Police Chief, and Human Resources Officer as the City's bargaining team for the purposes of negotiating the Fiscal Year 2018-2019 successor Collective Bargaining Agreement between the City of Midwest City and the Fraternal Order of Police Lodge 127 (FOP).

---

As allowed under the collective bargaining provisions of the Oklahoma Fire and Police Arbitration Act, the City is preparing to negotiate with the FOP. Working under my direction will be Catherine Wilson, Chief Clabes, and Sivilay Manisy.

  
\_\_\_\_\_  
J. Guy Henson, AICP  
City Manager



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

Memorandum

TO: Honorable Mayor and City Council

FROM: Catherine Wilson, Human Resources Director

DATE: March 27, 2018

SUBJECT: Discussion and consideration of renewing for the Fiscal Year 2018/2019 contracts with DB Compensation Software in the amount of \$2,000.04 to maintain the City's non-represented employees' compensation plan and job descriptions. There is no cost increase over last year.

Since all contracts expire at the end of each fiscal year, it is necessary to renew these contracts. This agreement provides data base maintenance and software support for the non-represented employees compensation plans and job descriptions.

Staff recommends approval of these items.

A handwritten signature in black ink, appearing to read "Catherine Wilson", with a stylized flourish at the end.

Catherine Wilson, Human Resources Director

## DBCompensation™ SOFTWARE License and Support Agreement

This DBCompensation™ SOFTWARE License and Support Agreement, hereinafter referred to as AGREEMENT, is made and entered into as of the dates set forth below by and between DB Squared, LLC, an Arkansas Limited Liability Company, hereinafter referred to as DB SQUARED, and

### City of Midwest City, OK

hereinafter referred to as LICENSEE.

#### WITNESSETH:

WHEREAS, LICENSEE is desirous of licensing DBCompensation™ SOFTWARE from DB SQUARED and receiving support for the DBCompensation™ SOFTWARE and DB SQUARED is desirous of providing said licenses and support services to LICENSEE, pursuant to the terms and conditions more particularly described herein;

NOW THEREFORE, for and in consideration of the premises, the terms and conditions herein and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, DB SQUARED and LICENSEE hereby agree as follows:

- 1. Rates, Amounts and Taxes Applicable to this AGREEMENT.** The rates and amounts listed in this section constitute an offer by DB Squared that shall be null and void if not accepted by LICENSEE by the OFFER EXPIRATION DATE. Rates and amounts shown here do not include applicable federal, state or local taxes or any other type of tax which might be applicable to this agreement. Applicable taxes will be added at the time of invoicing.

|  |                                    |
|--|------------------------------------|
| The EFFECTIVE DATE of this AGREEMENT shall be  | <b>July 1, 2018</b>                |
| The EMPLOYEE COUNT RANGE on which this AGREEMENT is based is   | <b>450 - 525</b>                   |
| The DBCompensation™ SOFTWARE One-Time Licensing<br>The DBCompensation™ SOFTWARE Tech Support Fee for 7/2018 - 6/2019<br>This annual fee covers software upgrades released during agreement term. | <b>Paid<br/>\$166.67 per month</b> |
| The TERM OF THE AGREEMENT shall be   | <b>12 months</b>                   |
| The optional annual renewal fee after the term 24 months will be:  | <b>\$2,000 per year</b>            |
| Training provided to LICENSEE at no additional cost shall be<br>and be provided via Internet connection.   | <b>N/A</b>                         |
| All applicable taxes shall be  | <b>N/A</b>                         |
| The <b>optional</b> MARKET UPDATE FEE shall be<br>and due upon completion of the market update   | <b>\$5,000</b>                     |
| <b>Optional</b> JOHANSON GROUP CONSULTING FEE shall be<br>and due upon invoice of services provided  | <b>\$150 per hour</b>              |



## 2. Definitions

- 2.1 **"DBCompensation™ SOFTWARE"** means the object code version of the JOB EVALUATION AND SALARY ADMINISTRATION MODULE (Copyright © 2005 by DB Squared, LLC. All rights reserved), any UPDATES and UPGRADES thereto, and any related user guides, instructions, and reference materials provided to LICENSEE.
- 2.2 **"UPDATE"** means any subsequent minor modification of, or patch to, the DBCompensation™ SOFTWARE.
- 2.3 **"UPGRADE"** means any major new release of the DBCompensation™ SOFTWARE. The term UPGRADE does not include other MODULES.
- 2.4 **"MODULE"** means any software which constitutes a separate product offering by DB SQUARED.
- 2.5 **"DBCompensation™ METHODOLOGY"** means a methodology developed for the purpose of prescribing the process and structure for fairly and equitably determining job classification salary ranges and employee pay rates. The DBCompensation™ METHODOLOGY is proprietary to Johanson Consulting, Inc., d.b.a., Johanson Group, an affiliate of DB SQUARED.
- 2.6 **"LICENSEE"** means the legal entity which is a party to this AGREEMENT. It does include subsidiaries of LICENSEE or other third parties. For the purposes of this AGREEMENT, the term "third party" means anyone other than LICENSEE.
- 2.7 **"EMPLOYEE COUNT RANGE"** means the number of employees on which this AGREEMENT is based. Fees for this AGREEMENT are based on the number of full-time employees within the employee count range.

## 3. Licenses

- 3.1 **DBCompensation™ SOFTWARE License.** DB SQUARED hereby grants LICENSEE a nonexclusive, nontransferable license to operate (but not to sublicense) DBCompensation™ SOFTWARE on the internet hosted platform. Under this license, the DBCompensation™ SOFTWARE may be used with up to the number of employees specified in the EMPLOYEE COUNT in section 1 plus twenty percent.
- 3.2 **DBCompensation™ SOFTWARE License Termination.** DB SQUARED may terminate this DBCompensation™ SOFTWARE License if LICENSEE breaches this AGREEMENT. Upon termination of the license, LICENSEE will not have access to the DBCompensation™ Internet Hosted SOFTWARE. If this AGREEMENT is terminated for any reason prior to the end of the INITIAL TERM, the license will automatically terminate. Except as provided herein, if this AGREEMENT is terminated after the end of the INITIAL TERM, and LICENSEE does not opt for self-renewing annual AGREEMENT provision, then the license and access to the Internet Hosted SOFTWARE shall terminate.
- 3.3 **Limitations on License.** LICENSEE may not: (a) modify, translate or create derivatives of the DBCompensation™ SOFTWARE and METHODOLOGY; (b) operate the DBCompensation™ SOFTWARE in connection with any methodology other than the DBCompensation™ METHODOLOGY for which it was designed; or (c) permit any access to, or use of, the DBCompensation™ SOFTWARE by any third party. If LICENSEE violates provision (a) above, LICENSEE hereby quitclaims and assigns all intellectual property rights arising therefrom to DB SQUARED, and shall take all necessary steps to perfect DB SQUARED'S title therein. No rights are granted except as expressly set forth in this AGREEMENT, and no right or forbearance may be construed under any theory of implication, estoppel or otherwise.
- 3.4 **Ownership of DBCompensation™ SOFTWARE and DBCompensation™ METHODOLOGY.** The DBCompensation™ SOFTWARE and DBCompensation™ METHODOLOGY are owned by DB SQUARED and/or its affiliates. This AGREEMENT does not confer any ownership of the DBCompensation™ SOFTWARE or the DBCompensation™ METHODOLOGY to LICENSEE.

#### 4. Support and Training

- 4.1 **Generally.** DB SQUARED will provide the following support for the DBCompensation™ SOFTWARE licensed hereunder, in accordance with DB SQUARED'S standard software support policies, as may be amended by DB SQUARED from time to time in its sole discretion: (a) DBCompensation™ SOFTWARE UPDATES AND UPGRADES; (b) telephone and/or e-mail consultation on use of the DBCompensation™ SOFTWARE and DBCompensation™ METHODOLOGY; and (c) assistance in error isolation and correction.
- 4.2 **LICENSEE Support Obligations.** LICENSEE agrees to test and verify any suspected error or defect in the DBCompensation™ SOFTWARE and to report such errors or defects to DB SQUARED in a timely manner. Upon request, LICENSEE agrees to provide DB SQUARED with reasonable assistance in reproducing such errors or defects.
- 4.3 **Limitations.** DB SQUARED'S support is limited to the DBCompensation™ SOFTWARE and DBCompensation™ METHODOLOGY.
- 4.4 **Training.** DB SQUARED will provide training on the use of the DBCompensation™ SOFTWARE AND DBCompensation™ METHODOLOGY to LICENSEE as specified in section 1 of this AGREEMENT.
- 4.5 **Market Updates.** If LICENSEE has elected in section 1 to receive optional market updates, then 1) DB SQUARED agrees to provide optional market updates to LICENSEE on an as needed basis during the term of this AGREEMENT, and 2) LICENSEE agrees to provide salary data to DB SQUARED when the optional market update has been request during the term of this AGREEMENT. LICENSEE understands that said salary data will be included in a study which will be made available to clients of DB SQUARED and/or its affiliates and that LICENSEE is not entitled to remuneration for the use of said salary data. DB SQUARED agrees that it will make said salary data available only in a consolidated form using market averages and that it will not publish the details of any specific LICENSEE'S salary data. Salary data to be provided to DB SQUARED by LICENSEE shall include the following: job titles used by LICENSEE, salaries associated with employees having said job titles and points associated with said job titles. Salary data will not include employee names.
- 4.6 **UPDATES and UPGRADES.** LICENSEE shall be entitled to UPDATES and UPGRADES to the DBCompensation™ SOFTWARE only as long as 1) this AGREEMENT remains in force, 2) the LICENSEE has not been notified that they are in breach of this AGREEMENT, and 3) all fees which are due to DB SQUARED from LICENSEE have been paid.

#### 5. Fees and Timing of Payments

- 5.1 **DBCompensation™ SOFTWARE License Fee.** The Software License Fee is based on the EMPLOYEE COUNT RANGE specified in section 1 and is a one-time fee which is due and payable at the signing of this AGREEMENT. This fee is non-refundable.
- 5.2 **DBCompensation™ SOFTWARE Support Fee.** The Software Support Fee is based on the EMPLOYEE COUNT RANGE specified in section 1 and is an annual fee, and it will be paid on the anniversary dates of this agreement.
- 5.3 **MARKET UPDATE FEE.** The MARKET UPDATE FEE is based on a flat dollar amount as specified in section 1 and is due and payable upon completion of the update. If no MARKET UPDATE FEE is charged to LICENSEE, then no market update service will be provided to LICENSEE under this AGREEMENT.

## 6. Term and Termination of AGREEMENT

- 6.1 **Term.** This AGREEMENT will take effect upon the date specified above and will remain in effect for a minimum amount of time referred to as the INITIAL TERM of the AGREEMENT, as specified in section 1 of this AGREEMENT. This AGREEMENT will self-renew on an annual basis after the INITIAL TERM unless terminated by LICENSEE or DB SQUARED.
- 6.2 **Termination.** Either LICENSEE or DB SQUARED may terminate this AGREEMENT upon completion of the INITIAL TERM by a thirty (30) day written notice to the other party. DB SQUARED may terminate this AGREEMENT at any time if LICENSEE breaches this AGREEMENT and fails to cure such breach within thirty (30) calendar days following notice of such breach.
- 6.3 **Survival of Obligations.** The following provisions will survive termination of this Agreement for any reason: (a) Sections 3.3, 4.3, 7.1, 7.2, 8.2, 8.3, 8.4 and 9 (all paragraphs); and (b) any provision that expressly indicates it will survive.

## 7. Confidentiality and Proprietary Notices

- 7.1 **Nondisclosure and Nonuse.** The DBCompensation™ SOFTWARE, the DBCompensation™ METHODOLOGY, and the details of the use, operation and performance thereof, are confidential to DB SQUARED and its affiliates. To the extent the analyses and outputs produced by the DBCompensation™ Software are or become subject to laws and regulations pertaining to privacy, consumer information, or otherwise, they may constitute confidential information of LICENSEE's salary administration program. LICENSEE may allow its employees and contractors ("personnel") access to confidential information provided that: (a) such access is limited to a "need to know" basis; (b) all such personnel are bound under confidentiality and non-use restrictions substantially similar to those contained herein; and (c) upon termination of any personnel, such personnel no longer retain access to any confidential information. LICENSEE may not use or disclose to any third party any confidential information associated with the DBCompensation™ SOFTWARE or the DBCompensation™ METHODOLOGY except as permitted by this AGREEMENT or as authorized by the prior written consent of DB SQUARED.
- 7.2 **Proprietary Marks.** LICENSEE agrees not to alter, change, or remove from the DBCompensation™ SOFTWARE any proprietary mark of DB SQUARED or its affiliates, including, patent, copyright, trade secret, trademark, or other intellectual property right notices.

## 8. Warranty; Indemnification

- 8.1 **Warranties.** DB SQUARED warrants, during the term of this AGREEMENT, that: (a) the internet hosted account on which the DBCompensation™ SOFTWARE is delivered, is free from defects; and (b) the DBCompensation™ SOFTWARE licensed hereunder shall operate substantially in accordance with the specifications contained in the documentation accompanying the DBCompensation™ SOFTWARE. LICENSEE'S sole remedy for breach of the warranties shall be, at DB SQUARED'S sole discretion: (i) addressing internet hosted account accessibility; or (ii) modification of either the program code of the DBCompensation™ SOFTWARE or the associated documentation to bring them into compliance with each other.
- 8.2 **DISCLAIMER.** EXCEPT FOR THE PROVISIONS OF PARAGRAPH 8.1, NO REPRESENTATIONS OR WARRANTIES ARE MADE, OR MAY BE IMPLIED, WITH RESPECT TO THE SOFTWARE AND/OR ANY SERVICES PROVIDED HEREUNDER. DB SQUARED SPECIFICALLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. DB SQUARED, ITS DEVELOPERS AND AFFILIATES WILL NOT BE HELD LIABLE FOR ANY LIABILITY OR OUTCOME FROM LICENSEE'S USE OF THE DBCOMPENSATION™ SOFTWARE AS A MANAGEMENT SALARY ADMINISTRATION TOOL.

8.3. **HOLD HARMLESS.** LICENSEE SHALL HOLD DB SQUARED, ITS DEVELOPERS, AND AFFILIATES HARMLESS FROM ANY LOSS OR CLAIM RESULTING DIRECTLY FROM AND ATTRIBUTABLE TO LICENSEE'S USE OR POSSESSION OF THE DBCOMPENSATION SOFTWARE AND SHALL REIMBURSE DB SQUARED FOR THE LOSS CAUSED SOLELY BY LICENSEE'S USE OR POSSESSION OF THE DBCOMPENSATION SOFTWARE AS ALLOWED BY OKLAHOMA LAW.

8.4. **LIMITATION ON LIABILITY.** EXCEPT FOR BREACHES OF SECTION 3.3, or 7.1, NEITHER PARTY SHALL BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OR INTERRUPTION OF BUSINESS, LOSS OF USE OR DATA, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## 9. General Terms

9.1. **Assignment.** Licensee may not assign any right or delegate any obligation under this AGREEMENT, or transfer this AGREEMENT, without prior written consent of DB SQUARED, and any such attempt shall be void.

9.2. **Waiver.** The failure of a party to enforce its rights with respect to a breach hereunder shall not constitute a waiver with respect to any other occurrence of breach. Except as otherwise specified, the rights and remedies of a party under this AGREEMENT are in addition to any other rights or remedies available at law or in equity

9.3. **Governing Law.** This AGREEMENT will be governed by the laws of the State of Oklahoma, U.S.A., without regard to choice of law/conflict of law principles. Each party submits to the jurisdiction of the federal and state courts in Oklahoma County, Oklahoma, and agrees that any action brought in connection with this AGREEMENT shall be exclusively brought in such courts.

9.4. **Severability.** In the event that any provision of this AGREEMENT is found to be invalid or unenforceable, it will be enforced to the extent permissible and the remainder of this AGREEMENT shall remain in full force and effect.

9.5. **Modifications.** Any modification of this AGREEMENT must be in writing and executed by an authorized representative of both parties.

9.6. **Construction.** The headers of this AGREEMENT are for convenience only. The verb "to include" (and all variations thereof) shall not be construed as a term of limitation, unless expressly indicated by the context in which it is used.

9.7. **Compliance with Applicable Laws.** LICENSEE shall at all times comply with all applicable laws and regulations in using the DBCompensation™ SOFTWARE, as allowed by Oklahoma law, shall defend and hold harmless DB SQUARED against any liability directly or indirectly resulting from LICENSEE's failure to comply with the foregoing.

9.8. **Notices.** LICENSEE shall send all communications to DB SQUARED as follows: 1) technical communications to Technical Director of Software; and 2) business and legal communications to General Counsel; at DB Squared, LLC, 2928 McKee Circle, Suite 119, Fayetteville, AR 72703, phone: 479-587-0151, fax: 479-521-5453.

9.9. **Complete Agreement.** This AGREEMENT represents the complete agreement between DB SQUARED and LICENSEE.

**APPROVAL**

AGENT ACKNOWLEDGES AND AGREES THAT: 1) AGENT IS AUTHORIZED TO ENTER INTO THE TERMS AND CONDITIONS OF THIS AGREEMENT ON BEHALF OF THE LICENSEE AND 2) BY EXECUTING THIS AGREEMENT, LICENSEE IS LEGALLY BOUND BY THE TERMS OF THIS AGREEMENT.

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be duly executed by their respective authorized representatives.

DB Squared, LLC.

City of Midwest City

By: 

By: \_\_\_\_\_

Name: Bruce Johanson

Name: \_\_\_\_\_

Title: Principal

Title: \_\_\_\_\_

Date: 4-6-2018

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

Witness: 



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

## Memorandum

Date: April 24, 2018  
To: Honorable Mayor and Council  
From: Catherine Wilson, Human Resources Director

Re: Discussion and consideration of entering into a Contract with Empyrean Benefits Solutions Inc. to implement an electronic Administrative Benefits platform that will allow eligible employees to enroll in the City Health, Dental, FSA, Life and Voluntary insurances. Implementation fees for the Administrative platform are a onetime charge of \$8,000 with an annual enrollment maintenance fee of \$2,000 and a monthly \$4.00 per eligible participant per month service fee. In addition, there is a onetime implementation fee for the Affordable Care Act (ACA) SafeHarbor compliance tool of \$5,000 and a monthly service fee of \$1,500 for tracking and look back measurement calculations to be in compliance with the ACA. In Addition there will be a \$1.49 fee per eligible participant to process and generate the ACA 1094C and 1095C reports and file with the IRS.

The agreements with Empyrean will provide a robust Administrative Benefits Platform that will assist staff in annual enrollment in City benefits while maintaining current data and beneficiary information. The platform will provide staff with reporting assistance and compliance, the Empyrean tools will automatically track all the City's employees' time records to ensure that the City is offering Health Benefits when as required by the ACA. The time tracking required by the ACA is complex and is required for all eligible employees and ineligible employees due to the detailed and specific look back periods. The Empyrean tools automate the process and handles actual calculations on a bi-weekly schedule. Once the data is processed the ACA Assistance tool auto-populates the required forms and generates the forms for distribution to the employees and to the IRS.

The Empyrean platform will be built to electronically communicate our enrollments to our respective benefit vendors automating the process to assist staff in ensuring that enrollment is accurate and complete. The Empyrean platform will provide reports that will assist in reconciliation of billing statements for comparison to our benefit vendor statements. Empyrean will assist us in conducting a dependent eligibility audit to ensure all dependents are eligible to be on the City benefit plans(s).

Staff recommends approval.

A handwritten signature in black ink, appearing to read "Catherine Wilson", with a stylized flourish at the end.

Catherine Wilson, MPA



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



## EMPYREAN BENEFIT SOLUTIONS

### MASTER SERVICES AGREEMENT

This MASTER SERVICES AGREEMENT, including any addendums, exhibits, amendments and/or restatements thereto, (the "Agreement") dated this Eighth day of March, 2018 (the "Effective Date") is made and entered into by and between **Empyrean Benefit Solutions, Inc.** ("Empyrean"), a Delaware corporation with its principal place of business located at **3010 Briarpark Dr., Suite 8000, Houston, TX 77042**, and City of Midwest City ("Client"), the City of Midwest City with its principal place of business located at 100 N. Midwest City Boulevard, Midwest City, OK. 73110 (each a "Party" and collectively herein the "Parties").

WHEREAS, Client, in connection with its business, sponsors certain employee benefit plans for its employees and those of certain operating divisions and/or subsidiaries (each, a "Division") as may be applicable and identified in written documents provided to Empyrean; and

WHEREAS, Client desires to engage Empyrean to provide certain specialized technological, administrative, analytical and/or other services with respect to Client's employee benefit plans; and

WHEREAS, the Parties wish to outline their mutual obligations herein.

NOW, THEREFORE, for and in consideration of the above, and the mutual promises set forth in this Agreement, Empyrean and Client hereby agree as follows:

**1. DEFINED TERMS** Capitalized terms which are not otherwise defined within the body of the Agreement shall have the meanings set forth below:

"**Agreement**" has the meaning set forth in the Preamble.

"**Change(s) in Law**" has the meaning set forth in Section 2.E.

"**Change Order(s)**" has the meaning set forth in Section 2.C.

"**Change Request**" has the meaning set forth in Section 2.C.

"**Claim**" has the meaning set forth in Section 9.A.

"**Client**" has the meaning set forth in the preamble.

"**Client Data**" has the meaning set forth in Section 3.B.

"**Client Directions**" has the meaning set forth in Section 3.A.

"**Client Marks**" has the meaning set forth in Section 3.H.

"**Client Group**" has the meaning set forth in Section 9.A.

**“Client Reports”** has the meaning set forth in Section 3.D.

**“Confidential Information”** has the meaning set forth in Section 5.B.

**“Disclosing Party”** has the meaning set forth in Section 5.B.

**“Division”** has the meaning set forth in the recitals.

**“Effective Date”** has the meaning set forth in the preamble.

**“Empyrean Creations”** has the meaning set forth in Section 6.D.

**“Empyrean Group”** has the meaning set forth in Section 10.A.

**“Empyrean Marks”** has the meaning set forth in Section 6.B.

**“Empyrean Proprietary Property”** has the meaning set forth in Section 6.B.

**“Force Majeure Event”** has the meaning set forth in Section 15.C.

**“HIPAA”** has the meaning set forth in Section 5.E.

**“HITECH”** has the meaning set forth in Section 5.E.

**“Intellectual Property Rights”** has the meaning set forth in Section 6.B.

**“Laws”** has the meaning set forth in Section 2.E.

**“Losses”** has the meaning set forth in Section 9.A.

**“Material Updates”** has the meaning set forth in Section 2.D.

**“Non-Material Updates”** has the meaning set forth in Section 2.D.

**“Party” and/or “Parties”** each have the meanings set forth in the preamble.

**“Plan” and/or “Plans”** have the meanings set forth in Section 3.A.

**“Receiving Party”** has the meaning set forth in Section 5.A.

**“Representatives”** has the meaning set forth in Section 5.A.

**“Service(s)”** has the meaning set forth in Section 2.A.

**“Statement of Work” and/or “SOW”** each have the meanings set forth in Section 2.A.

**“Term”** has the meaning set forth in Section 7.A.

**“Termination Date”** has the meaning set forth in Section 7.A.

## 2. SERVICES AND SCOPE OF SERVICE

A. Services. Empyrean will provide Client certain specialized technological, administrative, analytical and other services, Client Reports (as defined in Section 3.D.) and access to Empyrean's Internet-based platform for the administration and management of Client's employee benefit plans (collectively the "Service(s)"), in each case as more particularly described in one or more Statements of Work entered into in connection with this Agreement (each an "SOW"), which are hereby incorporated herein and attached as Exhibit A. Each such SOW executed by the Parties will be deemed a two party agreement between Empyrean and Client, and nothing contained in an SOW or in this Agreement shall be construed to require that Empyrean contract with any third party, whether carrier or other vendor of Client's in order to perform the Services. In the event of a conflict between the terms of this Agreement and the terms of an SOW or other exhibit to the Agreement, the terms of this Agreement shall control, except as may be otherwise expressly provided in an SOW or an exhibit.

B. Required Technology. Unless expressly identified otherwise in an SOW or Change Order (as defined in 2.C.), Empyrean shall be responsible for the acquisition, licensing, installation, maintenance and support of all third party hardware, software and/or equipment Empyrean uses or requires in providing the Service(s). Hardware, software or equipment Client is required to acquire and install at its facilities in order to receive the Services, if any, will be listed in the applicable SOW or Change Order.

C. Changes in Scope. In the event Client desires to request any changes in the scope or priority of the Service(s), Client may submit a written change request ("Change Request") to Empyrean. Within ten (10) business days of receipt of a Change Request, Empyrean will notify the Client in writing regarding its ability and willingness to perform such additional or changed services. If Empyrean is able and willing to perform any portion of the Change Request, Empyrean will submit back to Client the schedule pursuant to which Empyrean is willing to perform any or all such additional or changed services, any impact to the then current Service(s) being provided to Client, the additional fees and/or personnel, facilities, equipment, software, or other assets required to perform the additional or changed services, and any other matters relevant to the request for the performance of additional or changed services ("Change Order"). Change Orders are typically changes in scope, services, or requests from the Client that are not captured in the original Statement of Work at the time of execution of the Agreement. No Change Order will be effective unless and until signed by an authorized representative of Empyrean and the Client, or the Parties execute a written amendment to the relevant SOW. Properly executed Change Order(s) shall automatically be incorporated into this Agreement or SOW unless otherwise specified in the Change Order. If Empyrean reasonably believes that a Change Request(s) will have a detrimental effect upon the performance of the Service(s) or if the type or quantity of the Service(s) contemplated by the Change Request(s) are outside the area of expertise or capacity or resources of Empyrean, then Empyrean may decline the Change Request(s). Notwithstanding, Empyrean reserves the right to refuse any Change Request(s) for any reason. In the event of a conflict between the terms of this Agreement and the terms of a Change Order, the terms of this Agreement shall control, except as may be otherwise expressly provided in such Change Order.

D. Updates. Empyrean reserves the right to upgrade or improve the Service(s) or the Empyrean platform, perform general system maintenance, security updates, bugs fixes, visual improvements, outside of any Changes in Law (as described in Section 2.E.), at any time, without notice to the Client, provided the aforementioned does not materially affect any Client-facing Services by degrading features or functions, or decrease the level of quality of the Service ("Non-Material Updates"). For any upgrade or improvement to the basic Services or Empyrean platform that materially affect the Services by fundamentally changing how Services are provided, the Empyrean platform and/or how Client Data is administered or processed ("Material Updates"), Empyrean will give no less than fifteen (15) business days prior notice to the Client regarding such change. Empyrean shall make all Material Updates available to Client for evaluation and testing as soon as they are available, but no later than the date such updates are made available to any of Empyrean's other clients, as may be applicable.

E. Changes in Law. Client acknowledges that in addition to any Client Direction (as described in Section 3.A.), Empyrean's platform and Services are based on current laws and regulations applicable to employee benefits and Empyrean's business ("Law(s)"), and that such Laws may change from time to time ("Change(s) in Law"). Empyrean reserves the right at any time to modify or update the Service(s) and Empyrean platform as a result of such Changes in Law, and to increase fees, whether such Changes in Law impacts all clients, applies specifically to Client's industry or is otherwise unique to the Client's Services or the Client's environment on the Empyrean platform. Empyrean will notify the Client of any fee increases pursuant to this section within sixty (60) days of the effective date of such increases. Empyrean represents that it will use its commercially best efforts to continue providing the Service(s) in the event of a Change in Law. Empyrean does not warrant that in the event of a Change in Law, that it can continue any particular Service as outlined in the SOW. If Empyrean is unable to continue the Services, Empyrean will provide alternate Service(s) of comparable quality, if requested by Client. Empyrean may charge Client for the implementation of such alternate Service(s), but will not charge Client more than any other client of similar size and complexity affected by the same change.

### **3. CLIENT RESPONSIBILITIES**

A. Plan Administration. Client shall be responsible for overseeing the operations and administration of the employee benefit plans for its employees as listed in the applicable SOW (Individually, a "Plan" and collectively, the "Plans"). Client acknowledges and agrees that the Service(s) to be performed by Empyrean are being performed on behalf of the Client as an employer; are ministerial in nature; will be performed within the framework of policies, interpretations, rules, practices and procedures made or established by Client and will be specified in one or more SOWs, requirements documents, processing documents, and/or other written documentation that Client will provide to Empyrean and/or create in conjunction with the Services, or any other written directions from Client that may come during the Term of this Agreement ("Client Direction(s)"). Empyrean will not have any discretionary authority with respect to the administration, management or operation of the Plans and will operate in accordance with the Client Direction(s) from Client, or with respect to determining or changing the rules or policies pertaining to eligibility or entitlement of

any participant in any Plan to benefits under such Plan. Empyrean is not a “plan administrator” or fiduciary” within the meaning of the Employee Retirement Income Security Act of 1974, as amended, with respect to the Plans, including within its function of administering COBRA on behalf of Client, if applicable. Empyrean also shall not have any control or authority with respect to any assets of any Plan, including the investment or disposition thereof. Empyrean cannot be relied upon to discover noncompliance with laws, errors, irregularities or illegal acts, including fraud or falsifications that may exist in the Plans or in the administration thereof. Empyrean will not be liable for any actions taken, or not taken, as directed by or caused by actions of Client or its customers or employees, the plan administrator(s) of the Plans, or any other person(s) authorized to provide directions to Empyrean.

B. Client Data. Client shall provide to Empyrean or its designee, and shall cause each of Client's Divisions referenced in an SOW and any third parties, including carriers or service providers, that currently or previously provided services with respect to the Plans or any carrier Client may use, to provide to Empyrean or its designee such data necessary for Empyrean to perform the Service(s) as outlined under the SOW, including but not limited to data relating to participants and beneficiaries of the Plans whether as initial data files to Empyrean or as part of a “closed loop” process in response to files sent by Empyrean (collectively “Client Data”) as is necessary for Empyrean to properly perform the Service(s). Client assumes full responsibility for the Client Data, including, but not limited to, the condition, content, format, usability or correctness of the Client Data. Client shall perform all Client Data refinement and purification as may be required in order for Empyrean to perform the Service(s). Client shall provide, and shall cause each Division and each third party service provider or any carrier Client may use, as applicable, to provide, all such Client Data that is legible and correct, in the form and format reasonably requested by Empyrean. To the extent that the Client Data cannot be provided to Empyrean in the format as requested and Empyrean needs to reformat or adjust Client Data for Client, additional fees may apply. Empyrean shall not be liable or responsible for loss of or damage to, the Client Data before Empyrean has taken possession of the Client Data. Client shall retain the necessary backup for the Client Data to protect against such loss or damage. Empyrean shall not be liable for errors in the Services due to errors or omissions in Client Data.

C. Unusable Client Data. Empyrean will return to Client, Division, or third party service provider, as applicable, for correction before processing any Client Data that is incorrect, illegible or not in proper form, in which event Empyrean shall not be required to meet the deadlines, if any, prescribed in the applicable SOW, but shall use reasonable efforts to process the data promptly after resubmission of corrected Client Data. If the Client Data has been provided on behalf of Client by a Division, carrier or other third party and is incorrect, illegible or not in proper form, Client shall be responsible for reprocessing such Client Data and agrees to provide such assistance and cooperation as Empyrean may reasonably request to obtain such Client Data in corrected, legible or otherwise proper form. In the event Empyrean must correct Client Data to perform the Services, Empyrean may charge additional fees.

D. Client Reports. In connection with providing the Service(s), Empyrean will, from time to time, prepare certain summaries, reports and/or analyses as provided



in any SOW or Change Order and deliver such documents to Client ("Client Reports"). Client agrees to review such Client Reports within twenty (20) days. Unless Client notifies Empyrean in writing of any errors or objections within the twenty (20) day period, all information contained therein shall be deemed accurate, complete and acceptable and thereafter Empyrean shall have no liability with respect to such Client Reports.

E. Client Availability. Client shall make its employees and staff readily available to Empyrean in the performance and maintenance of all Service(s), as applicable, which may include activities such as attending conference calls (scheduled and unscheduled) as well as meetings and providing documents and data in a reasonable time for Empyrean to provide the Service(s) in a timely manner.

F. No Derivative Works. Client shall not (i) modify, copy or make derivative works based on the Service(s), any software (whether in source code or object code form) used with the Service(s), Empyrean Proprietary Property and/or Empyrean Intellectual Property Rights, or any portion thereof; (ii) disassemble, reverse engineer, or decompile the Service, any software (whether in source code or object code form) used with the Service(s), Empyrean Proprietary Property or Empyrean Intellectual Property Rights; (iii) create Internet "links" to or from the Service(s), or "frame" or "mirror" any of Empyrean's content which forms part of the Service (other than on Clients' own internal intranets); (iv) re-license, rent, lease, timeshare, or act as a service bureau or provide subscription services for the Empyrean Service(s); (v) use the Empyrean Service(s) to provide third-party training except for training agents and contractors that Empyrean has authorized in writing; (vi) remove or modify any program or service markings or any notice of Empyrean's proprietary rights; (vii) disclose results of any benchmark or other tests without Empyrean's prior written consent; (viii) knowingly transmit material containing software viruses or other harmful or deleterious computer code, files, scripts, agents, or programs; (ix) knowingly interfere with or disrupt the integrity or performance of the Service(s) or the data contained therein; (x) attempt to gain unauthorized access to the Service(s), computer systems or networks related to the Service(s).

G. Passwords. Client shall be solely responsible for maintaining the confidentiality of any password(s) issued and is fully responsible for all activities that occur under Client's authorized user accounts. Client must hold confidential its login, password and any information obtained from Empyrean and use the log-in password and information solely to access and use the Service(s). Client agrees to immediately notify Empyrean of any unauthorized use of any of Client's authorized passwords or accounts or any other breach of security.

H. Right To Use Client Marks. Client grants to Empyrean, with prior written approval, a worldwide, non-exclusive, royalty-free license to use, copy, store, modify, distribute, redistribute and display Client's trademarks, trade names, service marks, logos and other branding elements ("Client Marks") solely to the extent necessary to provide the Service(s).



#### 4. FEES AND BILLING

A. Payment for Services. Client shall pay to Empyrean the fees set forth in each SOW entered into hereunder. All fees are stated and payable in United States dollars and are nonrefundable. Client shall ensure that Empyrean has complete, accurate and up-to-date billing and contact information. Full fees for all services will begin on the earlier of the first month in which Empyrean receives a production conversion file or services begin.

B. Payment Due Dates. Except as otherwise provided in a SOW, on or before the first (1st) day of each month, Empyrean will invoice Client in advance for all fees due for Service(s) to be rendered during that month, and for any reimbursable expenses incurred by Empyrean in connection with the performance of the Service(s). All amounts due hereunder will be due and payable within thirty (30) days of the invoice date or as otherwise provided in an SOW. Any amount not paid when due shall thereafter bear interest until paid at a rate equal to the lesser of one and one-half percent (1.5%) per month or the maximum rate allowed by applicable law. If Client in good faith disputes any amount on an invoice, Client must use its best efforts to provide written notice of such dispute to Empyrean within thirty (30) days of the invoice date, and pay all undisputed sums in full by the applicable due date. Client and Empyrean shall negotiate promptly and in good faith to resolve any such dispute pursuant to terms of this Agreement. Failure to pay undisputed amounts within forty-five (45) days of the invoice date will entitle Empyrean, in addition to any other rights or remedies it may have, to suspend performance of the Service(s). Client shall be given the opportunity to review and notify Empyrean in writing of any errors in or objections to any statements, reports, or invoices discovered outside the initial payment or invoice date, and shall have sixty (60) days to inform Empyrean of any such objections or discrepancies. Unless Client notifies Empyrean in writing of any errors or objections within the sixty (60) day period, all information contained therein for any document received by Client, will be deemed accurate, complete, and acceptable to Client, and thereafter Empyrean shall have no liability related thereto.

C. Out of Pocket Expenses. Except as otherwise provided in a SOW, Client will reimburse Empyrean for reasonable, actual out-of-pocket expenses incurred in connection with the performance of the Service(s), and any specific requests for production of documents made by Client or a third party [AMI] that are not included as a part of Client's Service(s) package. Such reimbursable expenses may include, without limitation, shipping; air freight; long distance phone charges; postage for correspondence; bank service charges; printing costs for envelopes, forms, and statements; high volume printing of personalized communication material; assembly costs associated with mass mailings during annual enrollment (forms fulfillment); translation services; travel expenses; and any costs associated with a third party subpoena or other legal demand relating to Client's benefit plans for which services are provided hereunder. Out of pocket expenses are due and payable immediately upon receipt of invoice for such expenses.

D. Taxes. Client shall be solely responsible for the payment of any and all federal, state and local taxes applicable to the Service(s) or products provided

under<sup>[RC2]</sup> this Agreement, including, without limitation, any and all sales, use, excise, ad valorem, or value-added taxes, other than taxes based on Empyrean's income.<sup>[AM3]</sup>

E. Fee Increases. Fees under this Agreement will automatically increase on each anniversary of the Effective Date by an amount equal to the greater of (i) 5% or (ii) the aggregate of the monthly Urban CPI increase from a period of January 1 through December 31 of the reporting year as reported annually by the United States Department of Labor.

## 5. DATA SECURITY, CONFIDENTIALITY AND HIPAA COMPLIANCE

A. Data Security. Empyrean shall maintain a data security program and comply with the standards per the Data Security Standards identified in Exhibit C.

B. General Confidentiality. Except as specifically provided in this Agreement, Empyrean and Client agree that any and all information, data or knowledge concerning Empyrean or Client that is not otherwise publicly available, regardless of form, including, without limitation, the Empyrean Proprietary Property or *Client Data or any other information that may be disclosed that a reasonable person would consider confidential* ("Confidential Information") communicated (whether in writing, orally, or through visual or electronic means) by or on behalf of one Party or its employees or agents ("Disclosing Party") to the other Party or its employees or agents ("Receiving Party"), whether disclosed before or after the Effective Date, (i) shall be treated as the confidential, proprietary, and trade secret information of the Disclosing Party; (ii) shall be used only for purposes of this Agreement or for proper internal company management or administration by Receiving Party, provided that if such Confidential Information is used for internal management or administration it may not be disclosed to any third party that would otherwise be in violation of this Agreement, and (iii) that no Confidential Information, including without limitation, the <sup>[AM4]</sup><sup>[RC5]</sup>Empyrean Proprietary Property shall be disclosed by the Receiving Party, its affiliates, subsidiaries or contractors, and each of their respective directors, officers, employees, third party consultants and service providers, agents, or representatives (collectively, "Representatives"), without the prior written consent of the Disclosing Party, except as may be necessary by reason of legal, accounting or regulatory requirements beyond the reasonable control of the Receiving Party. The Receiving Party shall limit access to the Disclosing Party's Confidential Information to only those of its Representatives that are bound by written agreements providing for the protection of Confidential Information by means no less restrictive than those contained in this Section 5.A. The Receiving Party shall safeguard Confidential Information with at least the same degree of care that it uses to safeguard its own confidential, proprietary, and trade secret information of a similar nature, and in no event shall it exercise less than a reasonable degree of care. This section shall not apply to information (iv) which is in the public domain (other than through its unauthorized disclosure by Receiving Party or its Representatives), (v) which the Receiving Party had in its possession prior to it being furnished by or on behalf of the Disclosing Party, (vi) which the Receiving Party obtained from a third party who rightfully acquired such information without breach of any duty owed to the Disclosing Party, or (vii) which the Receiving Party independently

developed without reference to the Confidential Information received from the Disclosing Party. If the Receiving Party must disclose any such Confidential Information pursuant to applicable law, regulation or court order, the Receiving Party may disclose only such information as is legally required, and, provided further, that the Receiving Party shall provide reasonable notice to the Disclosing Party of such requirement and a reasonable opportunity to object to such disclosure (unless prevented by applicable law, regulation or court order). In any event, as allowed by Oklahoma law, Receiving Party shall be fully liable for any breach of this Section 5.A. by its Representatives and agrees, at its sole expense, to take all reasonable measures to restrain its Representatives from prohibited or unauthorized disclosure or use of the Disclosing Party's Confidential Information.

C. Injunctive Relief. The Parties acknowledge that a breach by either Party of Section 5 will give rise to irreparable injury to the other Party, inadequately compensable in damages. Accordingly, each Party hereby consents to the obtaining by the other Party of injunctive relief against the breach or threatened breach of the undertakings of the Parties contained in Section 5. The Parties further agree that such an order so enjoining a Party may be issued pending final determination thereof, without the requirement to post bond.

D. Destruction of Confidential Information. Upon termination or expiration of this Agreement, the Receiving Party shall destroy all Confidential Information of the Disclosing Party in its possession. Empyrean shall not retain any copies of the Client Confidential Information, except for encrypted back-up data, and shall not make further use of Client Confidential Information, except where such Client Confidential Information has been de-identified. For any Confidential Information that cannot be destroyed (which generally includes encrypted back up data), the Receiving Party possessing such Confidential Information shall extend all confidential protections to the Client Data, as outlined in this Agreement, until such time as the Client Data may be destroyed.

E. Compliance With HIPAA. To the extent applicable, each Party agrees that it will comply with its respective obligations under the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder, all as may be amended from time to time ("HIPAA"), and the Health Information Technology for Economic and Clinical Health Act and any regulations promulgated thereunder, all as may be amended from time to time ("HITECH"). Notwithstanding any provision of this Agreement to the contrary, the protection, use and disclosure of any Protected Health Information, as such term is defined in HIPAA, shall be governed by the Business Associate Agreement attached hereto as Exhibit B.

## **6. OWNERSHIP AND RIGHTS IN INTELLECTUAL PROPERTY, WORK PRODUCT AND DATA**

A. Client Proprietary Property. Empyrean acknowledges that Client owns all right, title and interest in and to all Client Data, Client Reports, employee and Client source data, or other Client proprietary information provided to Empyrean. Except as expressly provided in this Agreement or as may be required to provide the Service(s)

hereunder, Empyrean shall not sell, transfer, publish, disclose, display, license or otherwise make available to others any part of the Client Data, employee and source or copies thereof. All proprietary rights in the employee and Client source data are, shall be and shall remain in, Client. In the event that any Empyrean Confidential Information or Empyrean Proprietary Property are contained in any Client Reports, Empyrean shall maintain ownership of said information and Client agrees to keep the Empyrean Confidential Information and Empyrean Proprietary Property for its own internal business uses and not for third party consumption (other than for Client to maintain its internal business operations). Notwithstanding Client shall not sell, transfer, publish, disclose, develop, display, license, or otherwise make available, any part of the Client Reports that contains Empyrean Proprietary Property and/or Empyrean Confidential Information without the express written permission of Empyrean.

B. Empyrean Proprietary Property. Client acknowledges and agrees that the Empyrean name, its trademarks, trade names, service marks, logos and any other branding elements ("Empyrean Marks"); Empyrean copyright rights, mask work rights, moral rights, rights of publicity, trademark rights, trade dress and service mark rights, goodwill, trade secret rights, patents and other intellectual property rights as may now exist or hereafter come into existence, and all applications therefore and registrations, renewals and extensions thereof, under the laws of any state, country, territory or other jurisdiction throughout the world ("Intellectual Property Rights"); all trade secrets, concepts, techniques, plans, designs, inventions, methodologies, analyses, procedures, programs, approaches, ideas, know-how, computer software (in both source code and object code form), technology, algorithms, Empyrean created user interfaces; certain audio and visual information, documents, software and other works of authorship, the form and format of and the methods used to prepare the Client Reports; the technology utilized or developed and provided by Empyrean or utilized or developed and provided by Empyrean in providing the Service(s) or in connection with this Agreement; all derivative works based upon any of the foregoing; all copies of the foregoing; all Empyrean Marks; and Empyrean Intellectual Property Rights therein (collectively, "Empyrean Proprietary Property") are proprietary property of Empyrean and will remain the sole and exclusive property of Empyrean. Client shall have no ownership or other interest in the Empyrean Proprietary Property.

C. Protecting Empyrean Proprietary Property. Client agrees to protect the Empyrean Proprietary Property as Empyrean's Confidential Information at all times. Upon termination of this Agreement, Client will return all copies of all items relating to the Empyrean Proprietary Property which are in possession of Client, excluding Client Reports, and shall certify to Empyrean in writing that Client has retained no materials relating to the Empyrean Proprietary Property.

D. Empyrean Creations. Client hereby grants and assigns to Empyrean all of Client's right, title and interest in and to any suggestions, ideas, enhancement requests, feedback, recommendations or other information as well as any resulting work product or derivative works, inventions, ideas, designs, source or object codes received during the term of this Agreement to the extent that Empyrean Creations do not constitute any Client Data ("Empyrean Creations"). Empyrean Creations also mean a new or modified work that is based on or derived from all or any part of the Service(s), including without limitation, a revision, modification, translation, localization,

adaptation, abridgment, port, condensation or expansion, in any form, of the Service(s), source or object code, designs, process, concepts, discoveries, inventions, etc. and shall be the sole and exclusive property as Empyrean Proprietary Property.

E. De-identified Information. Client acknowledges and agrees that Empyrean may de-identify (meaning that individual specific information has been removed from the data in such a way that the identity of such person is no longer reasonably discoverable) any employee source data provided by or on behalf of Client, and aggregate such de-identified source data with other data, and such de-identified and aggregated data will be the sole property of Empyrean and Empyrean Proprietary Property, notwithstanding that it may be derived from the Client source data.

F. No Other Rights Herein. Other than as expressly set forth in this Agreement, no license or other rights in the Service(s), the Empyrean Proprietary Property, Empyrean's Confidential Information or Empyrean's Intellectual Property Rights are granted to the Client. All rights not expressly granted in this Agreement are hereby reserved by Empyrean.

## **7. TERM AND TERMINATION**

A. Term. This Agreement will remain in effect for twelve (12) months from the Effective Date (as defined in the preamble) and end on June 30, 2019 (the "Termination Date") and from Effective Date to Termination Date, the "Term"). This Agreement may only be extended by written agreement of the Parties. Notwithstanding, Client shall provide notice of intent not to extend this Agreement (which any such extension shall be negotiated in good faith by the Parties) no later than within sixty (60) days of the Termination Date and agrees to pay any non-renewal fee that may be itemized in the SOW.

B. Material Breach Notice and Cure. Either Party may terminate this Agreement immediately upon delivery of written notice to the other Party in the event that the other Party materially breaches any provision(s) of this Agreement and fails to cure such breach within thirty (30) days after receiving written notice specifying the default, or for those defaults that cannot be reasonably be cured within thirty (30) days, promptly to commence curing such default and thereafter proceed with all due diligence to cure the default. Nothing contained in this Section 7.B. shall be construed to limit the remedies available to the Parties hereunder, by law or otherwise.

C. Termination Events. Either Party may terminate this Agreement immediately upon delivery of written notice to the other Party in the event that the other (i) voluntarily suspends transaction of business; (ii) becomes insolvent, unable to pay any indebtedness as it matures, or is forced into involuntary bankruptcy; (iii) makes an assignment for the benefit of creditors; (iv) applies for or consents to the appointment of a receiver or trustee for it or for any substantial portion of its property; (v) makes an assignment to an agent authorized to liquidate any substantial part of its



assets; (vi) by an order of any court or other authority, has appointed any receiver or trustee for it or for any substantial portion of its property; or (vii) has a writ or warrant of attachment or any similar process issued by any court or other authority against any substantial portion of its property and such involuntary petition seeking liquidation, reorganization or a creditor's arrangement or such order appointing a receiver or trustee is not vacated or stayed, or such writ, warrant of attachment or similar process is not vacated, released or bonded off within ninety (90) days after its entry or levy.

D. Failure to Pay Fees. In addition to other termination rights contained herein, Empyrean shall have the right to terminate this Agreement upon written notice to Client if Client fails to pay to Empyrean the undisputed fees in accordance with the terms and conditions set forth in this Agreement and Client fails to cure such failure within sixty (60) days after receipt from Empyrean of written notice of such non-payment. In the event of non-payment, Empyrean reserves all rights permitted by law and under this Agreement.

No conversion out data or files will be provided until all fees dues under this Agreement have been paid in full.

## **8. REPRESENTATIONS, WARRANTIES AND DISCLAIMERS**

A. Workman-Like Manner. Subject to Section 11.C., Empyrean represents and warrants that all Service(s) will be performed in a professional and workman-like manner, using personnel with the skills and training appropriate for the assigned tasks. Client's sole remedy for any breach of this limited warranty, including errors by Empyrean in the performance of the Services, is the re-performance of the non-conforming Service(s) under dispute, or a refund of the amounts paid for the non-conforming Services by credit to the Client's account or direct payment if crediting the account is not feasible.

B. Authority. Each Party represents to the other that (i) it has all requisite corporate power and authority to enter into this Agreement and to carry out its obligations hereunder, and (ii) its execution, delivery and performance of this Agreement and the consummation of the transactions contemplated herein have been duly authorized by all requisite corporate action on the part of such Party.

C. No Third Party Breach and Enforceability. Each Party represents to the other that (i) its entry into this Agreement does not violate or constitute a breach of any of its contractual obligations with any third party, (ii) this Agreement has been duly executed and delivered by such Party and its authorized representatives, and (iii) this Agreement is a valid and binding obligation of such Party, enforceable against it in accordance with its terms.

D. Client Owns Data. Client represents and warrants that it owns, or is lawfully authorized to provide to Empyrean, all Client Data which it is required to provide to Empyrean for Empyrean to provide Service(s) under this Agreement.

E. SERVICES "AS-IS". EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE SCOPE OF WORK PROVIDED AND THE SERVICE(S) RENDERED BY EMPYREAN UNDER THIS



AGREEMENT ARE PROVIDED ON AN "AS IS" AND "WHERE IS" BASIS, WITHOUT ANY WARRANTY, EXPRESS, IMPLIED OR OTHERWISE, REGARDING SUCH SCOPE OF WORK OR SERVICE(S)' ACCURACY, PERFORMANCE, OR ANY OTHER MATTER.

F. NO EXPRESS OR IMPLIED WARRANTIES. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, EMPYREAN EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, IN FACT OR BY OPERATION OF LAW OR OTHERWISE, WITH RESPECT TO THIS AGREEMENT OR THE SERVICE(S) PROVIDED HEREUNDER, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE.

## 9. INFRINGEMENT INDEMNIFICATION

A. Infringement Indemnification. Empyrean will, at its expense, defend, indemnify and hold harmless Client and its Divisions, and each of their respective officers, directors and employees (the "Client Group") from and against all final and awarded costs, damages, judgments, liabilities, losses, and expenses (including, but not limited to, reasonable attorneys' fees) (collectively, "Losses") to the extent resulting from a claim, suit, action, or proceeding (each, a "Claim") brought by any third party against the Client Group resulting in a determination by a court or arbitrator of competent jurisdiction that the Service(s) provided by Empyrean to Client hereunder infringe on a United States patent or any copyright, or misappropriates any trade secret of such third party; provided that Client (i) promptly gives written notice of the Claim to Empyrean; (ii) gives Empyrean sole control of the defense and settlement of the Claim; and (iii) provides to Empyrean, at Empyrean's cost, all reasonable assistance. Notwithstanding the foregoing, Empyrean's indemnification obligations under this Section 9.A. will not apply to the extent that any claim of infringement or misappropriation thereof arises from the: (iv) unauthorized use by Client of the Service(s) or any deliverables delivered to Client in connection therewith in a manner not permitted by this Agreement or any SOW, if such claim would not have arisen but for such unauthorized use by Client; (v) unauthorized modification by Client of the Service(s) or deliverables, if such claim would not have arisen but for such modification by Client; or (vi) unauthorized combination by Client of Client intellectual property with the Service(s) or any deliverable in a manner that is not contemplated in this Agreement, if such claim would not have arisen but for such combination.

B. Empyrean Rights. If any Service(s) are likely to become or do become the subject of a claim of infringement or misappropriation of a U.S. Intellectual Property Right or trade secret, Empyrean may, at its sole option and reasonable expense, either: (i) promptly replace the infringing Service(s) with a substantially compatible and functionally equivalent non-infringing Service(s); (ii) promptly modify the infringing Service(s) to make them non-infringing and functionally equivalent; (iii) promptly procure the right of Client to continue using the infringing Service(s); or (iv) if none of the foregoing alternatives is commercially feasible, Empyrean may terminate this Agreement and/or the applicable SOW(s).

C. Exclusivity. THE FOREGOING STATES EMPYREAN'S SOLE AND EXCLUSIVE LIABILITY AND CLIENT'S SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIMS OF INFRINGEMENT OR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY RIGHT.

## 10. GENERAL INDEMNIFICATION

A. Client Indemnification. As allowed by Oklahoma law Client will, at its expense, defend, indemnify and hold harmless Empyrean and its affiliates, and each of their respective officers, directors, employees and subcontractors (the "Empyrean Group") from and against all Losses resulting from any Claim brought by any third party against any of the Empyrean Group, arising out of or related to the Services including but not limited to (i) failure by Client, any Division, or any agent thereof to maintain the confidentiality of the Empyrean Group's Confidential Information in accordance with the terms and conditions of this Agreement; (ii) any claim that the Client Group (or its agents or representative(s)) made a material misrepresentation regarding the Services to its own employees and/or Plan participants; (iii) Empyrean Group's use of Client's Marks in connection with the Service(s) that violate the Intellectual Property Rights of a third party; (iv) any Claim against Empyrean Group for following Client's Directions or other written instructions, including the requirements documentation; (v) bodily injury, death or damage to real property to the extent caused by the gross negligence or willful misconduct of Client; (vi) any material and uncured breach by Client of any of its obligations under this Agreement, including Client's gross negligence or willful misconduct; (vii) Empyrean's use or possession of Client Data in accordance with the terms of this Agreement; (viii) errors in Client Data not caused by Empyrean; and/or (ix) Client's material and uncured breach of its warranties or representations.

B. Empyrean Indemnification. Empyrean will, at its expense, defend, indemnify and hold harmless the Client Group from and against all Losses resulting from any Claim brought by any third party against the Client Group arising out of or related to (i) failure by Empyrean Group to maintain the confidentiality of the Client Group's Confidential Information in accordance with the terms and conditions of this Agreement; (ii) any claim that any of the Empyrean Group made a material misrepresentation with respect to the Service(s); (iii) bodily injury, death, or damage to real personal property to the extent caused by the gross negligence or willful misconduct of Empyrean; (iv) a material and uncured breach of the Agreement by Empyrean due to its gross negligence or willful misconduct; and/or (v) Empyrean's unauthorized use of Client Data not in accordance with the terms of this Agreement.

C. Cooperation. In the event of any occurrence which may constitute grounds for indemnification under Section 9 or Section 10, the Party seeking indemnification agrees: (i) to notify the other Party promptly of any occurrence with respect to which indemnification is sought, provided that any delay shall only relieve the indemnifying Party of its obligations hereunder to the extent that the defense of such Claim is prejudiced by such delay; (ii) to cooperate with the indemnifying Party in the defense of any claim with respect to which indemnification is sought; (iii) to tender to the indemnifying Party the right to assume and control the defense of any claim with respect to which indemnification is being sought, provided that the indemnifying Party

may not settle a claim unless it unconditionally releases the indemnified Parties of all liability); and (iv) not to cause or contribute to any occurrence, nor to take any action, or fail to take any action, which causes, contributes to or increases the indemnifying Party's liability hereunder.

D. Disclaimer of Interference. Empyrean expressly disclaims all responsibility and liability, and Client hereby agrees to forever release and hold Empyrean harmless, for damages, interruptions, interference, down time or other interference with the Service(s) caused by circumstances beyond Empyrean's reasonable control, including without limitation, (i) Force Majeure Events as described in Section 12.C.; (ii) telecommunications network or electrical failures (including those of wireless telecommunications companies); (iii) Client network intrusions or denial of service attacks; (iv) delays or interruptions caused by integration with any Client asset or third party APIs, networks, databases, or content.

## **11. LIMITATION OF LIABILITY**

A. EXCLUSIONS. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR FINES OR PENALTIES IMPOSED ON CLIENT BY A THIRD PARTY, OR FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, EXCISE TAXES, LOSS OF USE, DATA, BUSINESS, REVENUE OR PROFITS, OR FOR THE COST OF PROCURING SUBSTITUTE PRODUCTS OR SERVICE(S), ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, (INCLUDING, WITHOUT LIMITATION, ANY SERVICE OR WORK PRODUCT RENDERED OR PRODUCED HEREUNDER OR THE NON-PERFORMANCE OR BREACH OF THIS AGREEMENT), REGARDLESS OF THE FORM OF ACTION (INCLUDING WITHOUT LIMITATION BREACH OF WARRANTY, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR STATUTORY, AND WHETHER OR NOT SUCH PARTY HAS BEEN INFORMED OF OR MIGHT OTHERWISE HAVE ANTICIPATED THE POSSIBILITY OF SUCH DAMAGES.

B. LIMITS OF LIABILITY. EMPYREAN'S MAXIMUM LIABILITY (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY IN TORT OR BY STATUTE OR OTHERWISE) TO CLIENT FOR ANY AND ALL CLAIMS CONCERNING PERFORMANCE OR NON-PERFORMANCE BY EMPYREAN OR ANY OTHER PERSON OR ENTITY FOR WHICH EMPYREAN IS LEGALLY RESPONSIBLE, OR IN ANY MANNER RELATED TO THIS AGREEMENT OR THE SERVICE(S), SHALL NOT IN THE AGGREGATE EXCEED THE AGGREGATE AMOUNT OF FEES PAID BY CLIENT TO EMPYREAN UNDER THE APPLICABLE SOW FOR THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE MONTH IN WHICH THE CLAIM OR CLAIMS ARISE.

C. OTHER LIABILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, IF CLIENT'S SERVICES INCLUDE SAFEHARBOR AND/OR 6055/6056 TAX REPORTING, CLIENT'S SOLE AND EXCLUSIVE REMEDY, AND EMPYREAN'S SOLE LIABILITY FOR ANY AND ALL ERRORS OR CLAIMS THAT MAY ARISE AGAINST EMPYREAN AND/OR ITS SUBCONTRACTOR(S), SHALL BE LIMITED TO REPROCESSING THE WORK FOR THE APPLICABLE SERVICE, OR A REFUND TO CLIENT OF THE AMOUNT PAID TO EMPYREAN FOR THE APPLICABLE SERVICE FOR UP TO SIX (6) MONTHS OF THE FEES PAID FOR SAFEHARBOR OR 6055/6056 SERVICES SPECIFICALLY, IF REPROCESSING IS DEEMED IMPOSSIBLE BY

EMPYREAN. AT NO TIME WILL EMPYREAN AND/OR ITS SUBCONTRACTORS BE LIABLE FOR ANY FINES OR PENALTIES ASSOCIATED WITH ANY ERRORS RELATING TO SAFEHARBOR OR 6055/6056 TAX REPORTING SERVICES.

D. RIGHT TO MITIGATE. IN THE EVENT OF AN ERROR CAUSED BY EMPYREAN AND/OR ITS SUBCONTRACTOR(S) THAT GIVES RISE TO A CLAIM UNDER THIS AGREEMENT (OR THAT MAY GIVE RISE TO A CLAIM), EMPYREAN AND/OR ITS SUBCONTRACTOR(S) WILL BE GIVEN THE OPPORTUNITY TO MITIGATE ANY ERROR TO THE FULLEST EXTENT, INCLUDING THE REPERFORMANCE AND/OR REPROCESSING OF THE WORK ASSOCIATED WITH THE APPLICABLE SERVICE(S), AND/OR RECOVERY FROM PARTICIPANTS, IF APPLICABLE, PRIOR TO ANY CLIENT RECOVERY PERMITTED UNDER THIS AGREEMENT, PROVIDED SUCH MITIGATION IS NOT PROHIBITED BY LAW.

## **12. MARKETING**

A. Use of Marks. Neither Client nor Empyrean shall use the other Party's name or Marks in advertising or promotional materials, except as provided under this Agreement, without the prior written consent of the Party to whom the Marks belong, and each Party shall cease any such usage immediately upon receipt of written notice from the other Party or upon termination of this Agreement, whichever is sooner.

## **13. INSURANCE**

A. Maintain Insurance. Each Party agrees to maintain, at its sole cost and expense, policies of insurance providing coverage for its general and professional liability (and any other coverage as may be applicable) throughout the Term of this Agreement.

## **14. DISPUTE RESOLUTION**

A. Dispute Resolution. In addition to any other applicable provision in this Agreement, the Parties will make initial informal efforts to resolve any claim or controversy arising out of or relating to this Agreement or an alleged breach hereof. The Parties will start with an informal meeting between an executive or officer of each Party. If the informal meeting fails to reach an amenable result for both Parties, the dispute will progress to formal mediation. If a satisfactory resolution is not achieved from informal discussions or mediation, the only other dispute resolution method permitted under this Agreement shall be binding arbitration by Commercial Arbitration Rules of the American Arbitration Association (the "AAA Rules"). No arbitrators have the authority to award any additional types of damages except those damages permitted under this Agreement.

B. Attorneys' Fees. The prevailing Party in any judicial or legal proceedings brought by or against the other Party to enforce any provision of this Agreement shall be entitled to recover against the non-prevailing Party the reasonable attorneys' fees, court costs and other expenses incurred by the prevailing Party, in addition to any damages or other relief to which the Party may be entitled pursuant to such proceeding.

C. Governing Law and Venue. This Agreement will be governed by and construed in accordance with the laws of the State of Oklahoma, without regard to its conflict of law principles. Any proceeding to resolve any issue, breach, or otherwise under this Agreement shall be brought exclusively in Oklahoma County, Oklahoma. Each Party consents to the personal jurisdiction of the state and federal courts of Harris County, Texas and waives any objection that such courts are an inconvenient forum.

D. Limitation Period. Neither Party may assert any cause of action against the other Party arising under or in connection with this Agreement of which the claimant knew or should have known more than one (1) year prior to such assertion.

## 15. MISCELLANEOUS

A. Waiver. Neither Party hereto shall be deemed to have waived any rights or remedies hereunder unless such waiver is in writing and signed by the authorized representative of the Party. No delay or omission by either Party hereto in exercising any right shall operate as a waiver of such right. A waiver of a right on one or more occasions shall not be construed as a waiver of such right on any future occasion.

B. Notices. Whenever, under the terms of this Agreement, written notice is required or permitted to be given, such notice shall be deemed to have been delivered upon receipt if delivered personally or by confirmed facsimile, or on the third business day after such notice is deposited in the United States mail in a properly stamped envelope, certified mail, return receipt requested, addressed to the Party to whom it is to be given at the address set forth below:

TO EMPYREAN:

Empyrean Benefit Solutions, Inc.  
3010 Briarpark Drive  
Suite 8000

Houston, Texas 77042  
Attention: Compliance and Contracts Department

TO City of Midwest City:

City of Midwest City  
100 N. Midwest City Boulevard  
Midwest City, OK. 73110  
Attention: Catherine Wilson

C. Force Majeure. Either Party shall be excused from the performance of its obligations under this Agreement including but not limited to any service level agreements, if applicable, except Client's obligation to pay amounts due hereunder,



and any delay or failure in performance by a Party shall not be grounds for termination of this Agreement or give rise to any liability for damages to the extent that such Party is prevented from performing due to causes that are beyond its control, including, but not limited to, acts of God, acts or omissions of the other Party, acts of any government or regulatory body (whether civil or military, domestic or foreign) fires, explosions, floods, earthquakes or other natural or man-made disasters, epidemics, sabotage, terrorism, wars, riots, civil disturbances, strikes, lockouts, labor disputes and strikes, loss of electrical or other power or telecommunications equipment or line failures (each a "Force Majeure Event"); provided the Party claiming a Force Majeure Event: (i) promptly gives the other Party written notice of such event; (ii) uses its reasonable best efforts to correct such failure or reduce the delay in its performance; and (iii) follows commercially prudent standards for mitigating the risk associated with such event, in light of the severity of damages such event could cause the other Party.

D. Severability. In the event any provision or part of this Agreement is held to be unenforceable, the remainder of this Agreement shall continue in effect.

E. Relationship of the Parties. The Parties acknowledge that Empyrean is an independent contractor and the Parties are not joint venturers, partners, or employees of each other by virtue of this Agreement. Neither Party is an agent of the other or has control over the manner or method by which the other meets its obligations under this Agreement.

F. Assignment. Neither Party may assign this Agreement or any rights hereunder without the prior written approval of the other Party which such approval will not be unnecessarily withheld. To the extent that there are successors or assigns permitted under this Section, this Agreement shall be binding on and inure to the benefit of the Parties and their respective successors and assigns.

G. Amendments. To be effective, any amendments to this Agreement must be in writing and signed by an authorized representative of the Parties.

H. Headings. The headings of this Agreement are solely for the convenience of the parties and do not affect the meaning or interpretation of any provision of this Agreement.

I. Hiring Employees of Other Party. The Parties agree not to recruit or solicit the other's personnel or employees that become known to such Party as a result of the Service(s) performed hereunder until the earlier of one (1) year after (i) the termination of this Agreement or (ii) such person is no longer employed by the other Party. The foregoing shall not preclude either Party from employing any such employee (iii) who seeks employment with the other Party in response to any general advertisement or solicitation that is not specifically directed towards employees of such Party, or (iv) who contacts the other Party on his or her own initiative without any direct or indirect solicitation by such Party.

J. Survival. The provisions of Sections 5, 6, 8-12, 14, and 15 shall survive the termination of this Agreement.

K. No Third Party Beneficiaries. The Parties agree that this Agreement is for the benefit of the Parties hereto only and is not intended to confer any legal rights or benefits on any third party, and that there are no third party beneficiaries to this Agreement or any part or specific provision of this Agreement.

L. Entire Agreement. This Agreement constitutes the entire understanding and complete agreement between the Parties with respect to the subject matter hereof and supersedes in all respects, all prior proposals, negotiations, conversations, discussions and agreements between the parties concerning the subject matter hereof.

M. Execution. This Agreement may be executed in multiple counterparts, and each signed copy shall be deemed an original, but all signed copies together shall be deemed one and the same instrument. A portable document format (PDF), facsimile, or other similar reproduction of a signature of this Agreement shall constitute an original signature for all purposes.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement by their authorized representatives as of the Effective Date.

**Empyrean Benefit Solutions, Inc.**

**Client:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: Richard L. Wolfe

Name: \_\_\_\_\_

Title: Chief Executive Officer

Title: \_\_\_\_\_

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

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

**ATTEST:**

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

**APPROVED** as to form and legality this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
CITY ATTORNEY, Philip W. Anderson



## EXHIBIT B

### BUSINESS ASSOCIATE AGREEMENT

**THIS BUSINESS ASSOCIATE AGREEMENT** (this "**BAA**"), is by and between C ("**Client**") as Plan Sponsor and/or on behalf of its group health plan(s) and Empyrean Benefit Solutions, Inc., the Business Associate ("**Empyrean**") (each a "**Party**" and collectively the "**Parties**").

**WHEREAS**, the Client and Empyrean have entered or desire to enter into an agreement for the provision of certain services by Empyrean to Client (the "**Agreement**"); and

**WHEREAS**, the Parties wish to comply with the provisions of the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder, all as amended from time to time (collectively, "**HIPAA**") and the HITECH Act, Subtitle D of the American Recovery and Reinvestment Act of 2009 and its implementing regulations (collectively, "**HITECH**"); and

**WHEREAS**, pursuant to the Agreement, Client may send Protected Health Information to Empyrean, and Empyrean may create or receive Protected Health Information on behalf of Client (collectively, "**Client PHI**") and the Parties agree that because Client is a Covered Entity and Empyrean is a Business Associate as defined under 45 C.F.R. § 160.103 a BAA is needed.

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intended to be legally bound hereby, the Parties hereto agree as follows:

**Definitions:** Unless otherwise specified herein, terms in this BAA have the same meaning as those terms in the HIPAA privacy and security rules at 45 C.F.R. § parts 160 and 164.

#### **Contract Provisions:**

- 1. HIPAA Business Associate Contract.** This BAA constitutes a business associate contract between Client and Empyrean establishing the permitted and required uses and disclosures of Client PHI by Empyrean. The Parties acknowledge that Empyrean is not obligated to enter into other BAA agreements with entities that are not considered Covered Entities for whom Empyrean acts as a Business Associate or with whom Empyrean does not have a direct business relationship. The Parties further acknowledge that for purposes of this BAA, Empyrean is an independent contractor and not an agent of Client, as Client has no right to control the conduct of Empyrean in the performance of its services on behalf of Client, nor is Client an agent of Empyrean.

**2. Duties of Business Associate.** Empyrean agrees that it will:

a. Use or disclose Client PHI solely (i) in connection with the performance, management, obligations and administration of the Services on behalf of or to benefit Client as set forth in the Agreement, provided that such use or disclosure would not violate HIPAA or HITECH if done by Client, or (ii) as otherwise specifically permitted or required by this BAA, or (iii) as required by law.

b. Use appropriate safeguards to prevent the use or disclosure of Client PHI other than as provided for by this BAA or as required by law; implement and maintain reasonable and appropriate administrative, technical and physical safeguards to protect Client PHI from loss, misuse and unauthorized access, disclosure, alteration and destruction; and implement and maintain administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any electronic Client PHI in compliance with the security requirements of HIPAA set forth in 45 C.F.R. § Part 164 and any guidance issued by the Secretary.

c. Report to Client any use or disclosure of Client PHI other than as permitted by this BAA within the following timeframes:

(i) Verbally or by email, timely notify Client, but no less than annually, of any discovered Security Incident, and/or no less than within ten (10) business days of discovery of a Breach, as such terms are defined by HIPAA. At the time of reporting, Empyrean shall provide Client as much information as may be known at the time. A Security Incident or Breach will be treated as discovered as of the first day that such Security Incident or Breach is known or reasonably should have been known by Empyrean in its sole discretion. For purposes of this BAA, a Security Incident shall not include "trivial incidents" that are not successful and do not represent a material threat to the confidentiality, integrity, or availability of Client PHI (including but not limited to basic scans, "pings" or unsuccessful attempts to penetrate computer networks or servers maintained by Business Associate). For such unsuccessful Security Incidents as described, no further notice will be provided.

(ii) Thereafter, to the extent known and to the extent not already provided under Section 2(c)(i) above, Empyrean will provide a full written report containing the items provided below to the Client's designated official within fifteen (15) business days after discovering the Breach:

(A) the nature of the incident and how it occurred;

(B) the individuals whose PHI was involved in the Breach, including names and state of residence;

(C) a description of the PHI that was improperly used or disclosed;

- (D) a description of the party or parties who received the non-permitted disclosure;
- (E) a description of how Empyrean mitigated or will mitigate any harmful effects of the non-permitted use or disclosure;
- (F) a description of the corrective action taken by Empyrean or to be taken by Empyrean to prevent further non-permitted uses or disclosures;
- (G) a contact person; and
- (H) any other information as Client may reasonably request pertaining to such Breach.

d. In addition to the full written report provided for above, and to the extent appropriate if requested by Client, Empyrean shall, at its own cost, notify the individuals whose PHI was involved in the Breach within sixty (60) days of discovery (or such earlier date, as agreed upon by the Parties), in accordance with HITECH, provided that Client shall be able to approve the content, timing, method and all other aspects of any such notification. Notwithstanding, Empyrean reserves the right to charge reasonable, cost based fees to the Client for mitigation and notification related costs should a Breach be due to the actions or omissions of Client, Plan, or other entity associated with Client.

e. Empyrean shall enter into appropriate Sub-Business Associate Agreements ("Sub BAA(s)") containing substantially similar terms with any of its subcontracted vendors who create, receive, maintain or transmit Client PHI and/or perform any of the services outlined in the Agreement that are subject to HIPAA regulations.

f. Mitigate, to the extent practicable, any harmful effect that is known to Empyrean of any use or disclosure of Client PHI by Empyrean in violation of the requirements of this BAA, HIPAA or HITECH.

g. Provide access to Client PHI maintained in a Designated Record Set at the request of Client, or as directed by Client, to an Individual or such Individual's delegate as provided to Empyrean by Client as may be necessary for Client to satisfy its obligation under 45 C.F.R. § 164.524.

h. Make amendments to Client PHI maintained in a Designated Record Set as directed by Client as may be necessary for Client to satisfy its obligation under 45 C.F.R. § 164.526.

i. Document and make available disclosures of Client PHI and information relating to the disclosures of Client PHI as would be required for Client to respond to a request by an Individual for an accounting of disclosures of Client PHI in accordance with 45 C.F.R. § 164.528.

j. Subject to attorney-client or other legal privileges if applicable, make Empyrean's internal practices, books and records relating to the use and disclosure of Client PHI available to the Secretary of the United States Department of Health and Human Services for purposes of determining Client's group health plan's compliance with HIPAA.

k. Empyrean, its agents, employees and subcontractors, are prohibited from directly or indirectly receiving any remuneration in exchange for any Client PHI.

### **3. Permitted Uses and Disclosure by Empyrean**

a. Except as otherwise limited in this BAA, Empyrean may use or disclose Client PHI to perform functions, activities, or services for, or on behalf of, Client as specified in the Agreement and in this BAA, provided that such use or disclosure of PHI would not violate HIPAA privacy or security rules, including the Minimum Necessary requirement as stated in 45 C.F.R. § 164.502(b), if done by Client. Empyrean shall not be held liable for the use of Client PHI in a manner instructed by Client as long as such use or disclosure would not violate HIPAA privacy or security rules if done by Client.

b. Except as otherwise limited in this BAA, Empyrean may use Client PHI for the proper management and administration of Empyrean or to carry out any legal or regulatory responsibilities placed on Empyrean as a result of the Agreement or this BAA. Empyrean shall not use Client PHI in any manner that Empyrean knows will violate the HIPAA privacy or security rules.

c. Except as otherwise specifically limited in this BAA, Empyrean may disclose to third parties Client PHI as necessary to provide services under the Agreement, provided that disclosures are otherwise permitted under HIPAA or under this BAA.

d. Except as otherwise limited in this BAA, Empyrean may use Client PHI to provide Data Aggregation services as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

e. Empyrean may use Client PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. § 164.502(j)(1).

f. Empyrean may disclose information as may be requested by an Individual through Client under 45 C.F.R. § 164.508.

### **4. Obligations of Client.** Client agrees that it shall:

a. Notify Empyrean of any limitation(s) in its notice of privacy practices of Client in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect Empyrean's use or disclosure of Client PHI.

b. Not request that Empyrean use or disclose Client PHI in any manner that

would not be permissible under applicable laws.

c. Notify Empyrean of any changes in, or revocation of, permission by Individual to use or disclose PHI to the extent that such changes may affect Empyrean's use or disclosure of Client PHI.

d. Notify Empyrean of any restriction to the use or disclosure of Client PHI that Client has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Empyrean's use or disclosure of PHI.

e. In the event that Client cannot or is unwilling to meet the security standards for electronic transmission as required by HIPAA, HITECH, and Empyrean's policies for encrypted transmissions, Client shall hold Empyrean harmless and without liability for any Security Incident or Breach that occurs due to Client's inability to meet these standards as long as Empyrean operated within Client's directions and/or Empyrean was not at fault.

## **5. Term and Termination**

a. This BAA shall be effective as of the date executed by both parties and shall terminate on the later of the (i) expiration or termination of the Master Services Agreement, or (ii) when all of the Client PHI provided by Client to Empyrean is destroyed or returned to Client, or, if it is infeasible to return or destroy Client PHI, protections are extended to such information, in accordance with the termination provisions in this BAA or as provided by law.

b. Without limiting any right or remedy of either Party provided for in the Agreement, or available under applicable law (including but not limited to HIPAA) or in equity, either Party may terminate this BAA without penalty or recourse to the other Party, if it is determined that the other Party has breached any material term of this BAA, provided that such Party has failed to cure and mitigate such breach within thirty (30) days (or within a reasonable time thereafter) or in the event the breach is of a type that cannot reasonably be cured and mitigated within thirty (30) days, provided that said Party has commenced taking steps to effectuate a cure and mitigate and then thereafter takes reasonable steps to complete the cure within ninety (90) days) of its receipt of the affected Party's notice of such breach, describing the alleged breach with specificity, or immediately upon notice if cure is not possible.

c. Upon termination of this BAA and the Agreement, Empyrean will, if feasible, destroy or return to Client, all Client PHI that Empyrean still maintains in any form and retain no copies of Client PHI, and upon request of Client, Empyrean will certify in writing to Client that it has so returned or destroyed all such Client PHI. Prior to returning or destroying the Client PHI, Empyrean further agrees to recover any Client PHI in the possession of its subcontractors, if applicable. If such destruction or return is not feasible as to all or some of Client PHI, Empyrean shall extend the protection of this BAA to such Client PHI and limit further uses and disclosures to those purposes that do not make the destruction or return of such Client PHI feasible (such as with

encrypted, archived data files). If it is not feasible for Empyrean to obtain from a subcontractor any Client PHI in the possession of the subcontractor, Empyrean must require the subcontractor to agree in writing to extend any and all protections, limitations and restrictions in this BAA to the subcontractor's use and disclosure of any Client PHI retained after the termination of the BAA, and to limit any further uses and disclosures to the purposes that make the return of the Client PHI unfeasible.

6. **Amendment**. No changes, amendments or alterations of this BAA shall be effective unless signed by duly authorized representatives of both Parties, except as expressly provided herein. In order to assure that this BAA at all times remains consistent with HIPAA, Empyrean agrees to execute written amendments to this BAA from time to time, upon written notice from Client, if and to the extent, revisions are required to make this BAA consistent with HIPAA.
7. **No Rights of Third Parties**. This BAA is between Client and Empyrean and shall not be construed, interpreted, or deemed to confer any rights whatsoever to any third party.
8. **Counterparts**. This BAA may be executed in multiple counterparts, each of which is to be considered an original, and both of which will constitute one and the same agreement.
9. **Notices**. All notices related to any provision of this BAA shall be mailed to the designated contact of each Party as provided in the Agreement.
10. **Entire Agreement**. There are no other agreements or understandings, either oral or written, between the Parties relating to the subject matter hereof, except for the Agreement.
11. **Indemnification and Liability**. Any indemnification or liabilities relating to violations of this BAA by either Party (including a Sponsor on behalf of the Plan) shall be addressed to the extent applicable by the Agreement. Notwithstanding, Empyrean shall not be liable for breaches of this BAA that result in third party fines or penalties against the Client.
12. **Interpretation/Construction**. Any ambiguity in this BAA shall be resolved to permit Client's group health plan to comply with HIPAA and HITECH.
13. **Conflict**. In the event of a conflict with the provisions of this BAA and the Agreement, the provisions of this BAA shall prevail. This BAA will be governed by and construed in accordance with the laws of the State of Oklahoma to the extent not preempted by the Privacy and Security Rules or other applicable federal law.
14. **Applicable Law**. The provisions of this BAA shall be construed and administered to, and its validity and enforceability determined under HIPAA. To the extent that HIPAA is not applicable in a particular circumstance, the provisions of this BAA shall be construed under and administered to Oklahoma Law.

**15. Confidentiality.** Except as expressly provided for under HIPAA or this BAA, neither Party will disclose the terms of this BAA to any third party without the written consent of the other Party.

**IN WITNESS WHEREOF**, the Parties have caused this Business Associate Agreement to be executed by their authorized representatives.

**Empyrean Benefit Solutions, Inc.**

**CLIENT:** City of Midwest City (on behalf of its Group Health Plan(s))

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: Richard L. Wolfe

Name: \_\_\_\_\_

Title: Chief Executive Officer

Title: \_\_\_\_\_

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

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

**ATTEST:**

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

**APPROVED** as to form and legality this \_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
CITY ATTORNEY, Philip W. Anderson



## EXHIBIT C

### DATA SECURITY STANDARDS

(a) Empyrean shall maintain an information security program (the "Security Program") that includes appropriate administrative, physical and technical security safeguards to prevent and guard against the unauthorized access, disclosure, destruction, loss or alteration of Client's Confidential Information in the possession or control of Empyrean. The Security Program shall include safeguards that are, at all times, at least as good as those then used by top tier providers of services identical or similar to the Services provided by Empyrean, and include, but not be limited to: (i) use of identity access management software (e.g., user name and password); (ii) use of reasonable firewalls, anti-virus, anti-spyware, and intrusion detection systems; and (iii) industry standards regarding physical building security.

(b) Empyrean shall host Client's Confidential Information in primary and secondary SSAE 16 Type II or ISO 27001 certified (or equivalent) data centers located within the United States or as designated in a SOW. Each data center shall include full redundancy for access to Client Confidential Information.

(c) In the event Empyrean is provided access to Client's network as part of performing the Services contemplated herein, then in addition to the Security Program requirements set forth in above, Empyrean shall: (i) take all reasonable precautions to ensure that login credentials and password are kept confidential; (ii) such login credentials and passwords are regularly changed according to customary security practices; (iii) immediately terminate login credentials and passwords for individuals who have resigned their employment, have been terminated by Empyrean or no longer work on Client's account; and (iv) implement any other reasonable security procedures as may be required by Client from time-to-time.

(d) Empyrean will continue during the Term of this Agreement to conduct annual SOC audits based on the SSAE 16 standards and remain "SSAE 16 Compliant" which shall mean that the Services provided herein and the controls used therein are in conformance with SSAE 16 standards and that Empyrean has received an unqualified independent auditor's report regarding same ("Audit Report"), which shall be provided to Client upon request. In the event that Empyrean has any qualified opinions in the annual SOC report, it shall provide a management response to the qualified opinions and any such remediation to such opinion(s) and or exceptions.

(e) Client may, on an annual basis, at an agreed to time and at Client's sole expense, attend an on-site review during which Empyrean will review with Client the role and effectiveness of Empyrean data security measures, policies and procedures. Any such on-site review shall be scheduled to take place during normal business hours, and Client representatives shall be subject to and shall abide by Empyrean security and safety policies and procedures while on-site, and written obligations of confidentiality. Client understands and agrees that (i) no such on-site review shall take place during

peak tax or service periods (such as, for example, open enrollment), both as defined by Empyrean, (ii) nothing expressed or implied in this Agreement or otherwise shall permit Client or any party working on behalf of Client the right to perform an ethical hack, utilize electronic scanning or otherwise implement active or passive security testing against Empyrean or its Affiliates' systems, and (iii) Empyrean shall have no obligation to provide Client or its representatives with information or access to systems or data that could directly or indirectly compromise the confidentiality and/or security of other Empyrean customers' data and non-public information.

DRAFT

## EXHIBIT A

### STATEMENT OF WORK AND PERFORMANCE GUARANTEES

April 16, 2018

#### 1. **Benefits Administration Outsourcing Solution Implementation**

The implementation will require Client resources to complete requirements and interact with Empyrean team members to effectively transition services to the Empyrean platform, including meeting all identified implementation milestones. During the implementation, the following services will be provided to Client:

- Project Management

A Client Advocate will be assigned to support day-to-day ongoing inquiries specific to the platform and corresponding service delivery. An Implementation Consultant will also be assigned during the implementation. The Implementation Consultant is the subject matter expert for all requirements definition and build out of Empyrean's platform specific to the requirements as defined within the Requirements document.

- Requirements

A document will be created and provided by Empyrean that defines all platform-specific requirements relating to the services provided by Empyrean. Client will provide detail specific to Client-defined logic, including benefits offered, eligibility and rates. Client must sign-off on the accuracy of captured requirements. Changes made after the initial client sign-off may require additional fees, and/or result in delayed live dates.

- Testing

Empyrean will test the system upon completion of setup to ensure expected functionality. Client will be required to participate in testing and sign-off on test results to ensure that the setup was done correctly and accurately reflects Client-defined requirements as captured within the Requirements Document. All testing will take place in a test environment and occur prior to the system being pushed to production.

## **Client Responsibilities**

Client would typically partner in the responsibilities and workflows in a relationship with Emyprean in the following areas:

- Provide required data to Emyprean in a timely manner, in an agreeable format, and free of errors; additionally, if not utilizing an incoming employee file (new hires, changes, terminations) the employer is also responsible for keeping the system up to date manually
- Process payroll deductions based on data provided by Emyprean
- Assist Emyprean with carrier/third-party relationships
- Acceptance testing of system prior to live date, including review of participant self-service site and related materials Call center training assistance, if applicable
- Signoff on Requirements Documents, Testing and other deliverables in a timely manner, and
- Termination processing, including required benefit notifications other than COBRA.

## 2. Benefits Administration Fees

The costs for Benefits Administration services are as follows:

| Implementation Fees <sup>1</sup>   |  | Cost   |  |                      |
|--|--|--|--|----------------------|
| Implementation Fee   |  | \$8,000  |  |                      |
| Ongoing Benefits Administration Fees <sup>2</sup>  |  | Cost   |  |                      |
| Eligible Headcount<br>- Includes all benefits-eligible participants, including active employees, retirees, etc.  |  | 500  |  |                      |
| Fees Per Eligible Participant Per Month (PEPM)   |  | \$ 4.00  |  |                      |
| Call Center Services (PEPM) , if elected   |  | NA   | Purchased:<br>NO   |                      |
| <b>Monthly MINIMUM Flat Core Service Fee</b>   |  | \$1500   |  |                      |
| <b>Annual Enrollment Maintenance Fee</b><br>This fee covers typical changes made during annual enrollment: Benefit & Plan changes, rate updates, and carrier file updates. |  | \$2000 annually (invoiced 2 months prior to annual enrollment) |  |                      |
| ACA Fees<br><b>*SOW Safe Harbor attached</b>   |  | Cost   |  | Purchased:<br>Yes/No |
| SAFEHARBOR™ Hours Tracking<br>License Fee (Per Tracked Employee Per Month)   |  | PEPM (inclusive of License Fee and Processing Fee)             | Implementation Fee (inclusive of historic hours data conversion) | Yes                  |
| <= 750   |  | <b>\$1,500/month minimum</b>                                   | <b>\$5,000</b>   |                      |
| 751 – 2,000  |  | \$1.75   | \$10,000   |                      |
| 2,001 – 4,000  |  | \$1.45   | \$10,000   |                      |
| 4,001 – 6,000  |  | \$1.35   | \$10,000   |                      |
| 6,001 – 8,000  |  | \$1.25   | \$10,000   |                      |
| >= 8,000   |  | \$TBD  | \$TBD  |                      |

|   |   |     |
|---|---|-----|
| <p>1094/1095 Reporting Full Service</p> <ul style="list-style-type: none"> <li>- Forms Management Print/Fulfillment (Per Form)<br/>*Billed annually in October (pre-filing), rates can fluctuate based on volume.</li> <li>- Year 1 (includes set up fee)</li> <li>- Year 2 and beyond</li> <li>- Postage</li> <li>- Exchange Appeal (Per Case)</li> </ul> <p>ACA Data Reporting Options to facilitate 2018 reporting (if Client chooses other vendor to complete 2018 reporting) – available only in Empyrean format:</p> <ul style="list-style-type: none"> <li>- Raw Data File</li> <li>-</li> <li>- Forms Read Data File</li> </ul> | <p style="text-align: center;">Option: 3<br/># of Forms: 722<br/># of FEINs: 1<br/>Year 1: \$17.82 PFPY / \$1.49 PFPM<br/>Year 2: \$13.67 PFPY / \$1.14 PFPM<br/>Exchange Appeal (Per case): \$250</p> <p style="text-align: center;">\$6.75 per Employee on file</p> <p style="text-align: center;">\$10.50 per Employee on file</p> | Yes |
|---|---|-----|

<sup>1</sup> Implementation Fees are billed in full at project kickoff.

<sup>2</sup> Ongoing Fees are billed monthly with payment terms as provided for under the Agreement. Full ongoing Fees will begin on the earlier of the first of the month in which Empyrean receives a live indicative data file or services begin.

| Ancillary Administration Services  | Cost  | Purchased |
|--|---|-----------|
| <p>COBRA</p> <ul style="list-style-type: none"> <li>- Implementation Fee</li> <li>- Takeover Fee (per account transitioned)</li> <li>- Monthly Minimum</li> <li>- Qualifying Event Letter (per event)</li> <li>- Ongoing Monthly Fee (includes direct bill invoices, print and fulfillment) – Per Participant Per Month</li> <li>- General Notice (via Empyrean)</li> <li>- Annual Enrollment Notices</li> <li>- 2% COBRA Admin Fee</li> </ul> | <p>TBD</p> <p>\$50.00</p> <p>N/A</p> <p>\$20.00</p> <p>\$15.00</p> <p>\$5.00</p> <p>\$10.00 per COBRA enrollee<br/>Remitted to Client</p> | No        |
| <p><i>*Please note that these fees are based on using an Empyrean partner. Associated file feeds are included at no additional charge.</i></p>   |   |           |



| Ancillary Administration Services  | Cost  | Purchased  |
|--|---|------------|
| FSA/HRA Administration <ul style="list-style-type: none"> <li>- Implementation Fee</li> <li>- Per Account Per Month</li> <li>- Section 129 Non-discrimination Testing</li> </ul>   | TBD<br>\$5.00<br>\$2,500.00   | No         |
| Health Savings Account Administration <ul style="list-style-type: none"> <li>- Implementation Fee</li> <li>- Takeover Fee (Per Account Transitioned)</li> <li>- Monthly Minimum</li> <li>- Ongoing Fee (additional fees applied to participants: check distribution fee, paper statement fee, etc.)</li> <li>- Debit Card Per Set</li> </ul> | TBD<br>N/A<br>\$5.00<br>N/A to Employer<br>Included                           | No         |
| QMCSO – System Functionality <ul style="list-style-type: none"> <li>- Platform will have available appropriate QMCSO code designed to restrict changes</li> <li>- Online QMCSO report</li> </ul>   | Included  | Yes        |
| Decision Support/Educator Tools <ul style="list-style-type: none"> <li>- Plan Comparison</li> <li>- Recommendation Engine</li> </ul>   | Included<br>Included  | Yes<br>Yes |
| Total Compensation Statements  | Included once annually prior to OE, if client utilizes Empyrean format        | Yes        |
| Single Sign-On (SSO; assumes SAML 2.0)   | \$7,500 each  | No         |
| Integrations for EOI (assumes SAML 2.0)<br>**Pre-built integrations that Empyrean has with its carrier partners are included at no additional fee.   | \$10,000 each   | No         |
| Event Verification – System functionality<br><i>Pends all changes made within the event. Cannot be used in conjunction with dependent verification.</i>  | <i>No charge when the client owns the review and approval/denial process.</i> | TBD        |

| Ancillary Administration Services   | Cost  | Purchased |
|---|---|-----------|
| Event Verification – Processing service (must also purchase Call Center Services)<br><i>Empyrean reviews documentation per client rules, and processes event approvals and denials.</i>         | \$20.00 per event   | No        |
| Dependent Verification – System functionality<br><i>Pends the coverage for new dependents on a per benefit level. Cannot be used in conjunction with event verification.</i>                    | <i>No charge when the client owns the review and approval/denial process.</i> | TBD       |
| Dependent Verification – Processing service (must also purchase Call Center Services)<br><i>Empyrean reviews documentation per client rules, and processes dependent approvals and denials.</i> | \$20.00 per dependent   | No        |

<sup>3</sup>Empyrean can pend designated life events if the event requires documentation. For example, a Marriage event might require a Marriage Certificate. Empyrean can review and approve documentation for \$20 per event. There is no charge if the client owns the verification/approval process.

<sup>4</sup>Client may choose to require verification for all Dependents added to the system. This functionality applies to all events in which a dependent may be associated to a benefit. This includes all dependents added for a New Hire as well as any new Dependents added at Open Enrollment. There is no charge if the client owns the verification/approval process.

Note that only ONE type of verification may be used (Event OR Dependent).

| Pass-through Costs  | Cost   |
|---|--|
| Language Support (Call Center)  | Pass-through (\$2.00 per minute, on average) |
| Banking Fees (Account based services: FSA, HSA, COBRA, Premium Billing) | Pass-through                                 |
| Print/Fulfillment, Shipping & Postage                                   | Pass-through                                 |
| Client Requested Operational Travel                                     | Pass-through                                 |

## Caveats and Assumptions

| Item                                     | Description  |
|--|--|
| Agreement Period                         | The Agreement is established for a term of One (1) year to be renewed each subsequent year. This SOW will guarantee the specified pricing herein through 07/01/2021, such that the pricing remains consistent for two annual renewals. Changes or additions to the scope of services will be priced as requested and if a renewal occurs beyond two annual renewals, pricing may be re-evaluated.  |
| Project Scope                            | Project scope is fixed according to the terms of the agreement between Client and Empyrean. Deviation from scope or activity exceeding estimated volumes will require review and may result in additional fees to adequately support Client.   |
| Project Dates                            | Project initiation is scheduled upon the execution of an agreement for Empyrean Benefits Administration services.<br>- Administration services go "live" on 07/01/2021   |
| Population Thresholds                    | Where outlined in the Benefits Administration Fees section, a change in population that crosses a pricing band will adjust the cost to the appropriate pricing band. Additionally, this cost will adjust upon the next month invoice.  |
| Empyrean Billable Hourly Rate            | Empyrean may charge Client out-of-scope fees for data cleanup as well as additional programming hours required after "go-live". Client will be informed of the fees and must approve the Change Order prior to Empyrean starting work. The hourly rate is \$200 per hour.  |
| Inbound Electronic Conversion Interfaces | Empyrean agrees to accept data in a mutually agreed upon format to include employee indicative data, employee elections, dependent indicative data and dependent elections to support the conversion process. Data provided to Empyrean is expected to be accurate and error free. Bad data is unable to be loaded. Errors will be provided to Client for review. Client will be responsible for resolving any errors found through this process.  |
| Inbound Electronic HRIS Interface        | Empyrean agrees to accept a single incoming data file in Empyrean's format from the Client's HR system on a weekly basis. The data will be received in a full-file format. Data provided to Empyrean is expected to be accurate and error free. Bad data is unable to be loaded. Any resulting errors will be provided to Client for review. It is the client's responsibility to resolve any errors found through this process.<br>Empyrean assumes that all data necessary to load employees into the platform will be included in the ongoing incoming data file from Client. Necessary data elements will be defined within the administrative requirements. In the event not all data is included and additional programming/calculations are required, additional programming and/or manual data cleanup hours will apply. |

# Caveats and Assumptions

| Item                                  | Description  |
|---------------------------------------|--|
| Outbound Eligibility Interfaces       | <p>Empyrean agrees to provide election data for up to 5 carrier/third-parties through electronic eligibility interfaces in a mutually agreed upon format. Interfaces are full files and sent weekly via secure transmission. If a carrier is unable to accept an electronic file, then a carrier change report can be accessed from the platform for the Client to update elections with the carrier / third-party.</p> <p>Empyrean includes the development of initial electronic interfaces identified at the start of implementation. Additional interfaces required, but not included in the SOW, will require out-of-scope costs and may result in revised project timelines. The cost of new interfaces or modification of existing interfaces after Go Live will be provided to Client in a Change Order.</p>   |
| Outbound Electronic Payroll Interface | <p>Empyrean agrees to provide a <b>single</b> payroll interface in a re-usable/standard format, to Client or Client's Payroll Provider per the payroll schedule. This includes up to 3 frequencies on a single file. Uniqueness within a single frequency and/or varying cut off dates across frequencies may result in additional file costs. The cost of one re-usable/standard format payroll file is included within the cost of services. The file is a full file at Open Enrollment and changes only file throughout the year. Client/Payroll Provider is responsible for end dating all deductions in the payroll system at plan year end in preparation for the full Open Enrollment file.</p> <p>Empyrean provides change effective dates along with the per pay period deduction amount. Client can access a historical change report on the platform to process retroactive changes, as appropriate.</p>  |
| Data Reconciliation Processes         | <p>Client and any of its third parties, whether other third party administrators or carriers, are expected to supply Empyrean with necessary data as may be applicable and engage in data reconciliation processes as Empyrean may prescribe as needed to support the services under this SOW. Client understands and agrees that for any Client plan or program requiring Evidence of Insurability (EOI), Empyrean will require Client's carrier to support Empyrean processes to reconcile both EOI and "in-force" coverage amounts to ensure that Empyrean and Client's carrier(s) systems match with respect to such items, and that if Client's carrier will not support such routine auditing of the above, that Empyrean cannot properly support EOI/in-force coverage processing as provided for in this SOW and will not be held liable for EOI/in-force coverage errors. In order for the preceding sentence in this SOW to be given full effect, it will supersede conflicting liability language, if any, in the MSA as relates to EOI errors.</p> |
| Data Transmission Standard            | <p>Empyrean will provide data to Client and third parties in support of the services described within the SOW. Unless otherwise agreed upon, all data file transmissions, whether Client to Empyrean or Empyrean to Client or other third party are made using PGP encryption via an FTP or SFTP site. FTP/SFTP site may be Empyrean's site, Client's site and/or third party's site based on transmission file. If Client or Client's third party carriers/partners cannot agree to this transmission method, Client will be asked to provide Empyrean with a security release</p>  |
| FSA Claims Run-out                    | <p>When Client contracts with Empyrean for FSA services, prior administrator supports run-out</p>  |

# Caveats and Assumptions

| Item                       | Description   |
|----------------------------|---|
| FSA, HSA, HRA Calculations | <p>Empyrean collects, at the time of election, the annual goal amount associated with spending / reimbursement accounts and reports this amount to the Client via the outbound electronic payroll interface.</p> <p>Empyrean will determine the number of pay periods for each election and the estimated per-pay-period amount to be deducted from participants based on their election and payroll cycles provided to Empyrean by Client.</p>   |
| Participant Communications | <p>Empyrean includes the development of basic electronic communication alerts to support transaction processes.</p>   |
| Reports                    | <p>Empyrean provides Client access to information with the use of standard reports. Standard reports are reviewed during the implementation. Additional data can be accessed by Client via Empyrean adhoc reporting tool.</p> <p>Premium reports are also included as standard reports. These reports are available to the Client to run on a monthly basis.</p>  |
| Annual Enrollment          | <p>Empyrean agrees to provide support for a two-week, passive annual enrollment period annually.</p> <ul style="list-style-type: none"> <li>- A passive annual enrollment does not require participants to re-elect plans or coverage if no change is required (except spending account elections).</li> <li>- An active annual enrollment occurs when participants are required to enroll in new plans or re-enroll in existing plans for any reason. Enrollment will be considered active if enrollment is required for any plan (except spending account elections) or is communicated to participants as such, and will be priced as requested.</li> </ul> <p>Annual enrollment changes included in the scope of services include rates, zip codes, minor benefit updates (such as changes to deductibles, co-pays), adding new URLs or PDFs to the self-service site, new/modified eligibility rules, plan design changes, and rate structure changes.</p> <p>Implementing new carrier files beyond the first 5 will incur an out-of-scope fee (\$1500 - \$2500, based on complexity).</p> <p>Changes to requirements after the initial requirements are finalized and signed-off on for configuration will be considered out-of-scope and provided to Client in a Change Order.</p> |
| Compliance                 | <p>General core system changes required to address federal legislative changes that can be applied uniformly across the Empyrean system are included in the scope of services. Fees may apply for the client-specific implementation of such changes.</p> <p>Empyrean administers benefits in accordance with the federal regulations. Fees may apply for support of state-specific rules.</p>  |

## Caveats and Assumptions

| Item                                | Description  |
|-------------------------------------|--|
| Call Center Services                | <p>The call center will be open Monday through Friday with the exception of Empyrean holidays. The call center hours will be available for a nine-hour window between 7 AM to 7 PM Central Standard Time. Calls into the call center will be through a designated toll-free number.</p> <p>Empyrean does not support email inquiries due to our controls relating to HIPAA and other privacy protocols.</p>          |
| Language Support (Call Center)      | <p>Empyrean provides direct English language services to callers. Additional language support for callers is available through a translation service for an additional fee of \$2.00 per minute on average.</p>  |
| Language Support (Site Translation) | <p>The Empyrean online tool and related enrollment materials are provided to benefit-eligible participants in English. Spanish translation is available at no additional charge if using standard site language, i.e. no customization. Custom Spanish translation and all other languages (English characters reading left to right, top to bottom) are available for an additional fee of \$7500 per language.</p> |
| Termination of Services             | <p>Upon termination of services for any reason, Empyrean will supply a data set (Employee &amp; Dependent demographics and elections) to the client and/or their 3rd party provider at the time of contract termination in the Empyrean standard file format (for a fee of \$500 per data set). Any file format customization will require additional fees.</p>  |



## Caveats and Assumptions – ACA Administration (Optional)

| Item   | Description  |
|--|--|
| Final Regulations                                    | <ul style="list-style-type: none"> <li>- Changes in law after the initial reporting year will be evaluated and the impact determined on a case by case basis.</li> </ul>   |
| Data/Populations Maintained Outside Empyrean Systems | <ul style="list-style-type: none"> <li>- Data and/or populations (e.g., retirees, unions, COBRA, etc...) not maintained on Empyrean systems that must be reported are not in scope.</li> <li>- It is assumed that the benefits administrators/record-keepers of this data will handle the reporting requirement for these populations and/or will supply the data to client's chosen forms provider.</li> <li>- Empyrean is not responsible or liable for the accuracy of any non-Empyrean provided data provided that Empyrean has not altered or manipulated such data. Notwithstanding the foregoing, Empyrean is responsible and liable for the security of all data in its control and/or transmitted by Empyrean.</li> </ul> |
| Acquisitions   | <ul style="list-style-type: none"> <li>- For acquisitions, Empyrean will assume support for the acquired company from the effective date of administration on Empyrean's systems and the previous company/ administrator will be responsible for issuing 1095s for the previous period of ownership.</li> </ul>  |
| Divestitures   | <ul style="list-style-type: none"> <li>- For divestitures, Empyrean will supply the data to the client and/or their 3rd party forms provider at the time of divestiture in the Empyrean standard file format (for fees). Any file format customization will require additional fees.</li> </ul>  |
| Additional Assumptions                               | <ul style="list-style-type: none"> <li>- Changes to the client's plans, affordability safe harbor, overall reporting method, etc., may result in additional fees and will be managed via the change order process.</li> <li>- Additional scope considerations relevant to this reporting (e.g., dependent SSN solicitation, etc.) will be addressed and managed as part of the overall implementation process.</li> <li>- These fees do not include hours tracking/full-time eligibility determination services provided via Empyrean's SafeHarbor solution.</li> </ul>  |

### 3. Proposal Approval

Client: The City of Midwest City

\_\_\_\_\_  
Signature (Date)

\_\_\_\_\_  
Printed Name, Title

Empyrean:

\_\_\_\_\_  
Richard Wolfe, CEO  
Empyrean Benefit Solutions, Inc. (Date)

## 4. Benefits Administration Responsibilities Matrix

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Section 1: Health and Welfare Administration

Section 2: Compliance

Section 3: Data and Interfaces

Section 4: Internet Services

Section 5: IVR and Customer Service Center (Optional)

Section 6: COBRA Administration (Optional)

Section 7: FSA Administration (Optional)

Section 8: Miscellaneous Services

**Benefits Administration Opportunity Detailed Scope Matrix**

Section 1: Health and Welfare Administration

| #   | Item                      | Client and/or Broker Responsibilities   | Empyrean Responsibilities   | Carrier Responsibilities   |
|-----|---------------------------|---|---|--|
| 1.1 | Covered Populations       |   | <ul style="list-style-type: none"> <li>■ Provide H&amp;W administration support per mutually confirmed requirements and populations</li> </ul>  |  |
| 1.2 | Covered Plans             | <ul style="list-style-type: none"> <li>■ Plan design</li> <li>■ Fiduciary responsibility</li> <li>■ Eligibility determination</li> </ul>      | <ul style="list-style-type: none"> <li>■ Enrollment and participant support for :                             <ul style="list-style-type: none"> <li>— Health care plans (medical, dental, vision, prescription drug, etc.)</li> <li>— Insurance plans (life Insurance, AD&amp;D)</li> <li>— Disability plans (STD, LTD)</li> <li>— Account based plans (FSA, HSA, HRA, commuter)</li> <li>— Other plans such as business travel accident, prepaid legal, etc.</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>■ Claims adjudication and payment</li> <li>■ Provide debit cards</li> <li>■ Account administration</li> </ul> |
| 1.3 | Eligibility Determination | <ul style="list-style-type: none"> <li>■ Send required data elements on HRIS file to Empyrean to support eligibility determination</li> </ul> | <ul style="list-style-type: none"> <li>■ Determine eligibility for participation in H&amp;W plans</li> <li>■ Support initial waiting periods</li> <li>■ Support zip code eligibility</li> </ul>   |  |

| #   | Item                         | Client and/or Broker Responsibilities  | Empyrean Responsibilities  | Carrier Responsibilities   |
|-----|------------------------------|--|--|--|
| 1.4 | Enrollment Support           | <ul style="list-style-type: none"> <li>■ Provide options and prices</li> <li>■ Dependent on carrier limitations, if unable to accept an electronic file, the client/broker must update</li> <li>■ Engage in routine data reconciliation processes with Empyrean</li> </ul> | <ul style="list-style-type: none"> <li>■ Capture enrollment elections</li> <li>■ Monitor elections requiring evidence of insurability and communicate to participants accordingly</li> <li>■ Accept and retain beneficiary designations</li> <li>■ Send summary of enrollment elections to carrier via electronic files. If carrier is unable to accept EDI then provide report for client o access and update with the carrier.</li> <li>■ Provide technology that allows client to maintain supporting documentation for qualified status changes (accessed through HR Administration tool)</li> </ul> | <ul style="list-style-type: none"> <li>■ Process evidence of insurability</li> <li>■ Provide approvals and denials</li> <li>■ Process eligibility updates (health and welfare plans)</li> <li>■ Engage in routine data reconciliation processes with Empyrean</li> </ul> |
| 1.5 | Payroll Deduction Processing | <ul style="list-style-type: none"> <li>■ Provide payroll calendars for each pay frequency</li> <li>■ Apply deductions against payroll</li> <li>■ Retroactivity calculations</li> </ul>   | <ul style="list-style-type: none"> <li>■ Calculate payroll deductions based on enrollment elections and transmit to employer (re-usable files)</li> <li>■ Calculate imputed income amounts for health benefits and life insurance (DOMA)</li> <li>■ Notify client of employee elections and deductions</li> </ul>  |  |
| 1.6 | Premium Reporting            | <ul style="list-style-type: none"> <li>■ Transmit premium payments to carriers</li> <li>■ Generate premium report(s) monthly through Empyrean's online reporting tool</li> </ul>   | <ul style="list-style-type: none"> <li>■ Calculate premiums based on current eligibility</li> <li>■ Configure premium calculation rules</li> <li>■ Provide client access to standard summary-level and participant-level detail reports available via the online reporting tool</li> </ul>   | <ul style="list-style-type: none"> <li>■ Accept premiums</li> <li>■ Reconcile premiums against eligibility file</li> </ul>   |

| #    | Item                                    | Client and/or Broker Responsibilities   | Empyrean Responsibilities   | Carrier Responsibilities  |
|------|---|---|---|---|
| 1.7  | Event Processing                        | <ul style="list-style-type: none"> <li>■ Employee or administrator updates EBS system with event</li> </ul> | <ul style="list-style-type: none"> <li>■ Provide access to members and / or administrators to process events detailed in requirements</li> <li>■ Notify employer of changes to payroll deductions</li> <li>■ Notify carrier of changes in status via electronic or online change report</li> </ul>  | <ul style="list-style-type: none"> <li>■ Process eligibility updates</li> </ul> |
| 1.8  | Participant Communications              |   | <ul style="list-style-type: none"> <li>■ Email alerts</li> <li>■ Online confirmation statements</li> </ul>  |   |
| 1.9  | QMCSO Administration                    | <ul style="list-style-type: none"> <li>■ Qualify orders</li> </ul>  | <ul style="list-style-type: none"> <li>■ Platform will have available appropriate QMCSO code designed to restrict changes</li> <li>■ Online QMCSO report</li> </ul>   |   |
| 1.10 | QMCSO Qualification Services (optional) |   | <ul style="list-style-type: none"> <li>■ QMCSO/NMSN qualification and processing</li> <li>■ Termination of order processing</li> <li>■ Communications with agencies and custodial parents as needed</li> <li>■ Mailing required plan information</li> <li>■ Enrolling/Disenrolling per QMCSO/NMSN</li> <li>■ Service Center Support</li> <li>■ Health Questionnaire processing</li> </ul> |   |

Section 2: Compliance

| #   | Item                                | Client Responsibilities   | Empyrean Responsibilities   | Carrier Responsibilities |
|-----|-------------------------------------|---|---|--------------------------|
| 2.1 | Notification of Legislative Changes | <ul style="list-style-type: none"> <li>■ Identify legislative changes not specifically impacting health and welfare benefits administration</li> <li>■ Make decisions and provide direction to Empyrean regarding CLIENT's benefits administration</li> </ul> | <ul style="list-style-type: none"> <li>■ Identify and notify Client and broker of federal legislative changes that directly impact health and welfare benefits administration</li> </ul>  |                          |
| 2.2 | Discrimination Testing              | <ul style="list-style-type: none"> <li>■ Section 79 testing</li> <li>■ Section 105(h) testing</li> <li>■ Section 125 testing</li> </ul>   | <ul style="list-style-type: none"> <li>■ Section 129 single preliminary testing included when Empyrean performs full account based administration; additional fees may apply for actual testing</li> </ul>  |                          |
| 2.3 | Communications                      | <ul style="list-style-type: none"> <li>■ Creation of notice content</li> </ul>  | <ul style="list-style-type: none"> <li>■ Posting online of the following notices, per Client requirements:                             <ul style="list-style-type: none"> <li>— Summaries of Benefits and Coverage (SBCs)</li> <li>— Women's Health and Cancer Rights Annual Notice</li> <li>— CHIP Notice</li> <li>— Marketplace Notice</li> <li>— Notice of Creditable Coverage for Medicare</li> </ul> </li> </ul> |                          |
| 2.4 | Reporting                           |   | <ul style="list-style-type: none"> <li>■ PCORI and TRF reporting are supported via premium reports</li> <li>■ W-2 reporting</li> </ul>  |                          |



| #   | Item                            | Client Responsibilities | Empyrean Responsibilities   | Carrier Responsibilities  |
|-----|---------------------------------|-------------------------|---|---|
| 2.5 | ACA Reporting (additional fees) | ■                       | <ul style="list-style-type: none"> <li>■ Select applicable support model: <ul style="list-style-type: none"> <li>— Full service: Empyrean will track data necessary for reporting, derive applicable codes for the 1095 Forms, create a print-ready data file, coordinate with Thomson Reuters to generate and distribute the 1095 Forms, and submit the 1094 transmittal form(s) to the IRS</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>■ Reporting in support of the Individual Mandate for participants enrolled in fully insured plans</li> </ul> |

### Section 3: Data, Reports and Interfaces

| #   | Item   | Client Responsibilities  | Empyrean Responsibilities   | Carrier Responsibilities  |
|-----|--|--|---|---|
| 3.1 | Data Sources – Health and Welfare Plans Eligibility and Enrollment | <ul style="list-style-type: none"> <li>■ Maintain employee basic data</li> <li>■ Provide participant data and changes to Empyrean</li> <li>■ Process payroll data from Empyrean</li> </ul> | <ul style="list-style-type: none"> <li>■ Load employee and dependent data and changes to enable IVR, Internet, and Customer Service support</li> <li>■ Provide eligibility and enrollment data to carriers</li> <li>■ Provide payroll data changes to Client or Client's payroll administrator</li> <li>■ Allow for direct data entry of employer data</li> <li>■ Accept electronic interface for employer data using Empyrean standard layout.</li> <li>■ Provide eligibility and enrollment data to carriers unless there is a size limitation (under 250 enrollments) then provide change report to client via MAP</li> <li>■ Provide payroll data changes to Client via MAP or secure email/FTP Reusable files</li> </ul> | <ul style="list-style-type: none"> <li>■ Maintain indicative data per employer instructions</li> <li>■ Maintain coverage and enrollment data per Empyrean instructions</li> <li>■ Process Empyrean file within agreed upon timeframe</li> <li>■ Report errors to Empyrean for clarification or resolution</li> <li>■ Engage in routine data reconciliation processes with Empyrean</li> </ul> |
| 3.2 | Premium Generation and Reports                                     | <ul style="list-style-type: none"> <li>■ Run premium reports on demand per premium schedule</li> </ul>   | <ul style="list-style-type: none"> <li>■ Generate premium and adjustment data per Client requirements available in MAP or automated timed, emails</li> <li>■ Provide premium reports for Client to run on-demand</li> </ul>   |   |
| 3.3 | COBRA Administration   | <ul style="list-style-type: none"> <li>■ Notify Empyrean of employee terminations</li> </ul>   | <ul style="list-style-type: none"> <li>■ Process terminations and send to COBRA administrator</li> <li>■ Process life event changes and send dependent data to COBRA administrator, as applicable</li> </ul>  | <ul style="list-style-type: none"> <li>■ Initiate COBRA processing</li> </ul>   |
| 3.4 | Administrative Reports   | <ul style="list-style-type: none"> <li>■ Generate and download reports and demand when desired</li> </ul>  | <ul style="list-style-type: none"> <li>■ Provide standard eligibility reports for Client to run on-demand</li> <li>■ Provide online ad-hoc report generation capabilities</li> </ul>  |   |

## Section 4: Internet Services

Empyrean provides an employee self-service website and an HR user website.

| #   | Item         | Client Responsibilities | Empyrean Responsibilities  | Carrier Responsibilities |
|-----|--------------|-------------------------|--|--------------------------|
| 4.1 | General      |                         | <p>Participant and HR User access:</p> <ul style="list-style-type: none"> <li>■ Responsive design allows users to access it from mobile devices as well as computers</li> <li>■ Protected with 128-bit encryption using Secure Sockets Layer (SSL). If a user's browser does not support 128-bit encryption, the web site will automatically try to connect the user's session with 40-bit encryption.</li> <li>■ Supports all current versions of modern browsers as well as the previous two versions</li> </ul> |                          |
| 4.2 | Availability |                         | <p>Participant and HR User access:</p> <ul style="list-style-type: none"> <li>■ Available 24x7x365 with 99% availability outside of scheduled maintenance windows</li> </ul>   |                          |
| 4.3 | Security     |                         | <p>Employee self-service web:</p> <ul style="list-style-type: none"> <li>■ Includes Username and Password along with security questions</li> <li>■ Password reset available</li> </ul> <p>HR User access</p> <ul style="list-style-type: none"> <li>■ Role-based security for access self-service users and administrative users</li> <li>■ Includes Username and Password along with security questions</li> <li>■ Password reset available</li> </ul>  |                          |

| #   | Item                    | Client Responsibilities  | Empyrean Responsibilities  | Carrier Responsibilities |
|-----|-------------------------|--|--|--------------------------|
| 4.4 | Inquiry Support         |  | <ul style="list-style-type: none"> <li>■ Display participant demographic information</li> <li>■ Customize a client Resources page on the website with: <ul style="list-style-type: none"> <li>○ General plan documents</li> <li>○ Administrative documents</li> <li>○ Links to relevant third-party web sites (i.e. carriers)</li> <li>○ Client specific third party contact information, including URLs, phone numbers, and group numbers</li> <li>○ Video Library</li> </ul> </li> </ul> |                          |
| 4.5 | Transaction Support     |  | <ul style="list-style-type: none"> <li>■ Password changes</li> <li>■ H&amp;W plan enrollment and elections</li> <li>■ Life event processing</li> <li>■ Beneficiary maintenance</li> <li>■ Historical enrollment information</li> </ul>   |                          |
| 4.6 | Employee Communications |  | <ul style="list-style-type: none"> <li>■ Provide alerts for employees</li> </ul>   |                          |
| 4.7 | MAP Reports             | <ul style="list-style-type: none"> <li>■ Generate reports</li> </ul> | <ul style="list-style-type: none"> <li>■ Allow on-demand report generation 24 x 7, 365 days a year</li> <li>■ Access to reports and population in reports restricted per client requirements</li> <li>■ Provide a library of standard reports for ongoing administration</li> <li>■ Provide a library of standard reports for open enrollment</li> <li>■ Provide a library of standard premium reports</li> </ul>  |                          |

Section 5: IVR and Customer Service Center (Optional)

| #   | Item                             | Client Responsibilities | Empyrean Responsibilities  | Carrier Responsibilities   |
|-----|----------------------------------|-------------------------|--|--|
| 5.1 | IVR Services                     |                         | <ul style="list-style-type: none"> <li>■ Provide toll-free number</li> <li>■ Provide call routing system with client specific greeting</li> <li>■ Includes user identification</li> <li>■ Available 24x7x365, except for scheduled maintenance</li> </ul>  |  |
| 5.2 | Call Handling                    |                         | <ul style="list-style-type: none"> <li>■ Provide call routing system (when applicable) available 24x7x365</li> <li>■ Provide customer service representatives (CSR's)</li> </ul>   |  |
| 5.3 | Security Maintenance             |                         | <ul style="list-style-type: none"> <li>■ Identify caller's employer via authentication process</li> <li>■ Verify caller's identity</li> <li>■ Follow Client-specific alternate security procedures, including dependent security procedures</li> </ul>   |  |
| 5.4 | Service Center Hours             |                         | <ul style="list-style-type: none"> <li>■ Available for a 9 hour window between the hours of 7:00 a.m. – 7:00 p.m. CT, Monday through Friday</li> </ul>   |  |
| 5.5 | Representative Supported Actions |                         | <p>Examples of supported actions include:</p> <ul style="list-style-type: none"> <li>■ Inquiries                             <ul style="list-style-type: none"> <li>— Internet navigation support</li> <li>— General plan information</li> <li>— Eligibility determination</li> <li>— Current coverage</li> <li>— Plan rates</li> <li>— Administrative rules</li> <li>— Claim filing procedures</li> <li>— Appeal procedures</li> </ul> </li> <li>■ Transactions                             <ul style="list-style-type: none"> <li>— Enrollment support</li> <li>— Life event processing</li> </ul> </li> <li>■ Transfers to third parties</li> </ul> | <ul style="list-style-type: none"> <li>■ Accept transfers</li> </ul> |

| #   | Item                  | Client Responsibilities  | Empyrean Responsibilities  | Carrier Responsibilities   |
|-----|-----------------------|--|--|--|
| 5.6 | Call Monitoring       |  | <ul style="list-style-type: none"> <li>■ Quality monitoring and evaluation of customer service representatives</li> <li>■ Provide Client with call monitoring results</li> </ul>   |  |
| 5.7 | Call Tracking         |  | <ul style="list-style-type: none"> <li>■ Record all incoming and outgoing employee and administrator calls</li> </ul>  |  |
| 5.8 | Case Management       | <ul style="list-style-type: none"> <li>■ Interact with Empyrean, participant, and carrier as required to resolve open cases</li> </ul> | <ul style="list-style-type: none"> <li>■ Log any unresolved calls for additional research and/or processing</li> <li>■ Log all incoming correspondence</li> <li>■ Interact with participant, employer and carrier as required to resolve open item</li> <li>■ Cases are date and time stamped upon establishment and resolution</li> </ul> | <ul style="list-style-type: none"> <li>■ Interact with Empyrean, participant, and carrier as required to resolve open cases</li> </ul> |
| 5.9 | Performance Reporting |  | <ul style="list-style-type: none"> <li>■ Provide summary of performance, including call handling and case management</li> <li>■ Provide call quality reporting quarterly</li> </ul>  |  |

## Section 6: COBRA Administration (Optional) via BSL

Included: NO

| #   | Item                      | Client Responsibilities   | Empyrean Responsibilities  | Carrier Responsibilities |
|-----|---------------------------|---|--|--------------------------|
| 6.1 | Covered Populations       |   | <ul style="list-style-type: none"> <li>■ Provide COBRA administration support as required for the following populations: <ul style="list-style-type: none"> <li>— Active employees</li> <li>— Terminated employees</li> <li>— COBRA continuants</li> </ul> </li> </ul> |                          |
| 6.2 | COBRA Rights Notification | <ul style="list-style-type: none"> <li>■ Notify Empyrean of change in employment</li> </ul> | <ul style="list-style-type: none"> <li>■ Identify COBRA-eligible participants due to change in employment or family status</li> <li>■ Provide initial COBRA rights notification to participant, covered spouse, and/or dependents</li> </ul>                           |                          |

|     |                      |  |  |  |
|-----|----------------------|--|--|--|
| 6.3 | COBRA Enrollment     | <ul style="list-style-type: none"> <li>■ Notify Employee of employee terminations</li> </ul> | <ul style="list-style-type: none"> <li>■ Capture data and initiate COBRA processing</li> <li>■ Support COBRA decision-making process</li> <li>■ Process COBRA elections</li> </ul>   |  |
| 6.4 | COBRA Administration |  | <ul style="list-style-type: none"> <li>■ Perform COBRA direct billing and collections</li> <li>■ Track and remit premiums to employer monthly</li> <li>■ Process annual enrollment and coverage changes</li> <li>■ Track COBRA coverage periods and process COBRA coverage terminations</li> </ul> |  |



Section 7: FSA Administration (Optional) via BSL

Included: NO

| #   | Item                | Client Responsibilities | Empyrean Responsibilities   | Carrier Responsibilities |
|-----|---------------------|-------------------------|---|--------------------------|
| 7.1 | Covered Populations |                         | <ul style="list-style-type: none"> <li>■ Provide FSA administration support as required for the following account types:                             <ul style="list-style-type: none"> <li>— Health Care</li> <li>— Dependent Care</li> <li>— HSA?</li> </ul> </li> </ul>  |                          |
| 7.2 | Debit Card          |                         | <ul style="list-style-type: none"> <li>■ Produce and distribute debit cards to all FSA participants</li> <li>■ Provide access to the MasterCard/VISA network merchant network to support auto adjudication of claims/swipes</li> <li>■ Produce and distribute replacement cards as needed with the cost of the replacement card charged to participant</li> </ul> |                          |
| 7.3 | FSA Enrollment      |                         | <ul style="list-style-type: none"> <li>■ Support FSA decision -making process</li> <li>■ Process FSA elections</li> </ul>   |                          |
| 7.4 | FSA Administration  |                         | <ul style="list-style-type: none"> <li>■ Adjudicate claims</li> <li>■ Process and remit approved reimbursement to employee</li> <li>■ Distribute reimbursements via check or ACH</li> </ul>   |                          |

## 5. Performance Guarantees

### Ongoing Objective Service Level Agreements

1. Starting 90 days after the go-live date, the maximum fees at risk to be credited to client's account in the event of service level failures in any given month will be 10% of the ongoing fees.
2. In the event of a service level failure, vendor will credit Client the associated fees at risk on the next subsequent service invoice ("Service Credit"). For each service level failure, vendor will credit Client with the aggregate percentage of fees at risk per month, subject to a cap of 10% of the ongoing fees per month. For consecutive misses of the same service level, vendor will credit Client the fees at risk multiplied by the number of times missed for that service level, subject to a cap of 10% of the ongoing fees per month.

| Metrics / Data Points        | Baseline   | Determination   | Fees at risk |
|------------------------------|------------|---|--------------|
| <b>Call Center</b>           |            |   |              |
| Average Speed to Answer      | 80% in 30s | Measure is determined by taking all calls answered by a call center agent and determining the avg wait time across all of the calls.  | 1.25%        |
| Abandonment Rate             | < 5%       | Measure is determined by taking total number of calls during active call center hours divided by total calls answered by a representative.  | 1.25%        |
| Average Case Aging           | <=5 days   | Average case close out time   | 1.25%        |
| <b>Platform Availability</b> |            |   |              |
| Systems Availability         | 99.90%     | Measure is determined by taking the percentage of time systems are available during agreed upon operating hours.<br><br>This excludes time for routine system maintenance and upgrades. | 1.25%        |

|  |                 |   |       |
|--|-----------------|---|-------|
| Telephony (IVR platform) Availability            | 99.00%          | Measure is determined by taking total minutes of uptime in month divided by total minutes in the month (including nights and weekends and excluding planned outage windows) | 1.25% |
| Internet - responsiveness                        | 95% of pages 5s | Measure is determined by taking total number of page refreshes divided by total time across all page refreshes to execute.  | 1.25% |
| <b>Administration</b>                            |                 |   |       |
| Feeding Data to Carriers and other Third Parties | 97%             | Measure is determined based on the successful transmission of carrier and related third party interface files within agreed-upon time frames.                               | 1.25% |
| Applying Client Data                             | 97%             | Measure is the percentage of files applied to the Empyrean system within 24 hours of receipt of electronic data.  | 1.25% |

\*\*\*Safe Harbor SOW attached

## STATEMENT OF WORK

# SAFEHARBOR™ Pay or Play Lookback Measurement Method Technology Platform

**Date: 04/16/2018**

**Effective Date of this SOW: 04/16/2018**

**Estimated Go Live for Ongoing SafeHarbor Full-time Status Determinations: 7/1/2019**

### Scope

All employees of City of Midwest City will be tracked in SAFEHARBOR for Federal ACA Pay or Play purposes using the Look-back Measurement Method.

Client Review and Testing. Client commits to review all Software documentation and test the Software (including Software outputs/reports). Client also agrees to the same for any subsequent requirements or improvements it receives from Empyrean prior to its installation in Client's production database. Except as may be provided for under Section 1.A., Client agrees to inform Empyrean of any deficiencies or errors within ninety (90) days of such testing or review of Software documentation. If Client fails to inform Empyrean of deficiencies or errors in the Software or documentation within ninety (90) days of testing or review, Client acknowledges that Empyrean shall not be held liable for subsequently discovered errors related to this obligation. Empyrean will provide a test environment and reasonable technical guidance, for no additional fee, to assist Client in its testing and review obligations.

### A. Fee Schedule - City of Midwest City

| Item   | Description   | Fee            |
|--|---|----------------|
| <b>SAFEHARBOR™<br/>License Fee</b>           | <ul style="list-style-type: none"> <li>• Monthly fees are based on monthly minimum pricing structure for 0-750 active employees.</li> <li>• Pricing will be reviewed if employees exceed 750.</li> <li>• Ongoing fees will begin the first month Employee and Historic Hours data files are loaded into the system.</li> <li>• Fees are based on the non-terminated employee census as of the 20<sup>th</sup> of the current month and are billed prospectively.</li> </ul> | \$1,500/ month |
| <b>Implementation Services</b>               | <ul style="list-style-type: none"> <li>• Empyrean leads implementation of SAFEHARBOR™ for the Client, including project management, gathering requirements, system rules configuration and testing as specified further in this SOW. Implementation will begin on a mutually agreeable date following acceptance of this SOW.</li> <li>• Implementation Fees are billed effective the month Implementation activities begin.</li> </ul>                                     | \$5000         |
| <b>Data Conversion /<br/>First Data Load</b> | <ul style="list-style-type: none"> <li>• Empyrean leads historic data conversion for up to 12 months of employee and hours data, including error correction and validation as specified further in this SOW.</li> </ul>   | Included       |
| <b>Ongoing Data Processing</b>               | <ul style="list-style-type: none"> <li>• Using Employee Data provided by Ben Admin and Hours Data files provided by the City of Midwest City in the standard SAFEHARBOR™ file layout, SAFEHARBOR performs data processing and reviews processing results as</li> </ul>  | Included       |

## STATEMENT OF WORK

|  | <p>specified further in this SOW.</p> <ul style="list-style-type: none"> <li>Ongoing fees will begin the first month</li> </ul> <p>Employee and Historic Hours data files are loaded into the system.</p>   |  |
|--|---|--|
| B. Responsibilities – Emyrean                        |   |  |
| Item   | Description   |  |
| <b>SAFEHARBOR™ Implementation</b>                    | <p>Emyrean is responsible for:</p> <ul style="list-style-type: none"> <li>Project Management of SAFEHARBOR™ System Requirements, Configuration and Testing</li> <li>Discovery / Functional Requirements Meetings</li> <li>Technical / Data Requirements Meetings</li> <li>System Rules Configuration of Client provided inputs</li> <li>SAFEHARBOR™ Reports Review / Training Sessions</li> <li>Coordinating Data File Testing</li> <li>Assists with Client Acceptance Testing</li> </ul> <p>Deliverables Include:</p> <ul style="list-style-type: none"> <li>System Rules Document</li> <li>Completed System Requirements Document</li> <li>Completed Data File Layout Specifications Document</li> <li>System Configuration</li> <li>Completed Test Plan / Test Results Document</li> </ul>   |  |
| <b>SAFEHARBOR™ Data Conversion / First Data Load</b> | <p>Emyrean is responsible for:</p> <ul style="list-style-type: none"> <li>Project Management to assure successful conversion of historic data into SAFEHARBOR™ database</li> <li>Performing file Pre-process review and data quality review</li> <li>Monitoring data processing of historic employee data and historic hours data load</li> <li>Investigating and, working with Client, resolves data and processing errors</li> <li>Performing validation / quality review of data conversion results; includes review meeting with Client</li> </ul> <p>Deliverables include:</p> <ul style="list-style-type: none"> <li>Historic Data conversion validation reports</li> <li>Emyrean runs Determination; includes review meeting with City of Midwest City</li> <li>Final Determination Report / File provided to Emyrean Ben Admin</li> </ul> |  |
| <b>SAFEHARBOR™ Ongoing Data Processing</b>           | <p>Emyrean is responsible for:</p> <ul style="list-style-type: none"> <li>Monitoring data file submission using Client processing schedule. <ul style="list-style-type: none"> <li>Client is notified if files are not received within 1 business day of scheduled delivery</li> </ul> </li> <li>Processes employee data file received from Ben Admin and monitors data processing to completion</li> <li>Processes employee hours data file for the entire population reported on the demographic and monitors data processing to completion</li> <li>Investigates and works with Client to resolve processing errors: <ul style="list-style-type: none"> <li>Critical Employee / Hours Data Errors will be written</li> </ul> </li> </ul>   |  |

## STATEMENT OF WORK

|                                    |  |
|------------------------------------|--|
|                                    | <p>to Error File and will not be processed in current cycle. Corrections must be made at source system and will be processed in the next cycle.</p> <ul style="list-style-type: none"><li>○ Employee Data Warnings may be processed; work with Client to correct in next cycle, if needed</li></ul> <p>Deliverables Include:</p> <ul style="list-style-type: none"><li>● Employee Data Warnings / Critical Errors Report</li><li>● Empyrean delivers Weekly Status Report to Client</li></ul>  |
| <b>Outbound Determination File</b> | <ul style="list-style-type: none"><li>● Determination Calculations are automated in the SAFEHARBOR software. This outbound file is a changes only file and includes:<ul style="list-style-type: none"><li>○ Initial Determinations</li><li>○ Changes in Determination Status from one period to another</li><li>○ Redeterminations</li></ul></li><li>● SAFEHARBOR will deliver the outbound determination file to Ben Admin to be loaded into the Empyrean Platform (benefits administration system) to trigger benefit enrollment and coverage terminations events based on the determination provided in the outbound determination file from SAFEHARBOR.<ul style="list-style-type: none"><li>○ Determinations will be sent to ben admin monthly</li><li>○ Determinations include New Hire and Ongoing Determinations</li></ul></li></ul> |

## STATEMENT OF WORK

| C. Responsibilities - City of Midwest City           |  |
|--|--|
| Item   | Description  |
| <b>SAFEHARBOR™ Implementation</b>                    | <p>City of Midwest City is responsible for:</p> <ul style="list-style-type: none"> <li>• Providing requirements, including:               <ul style="list-style-type: none"> <li>○ New hire and ongoing Measurement, Administrative, and Stability Periods</li> <li>○ Compliance Groups</li> <li>○ Administrative user security access</li> <li>○ Hours-of-service codes</li> </ul> </li> <li>• Identifying representative population to test that system is producing expected results.</li> <li>• Working with Empyrean and Third-Party Vendors, resolves employee data errors.</li> <li>• Reviewing system configuration, test results and reports to ensure system is producing expected results.</li> <li>• Client reviews and signs-off on SAFEHARBOR™ System Requirements and Data File Layout Specifications documents prior to first determination being run.</li> </ul>  |
| <b>SAFEHARBOR™ Data Conversion / First Data Load</b> | <p>City of Midwest City is responsible for:</p> <ul style="list-style-type: none"> <li>• Complete and accurate employee data based on the file requirements agreed upon during implementation and made available in Ben Admin conversion files.</li> <li>• Complete and accurate hours data for the entire population in standard SAFEHARBOR™ file format based on the file requirements agreed upon during implementation.</li> <li>• Delivery of employee data and historic hours files per project timeline. Empyrean will assist in developing an appropriate timeline during implementation and will be referred to as the implementation project plan.</li> <li>• Historical hours of service for a minimum of 12 months will be provided by City of Midwest City for the entire active population.</li> <li>• New Hire Determinations will be provided once the conversion is completed and signed off by the client as complete and accurate.</li> <li>• Timely review of processing results and corresponding data corrections as needed.</li> <li>• City of Midwest City reviews and signs-off on the completeness and accuracy of the historic data conversion results in SAFEHARBOR™.</li> </ul> |
| <b>SAFEHARBOR™ Ongoing Data Processing</b>           | <p>City of Midwest City is responsible for:</p> <ul style="list-style-type: none"> <li>• Employee Hours file will be delivered to Empyrean in the standard SAFEHARBOR™ layout per an established schedule.</li> <li>• Employee Hours File will include all required hours data, effective dated per the requirements.</li> <li>• Client will correct employee data errors in the source system and will assure corrected data is transmitted in the next processing cycle.</li> </ul>  |



## STATEMENT OF WORK

| C. Responsibilities - City of Midwest City |   |
|--|---|
| Item                                       | Description   |
| <b>SAFEHARBOR™ Reporting</b>               | <p>SAFEHARBOR™ includes access to a standard reporting suite that provides an array of self-service reports in the following categories:</p> <ul style="list-style-type: none"> <li>• Determination – Report indicates full-time status as of an effective date following the associated Measurement Period.</li> <li>• Workforce Management – Report supports ongoing employee scheduling throughout the Measurement Period, and shows period-to-date hours and remaining hours available through the end of the period.</li> <li>• Data Integrity – Report supports file processing to ensure that correctly formatted data is submitted to SAFEHARBOR™ for production.</li> <li>• Data Audit – Report provides summary or detail hours by employee to enable Client to ensure SAFEHARBOR™ data is synchronized with source systems.</li> <li>• System Administration – Report documents configuration for regulatory compliance as well as set-up of users, roles, and permissions.</li> </ul> <p>Notes:</p> <ul style="list-style-type: none"> <li>• <i>The Determination Calculation is automated in the SAFEHARBOR software. The SAFEHARBOR team will assure the Determination Changes Outbound File is coordinated with Ben Admin.</i></li> <li>• <i>If City of Midwest City wishes to review the Determinations Report, they may do so via SAFEHARBOR report library.</i></li> <li>• <i>Additional reports such as the Workforce Management Reports are available in real-time for City of Midwest City' use and would be accessed via the SAFEHARBOR report library.</i></li> <li>• <i>Audit reports are available in the SAFEHARBOR report library and can be used by City of Midwest City for system configuration and data verification purposes. The SAFEHARBOR team can be engaged to assist with any questions that may arise from system audits.</i></li> </ul> |

## STATEMENT OF WORK

| D. Data Processing and Reporting - Targets |  |
|--|--|
| Activity                                   | Processing Target  |
| Employee Indicative Data File Processing   | <ul style="list-style-type: none"><li>Data Processing complete within 5 business days of file receipt, assuming no data processing errors. The time required to correct Data Errors is unpredictable and may impact processing schedule.</li></ul> |
| Employee Hours File Processing             | <ul style="list-style-type: none"><li>Data Processing complete within 5 business days of file receipt, assuming no data processing errors. The time required to correct Data Errors is unpredictable and may impact processing schedule.</li></ul> |
| Determination                              | <ul style="list-style-type: none"><li>Per parameter setting in in SAFEHARBOR™</li></ul>  |
| Reports                                    | <ul style="list-style-type: none"><li>N/A – Reports are Real Time, On Demand; Updated data available immediately upon completion of data processing.</li></ul>   |

## STATEMENT OF WORK

| E. Responsibilities Matrix:              |   |                                       |          |
|--|---|---------------------------------------|----------|
| Activity                                 | Description   | City of Midwest City                  | Empyrean |
|  |   | F=Facilitates, P=Primary, S=Secondary |          |
| <b>Implementation</b>                    | Project Management of SAFEHARBOR™ System Configuration and Testing  |                                       | P        |
|  | Discovery / Functional Requirements Meetings  | P                                     | F        |
|  | Technical / Data Requirements Meetings  | P                                     | F        |
|  | System Rules Configuration per Client defined requirements  |                                       | P        |
|  | SAFEHARBOR™ Reports Review / Training Sessions  | P                                     | S        |
|  | Data File Testing; Client must actively participate in issue resolution   | S                                     | P        |
|  | Requires Client Sign-off on SAFEHARBOR™   | P                                     |          |
| <b>Data Conversion / First Data Load</b> | Project Management to assure successful conversion of historic data into SAFEHARBOR™ database   |                                       | P        |
|  | File Pre-process data quality review  |                                       | P        |
|  | Data processing of historic employee data   |                                       | P        |
|  | Data processing of historic hours data load   |                                       | P        |
|  | Investigates and, working with Client, resolves data and processing errors; will require Client and/or third party payroll vendor action  | S                                     | P        |
|  | Validation / quality review of data conversion results; includes review meeting with Client   | S                                     | P        |
|  | Runs Determination; includes review meeting with Client   | S                                     | P        |
|  | Client Sign-off on completeness and accuracy of historic data conversion  | P                                     |          |
|  | Final Determination Report / File provided to Empyrean Ben Admin  |                                       | P        |
| <b>Ongoing Data Processing</b>           | Client submits complete and accurate employee data based on the file requirements agreed upon during implementation to Ben Admin.   | P                                     |          |
|  | Monitor data processing of the SAFEHARBOR employee data file received from Ben Admin  |                                       | P        |
|  | Client submits complete and accurate hours data based on the file requirements agreed upon during implementation in the standard SAFEHARBOR™ file layout<br><br>City of Midwest City may provide separate hours files for groups that are managed in separate systems in order to submit complete and accurate hours files to SAFEHARBOR. | P                                     |          |

## STATEMENT OF WORK

| E. Responsibilities Matrix:        |   |                                       |          |
|------------------------------------|---|---------------------------------------|----------|
| Activity                           | Description   | City of Midwest City                  | Empyrean |
|                                    |   | F=Facilitates, P=Primary, S=Secondary |          |
|                                    | Monitor data processing of hours data load  |                                       | P        |
|                                    | Investigate and work with Client to resolve processing errors that were received on the file and would require updates from the clients source system: <ul style="list-style-type: none"> <li>o Fatal Errors will be written to Error File and will not be processed in current cycle. Corrections must be made at source system and will be processed in the next cycle</li> <li>o Warnings will be processed; work with Client to correct in next cycle, if needed</li> </ul>   | P                                     | P        |
|                                    | Summarize Data Processing Warnings / Fatal Errors for Client  |                                       | P        |
|                                    | Deliver periodic Data Processing Status Report to Client (frequency TBD)  |                                       | P        |
| <b>Reporting</b>                   | City of Midwest City will have the ability to generate, review, and/or take action on various SAFEHARBOR™ Determination, Workforce Management and/or Audit Reports. The reporting is separate from the outbound determination file which is sent from SAFEHARBOR to the Empyrean Platform (benefits administration system).   | P                                     | S        |
| <b>Outbound Determination File</b> | SAFEHARBOR will generate an outbound determination file which will be sent directly to ben admin  |                                       | P        |
| <b>Liability</b>                   | City of Midwest City's exclusive remedy for liability associated with Empyrean's provision of SAFEHARBOR Services, as specified in this Statement of Work, including any work completed by an Empyrean subcontractor, shall be (1) the reprocessing of the applicable service (e.g., information reporting services contemplated herein); or (2) in the event that reprocessing by Empyrean or its subcontractor is infeasible, a refund of the amount paid to Empyrean by Client for the SAFEHARBOR Services under the this Statement of Work for the twelve (12) months immediately preceding the month in which the claim or claims arise. For purposes of this liability remedy provision, liability will be damages or losses of any kind incurred by City of Midwest City relating to its obligation to track and report its employees' 30- |                                       |          |

## STATEMENT OF WORK

| E. Responsibilities Matrix: |   |                                       |          |
|-----------------------------|---|---------------------------------------|----------|
| Activity                    | Description   | City of Midwest City                  | Empyrean |
|                             |   | F=Facilitates, P=Primary, S=Secondary |          |
|                             | <p>hour full-time status for ACA compliance. Conflicting liability terms in any Master Services Agreement, Statement of Work, and/or addendum (or any primary contract, statement of work and/or addendum for benefits administration related services) between Empyrean and City of Midwest City are superseded in order to give effect to this exclusive liability remedy. This SAFEHARBOR Statement of Work is hereby incorporated by reference into the applicable Agreement that includes the Master Services Agreement, Business Associate Agreement, and Statement of Work for ongoing benefits administration Services (or other primary services agreement for benefits administration related services) between City of Midwest City and Empyrean. In no event shall Empyrean be liable to client for fines, penalties, or other sums imposed on Client for HIPAA violations that are the responsibility of Client (or Client's plans) in its (or their) capacity as a covered entity, or that are not part of any fine, penalty, or other sum directly imposed for an Empyrean breach of PHI, even if discovered by such third party as a result of an Empyrean breach of PHI.</p> |                                       |          |



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

### **Memorandum**

**TO:** Honorable Mayor and Council

**FROM:** Catherine Wilson, Human Resources Director

**DATE:** **March 24, 2018**

**RE:** Discussion and consideration of the approval of a Medical Retirement Application made by Mr. Christopher Sudderth through the Oklahoma Municipal Retirement Fund (OMRF).

Mr. Sudderth has been employed with the City since April 23, 2007. Recently Mr. Sudderth was diagnosed with a debilitating medical issue. Mr. Sudderth's physician has certified that his condition has and will keep him from performing the essential functions of his position as a Line Maintenance Crew Leader. Under OMRF an employee can apply for a disability retirement, which will reduce Mr. Sudderth's tax liability.

Staff has received and reviewed the required documentation and recommends approval of this request.

This is a staff update

A handwritten signature in black ink, appearing to read "Catherine Wilson", with a stylized flourish at the end.

Catherine Wilson, Human Resources Director



**Public Works Administration**  
**Vaughn Sullivan, Director**  
[vsullivan@midwestcityok.org](mailto:vsullivan@midwestcityok.org)  
**R. Paul Streets, Assistant Director**  
[rstreets@midwestcityok.org](mailto:rstreets@midwestcityok.org)  
8730 S.E. 15<sup>th</sup> Street,  
Midwest City, Oklahoma 73110  
O: 405-739-1066 /Fax: 405-739-1090

## Memorandum

To: Honorable Mayor and Council

From: Vaughn K. Sullivan, Public Works Director

Date: April 24, 2018

Subject: Discussion and consideration of awarding the bid for Kiwanis Park Temporary Concessions to Tasty Snow LLC., in the amount of \$770.00 per month from April 1<sup>st</sup> to October 1<sup>st</sup> each year for a total of \$4,620.00 annually.

On Tuesday, April 10<sup>th</sup>, 2018 at 2:00 p.m. the City of Midwest City opened bids for Kiwanis Park Temporary Concessions, Tasty Snow LLC submitted the only bid, in the amount of \$770.00 per month from April 1<sup>st</sup> to October 1<sup>st</sup> each year for a total of \$4,620.00 annually.

Tasty Snow LLC has been our vendor for Kiwanis Park Temporary Concessions for many years and has provided outstanding service.

This agreement will expire on October 1<sup>st</sup>, 2018, but may be extended by the mutual consent of both parties for a period not to exceed four (4) years expiring October 1<sup>st</sup>, 2022.

Staff recommends approval.

Vaughn K. Sullivan  
Public Works Director

Attachment: Bid Tabulation Sheet



KIWANIS PARK CONCESSION

BID TAB

\*\*\*Only 1 bid received\*\*\*

VENDOR

BID AMOUNT

Huey's Shave Ice  
3625 NW 23<sup>rd</sup> Street  
Oklahoma City, OK 73107  
Phone: 405-250-0234  
Attn: Jamie & Lauren Wheat  
[hueysokc@gmail.com](mailto:hueysokc@gmail.com)

\_\_\_\_\_

Kona Ice  
Midwest City  
405-893-0370  
[RHarris@kona-ice.com](mailto:RHarris@kona-ice.com)

\_\_\_\_\_

Cool Penguin  
Oklahoma City  
405-923-0404  
[www.coolpenquinhavedice.com](http://www.coolpenquinhavedice.com)

\_\_\_\_\_

UpBeat Treats, LLC  
Midwest City  
405-763-2078  
[Rbean24@cox.net](mailto:Rbean24@cox.net)

\_\_\_\_\_

Tasty Snow  
531 E. Indian Dr.  
Midwest City, OK 73099  
405-406-8753  
Attn: David Massey  
[Tastysnowok@gmail.com](mailto:Tastysnowok@gmail.com)

\$770.00 total monthly lease payment  
\*See Concession proposal for product prices

Aaron Lewis  
2333 Rd Elm Ct., Edmond, OK 73099  
Mrlewisaaaron.com

\_\_\_\_\_

Castle Solutions, LLC  
Shana Castle  
David Fletcher  
405-982-9203  
[Shana.Castle@gmail.com](mailto:Shana.Castle@gmail.com)  
[Dfletch87405@gmail.com](mailto:Dfletch87405@gmail.com)

\_\_\_\_\_



The City of  
**MIDWEST CITY**  
COMMUNITY DEVELOPMENT DEPARTMENT -  
ENGINEERING DIVISION

Billy Harless, Community Development Director  
Patrick Menefee, P.E., City Engineer

ENGINEERING DIVISION  
Patrick Menefee, City Engineer  
CURRENT PLANNING DIVISION  
Kellie Gilles, Manager  
COMPREHENSIVE PLANNING  
Julie Shannon, Comprehensive Planner  
BUILDING INSPECTION DIVISION  
Christine Allison, Building Official  
GIS DIVISION  
Greg Hakman, GIS Coordinator

---

TO : Honorable Mayor and City Council

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

DATE : April 24<sup>th</sup>, 2018

SUBJECT : Discussion and consideration of rejecting the bids submitted for the 2018 ADA Restroom Renovations, City Offices.

The bid opening for the above referenced project was held on April 10<sup>th</sup>, 2018. Staff recommends rejecting all the bids. The bids were all above the consultant's estimate for the project.

Staff recommends rejecting the bids submitted for this project.

Patrick Menefee, P.E.  
City Engineer

Attachment

## ADA Bathroom Project Detailed Bid Tab, 4/10/18

|                    | 1           |           | 2           |           | 3           |           | 4           |           | 5                |           |    |            |                      |
|--------------------|-------------|-----------|-------------|-----------|-------------|-----------|-------------|-----------|------------------|-----------|----|------------|----------------------|
|                    | 2 Restrooms |           | 2 Restrooms |           | 2 Restrooms |           | 2 Restrooms |           | Platform Lift    |           |    |            |                      |
|                    | 1st Floor   |           | 2nd Floor   |           | Basement    |           | Court       |           | Council Chambers |           |    |            |                      |
|                    |             |           |             |           |             |           |             |           |                  | Total     |    |            |                      |
| Pheonix Const      | \$          | 47,876.00 | \$          | 47,058.00 | \$          | 41,670.00 | \$          | 43,555.00 | \$               | 16,228.00 | \$ | 196,387.00 |                      |
| Rush Services      | \$          | 46,300.00 | \$          | 46,300.00 | \$          | 36,250.00 | \$          | 36,250.00 | \$               | 32,500.00 | \$ | 197,600.00 |                      |
| Affinity Corp      | \$          | 66,242.00 | \$          | 65,520.00 | \$          | 54,026.00 | \$          | 55,282.00 | \$               | 27,190.00 | \$ | 268,260.00 |                      |
| Homco Const        | \$          | 77,600.00 | \$          | 73,500.00 | \$          | 59,700.00 | \$          | 58,800.00 | \$               | 19,800.00 | \$ | 289,400.00 | Only eligible bidder |
| Cavins Const Group | \$          | 83,053.00 | \$          | 78,053.00 | \$          | 75,053.00 | \$          | 78,053.00 | \$               | 40,000.00 | \$ | 354,212.00 |                      |



The City of  
**MIDWEST CITY**  
COMMUNITY DEVELOPMENT DEPARTMENT -  
ENGINEERING DIVISION

Billy Harless, Community Development Director  
Patrick Menefee, P.E., City Engineer

ENGINEERING DIVISION  
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Christine Allison, Building Official  
GIS DIVISION  
Greg Hakman, GIS Coordinator

---

To: Honorable Mayor and Council

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

Date: April 24th, 2018

Subject: Discussion and consideration of the acceptance of and making a matter of record Permit No. WL000055170443 from the State Department of Environmental Quality for the South Sooner Road and I-40 Waterline Relocation, Midwest City, Oklahoma.

Permit No. WL000055170443 is for the construction of 10 L.F. of six inch (6"), 250 L.F. of eight inch (8"), and 685 L.F. of twelve inch (12") water line to serve the South Sooner Road and I-40 Waterline Relocation Project, Midwest City, Oklahoma.

Staff recommends acceptance as this is consistent with past policy.

Patrick Menefee, P.E.  
City Engineer



SCOTT A. THOMPSON  
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

MARY FALLIN  
Governor

March 22, 2018

J. Guy Henson, City Manager  
City of Midwest City  
100 N. Midwest Blvd.  
Midwest City, Oklahoma 73110

Re: Amended Permit No.: WL000055170443  
South Sooner Road and I-40  
Waterline Relocations Project  
PWSID No.: 1020806

Dear Mr. Henson:

Enclosed is Adended Permit No.: WL000055170443 for the construction of approximately 10 L. F. of six (6) inch, 250 L. F. of eight (6) inch, and 685 L. F. of twelve (12) inch water lines and appurtenances to serve the City of Midwest City South Sooner Road and I-40 Waterline Relocations Project, Oklahoma County, Oklahoma.

The project authorized by this amended permit should be constructed in accordance with the amended plans approved by this Department on March 23, 2018. Any deviations from the approved plans and specifications affecting capacity, flow, or operation of units must be approved, in writing, by the Department before changes are made.

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

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

Respectfully,

Robert B. Walker  
Construction Permit Section  
Water Quality Division

RBW/RC/ag

Enclosure

c: Bruce Vande Lune, R. S., Regional Manager, DEQ  
Joseph Voss, P. E., Garver, LLC  
Oklahoma City DEQ Office





SCOTT A. THOMPSON  
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

MARY FALLIN  
Governor

**AMENDED PERMIT NO.: WL000055170443**

**WATER LINES**

**PWSID NO.: 1020806**

**PERMIT TO CONSTRUCT**

March 22, 2018

Pursuant to O.S. 27A 2-6-304, the City of Midwest City is hereby granted this Amended Tier I Permit to construct approximately 10 L. F. of six (6) inch, 250 L. F. of eight (6) inch, and 685 L. F. of twelve (12) inch water lines and appurtenances to serve the City of Midwest City South Sooner Road and I-40 Waterline Relocations Project, located in parts of SW-1/4 of NW-1/4, Section 9, T-11-N, R-2-W, I. M., Oklahoma County, Oklahoma, in accordance with the amended plan and specifications approved on July 26, 2017.

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) That this water line relocation project details relocation and replacement of two existing fire hydrants.
- 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 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.
- 7) 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.





SCOTT A. THOMPSON  
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

MARY FALLIN  
Governor

**AMENDED PERMIT NO.: WL000055170443**

**WATER LINES**

**PWSID NO.: 1020806**

**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 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.
- 11) 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.
- 12) That when it is impossible to obtain proper 10-foot horizontal and 2-foot vertical separation between water and sewer lines as stipulated in Public Water Supply Construction Standards OAC 252:626-19-2(h)(1) and OAC 252:626-19-2(h)(2), respectively, design and construct the sewer line pipe equal to water line pipe and pressure test in accordance with OAC 252:626-19-2(h)(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

Page 2 of 2





The City of  
**MIDWEST CITY**  
COMMUNITY DEVELOPMENT DEPARTMENT -  
ENGINEERING DIVISION

Billy Harless, Community Development Director  
Patrick Menefee, P.E., City Engineer

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To: Honorable Mayor and Council

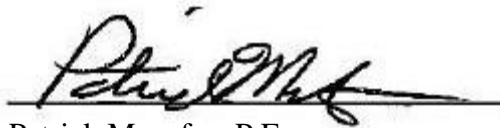
From: Patrick Menefee, P.E., City Engineer

Date: April 24th, 2018

Subject: Discussion and consideration of the acceptance of and making a matter of record Permit No. SL000055180213 from the State Department of Environmental Quality for the Sundance Addition Section 6 Sewer Line Extension, Midwest City, Oklahoma.

Permit No. SL000055180213 is for the construction of 1305 L.F. of eight inch (8") sewer line to serve the Sundance Addition Section 6, Midwest City, Oklahoma.

Staff recommends acceptance as this is consistent with past policy.



Patrick Menefee, P.E.  
City Engineer





SCOTT A. THOMPSON  
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

MARY FALLIN  
Governor

March 28, 2018

Patrick Menefee, P. E., City Engineer  
City of Midwest City  
100 N. Midwest Boulevard  
Midwest City, Oklahoma 73110

Re: Permit No.: SL000055180213  
Sundance Addition Section 6  
Sewer Line Extension Project  
Facility No.: S-20541

Dear Mr. Menefee:

Enclosed is Permit No.: SL000055180213 for the construction of approximately 1,305 L. F. of eight (8) inch sewer lines and appurtenances to serve the City of Midwest City Sundance Addition Section 6 Sewer Line Extension Project, Oklahoma County, Oklahoma.

The project authorized by this permit should be constructed in accordance with the plans approved by this Department on March 28, 2018. Any deviations from the approved plans and specifications affecting capacity, flow, or operation of units must be approved, in writing, by the Department before changes are made.

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

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

Respectfully,

Robert B. Walker  
Construction Permit Section  
Water Quality Division

RBW/RC/ag

Enclosure

c: Oklahoma City DEQ Office  
Bruce Vande Lune, R. S., Regional Manager, DEQ  
Christopher Anderson, P. E., SMC Consulting Engineers, P. C.





SCOTT A. THOMPSON  
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

MARY FALLIN  
Governor

**PERMIT NO.: SL000055180213**

**SEWER LINES**

**FACILITY NO.: S-20541**

**PERMIT TO CONSTRUCT**

March 28, 2018

Pursuant to O.S. 27A 2-6-304, the City of Midwest City is hereby granted this Tier I Permit to construct approximately 1,305 L. F. of eight (8) inch sewer lines and appurtenances to serve the City of Midwest City Sundance Addition Section 6 Sewer Line Extension Project, located in part of NE-1/4 of Section 9, T-11-N, R-1-W, I. M., Oklahoma County, Oklahoma, in accordance with the plans approved on March 28, 2018.

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 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.

Page 1 of 2





SCOTT A. THOMPSON  
Executive Director

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

MARY FALLIN  
Governor

**PERMIT NO.: SL000055180213**

**SEWER LINES**

**FACILITY NO.: S-20541**

**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 10-foot horizontal and 2-foot vertical separation between water mains and sewer lines 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 in accordance with the ASTM standard for the sewer line leakage test used, with no detectable leakage prior to backfilling, in accordance OAC 252:656-5-4(c)(3).
- 13) 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.

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

MEMORANDUM

TO: Honorable Mayor and Council

FROM: Brandon Clabes, Chief of Police

DATE: April 24, 2018

SUBJECT: Discussion and consideration of approving the purchase of ten (10) Code 3 LED light bars for police vehicles through state bid contract.

As you, the Mayor and Council approve the police department's budget on an annual basis; it allows us to be proactive in the capitalization replacement program concerning police vehicles and equipment. This approach ensures that our personnel are operating the safest police package which protects our officers and the citizens we serve. It also reduces our maintenance cost over time.

Technology continues to improve drastically, especially in the area of police light bars and optics. With the recent roll out of this budget year's new fleet, it was obvious that the state-of-the-art Code 3 LED light bars provide additional visual awareness that will lower our risks to our police officers as they perform their daily functions. The total cost for this purchase is \$23,150 and is budgeted under vehicle equipment in our capital.

Staff recommends approval.

Brandon Clabes  
Chief of Police

Attachment: State Contract  
Pricing Estimate

**FX Technologies**  
400 East Main  
Yukon, OK 73099 US  
405-350-1588  
jim.fxtech@yahoo.com

## ESTIMATE

**ADDRESS**

City of Midwest City  
8730 SE 15th  
Midwest City, Ok 73130

**ESTIMATE #** 1651  
**DATE** 03/22/2018

---

| ACTIVITY   | QTY | RATE     | AMOUNT            |
|--|-----|----------|-------------------|
| <b>21TRP47LMOKSTATEA1</b><br>C61577 21TRP47LMOKSTATEA CODE 3 LED LIGHT BAR | 1   | 1,635.00 | 1,635.00          |
| <b>Labor</b><br>Labor  | 8   | 85.00    | 680.00            |
| TOTAL  |     |          | <b>\$2,315.00</b> |

Accepted By

Accepted Date

IF PAYING BY CREDIT CARD THERE WILL BE A 3.2% FEE ADDED  
THANK YOU FX TECHNOLOGIES



**CONTRACT**  
**State of Oklahoma**

**Dispatch via Print**

**Supplier** 0000384346  
 FX TECHNOLOGIES  
 400 E MAIN  
 YUKON OK 73099-2241  
 USA

|  |                        |                           |                                 |  |
|--|------------------------|---------------------------|---------------------------------|--|
| <b>Contract ID</b><br>0000000000000000000000004595 |                        |                           | Page<br>1 of 1                  |  |
| <b>Contract Dates</b><br>12/01/2016 to             | <b>Currency</b><br>USD | <b>Rate Type</b><br>CRRNT | <b>Rate Date</b><br>PO Date     |  |
| <b>Description:</b><br>SW142                       |                        |                           | <b>Contract Maximum</b><br>0.00 |  |
| <b>TYPE: STATEWIDE</b>                             |                        |                           |                                 |  |

Tax Exempt? Y Tax Exempt ID:736017987

**Contract Lines:**

| Line # | Cat CD / Item ID / Item Desc  | UOM | Minimum Order Qty | Amt      | Maximum / Open Qty | Amt  |
|--------|---|-----|-------------------|----------|--------------------|------|
| 1      | 25174800 / 1000030474<br>VEHICLE ACC: Law Enforcement Vehicle<br>Supplies and Accessories - Exterior<br>Vehicle Accessories | EA  | 1.00              | 0.00     | 0.00               | 0.00 |
| 2      | 25174800 / 1000030475<br>VEHICLE ACC: Law Enforcement Vehicle<br>Supplies and Accessories - Interior<br>Vehicle Accessories | EA  | 1.00              | 0.00     | 0.00               | 0.00 |
| 3      | 25172900 / 1000030476<br>VEHICLE ACC: Law Enforcement Vehicle<br>Supplies and Accessories - Lights and<br>Siren Controls    | EA  | 1.00              | 0.00     | 0.00               | 0.00 |
| 4      | 78181500 /<br>Installation Services   | HR  | 1.00              | 0.00     | 0.00               | 0.00 |
|        | Contract Base Pricing   |     |                   | 85.00000 |                    | 0001 |

**COMMENTS:**

PLEASE REFERENCE ATTACHED PRICING SHEETS. - MARKET BASKET  
 CODE 3 - CODE 3 APRIL 18 2016 - 45% OFF  
 AEDAC - AEDAC 8-15-2016 - 15% OFF  
 GO RHINO - 2016-2017 PRICE LIST OFF 8-15-2016 - 35% OFF  
 LUND IND - EFF 7-14-2016 - 15% OFF  
 OPS - OPS EFF 1-1-16 20% OFF  
 PRO GUARD - 10% OFF

Final = The price is final after adjustments  
 Hard = Apply adjustments regardless of other adjustments  
 Skip = Skip adjustments if any other adjustments have been applied

**Authorized Signature**  
 Original Signature on File



**Public Works Administration**  
**Vaughn Sullivan, Director**  
[vsullivan@midwestcityok.org](mailto:vsullivan@midwestcityok.org)  
**R. Paul Streets, Assistant Director**  
[rstreets@midwestcityok.org](mailto:rstreets@midwestcityok.org)  
8730 S.E. 15<sup>th</sup> Street,  
Midwest City, Oklahoma 73110  
O: 405-739-1060 /Fax: 405-739-1090

MEMORANDUM

To: Honorable Mayor and Council

From: Vaughn K. Sullivan, Public Works Director

Date: April 24, 2018

Subject: Discussion and consideration of approving the Tree Board's 2018-19 Landscape Plan

On April 10, 2018 the Tree Board approved the Year 2018-19 Landscape Plan. A copy of the plan has been submitted for your review.

Staff recommends approval.

Vaughn K. Sullivan  
Public Works Director

Enc. 2018-19 Landscape Plan

2018/2019

# Midwest City Landscape Master Plan



Midwest City Tree Board  
8730 S.E. 15<sup>th</sup> St.  
Office # (405) 739-1066  
Fax # (405) 739-1090  
[www.midwestcityok.org](http://www.midwestcityok.org)





Midwest City Tree Board

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# Midwest City Tree Board



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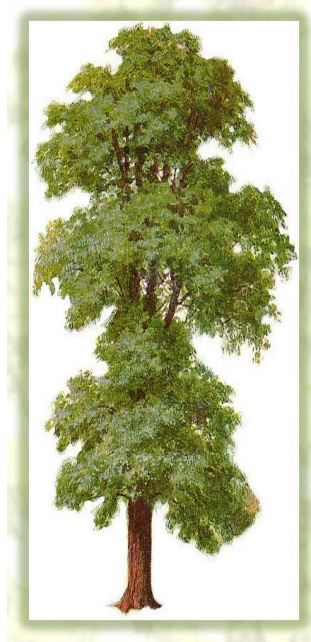


# Midwest City Tree Board

# Acknowledgements

## City Council Members

Mayor Matt Dukes  
Ward 1 Susan Eads  
Ward 2 Pat Byrne  
Ward 3 Espaniola Bowen  
Ward 4 Sean Reed  
Ward 5 Christine Allen  
Ward 6 Jeff Moore



## Tree Board Members

Grace Sullivan, Chair  
Margie Humdy, Vice Chair  
Lou Atkinson  
Sherry Beaird  
Sherri Anderson  
Suzi Byrne  
Theresa Mortimer

City Manager J. Guy Henson  
A LANDSCAPE MASTER PLAN  
PREPARED FOR  
THE CITY OF MIDWEST CITY, OKLAHOMA

REVISED:  
March 2018

## PROFESSIONAL AND TECHNICAL STAFF

Vaughn Sullivan, Public Works Director  
Steve Bray, Forestry and Facility Supervisor

# Midwest City Tree Board



# Preface

The urban forest is an essential element of the modern city. Without trees and landscaping cities become concrete jungles void of natural surroundings. In planned communities trees and plant materials are used to accent and soften building lines, screen-parking areas, and heavy use activity areas, provide a buffer between land uses and create privacy. In addition, trees and plant materials serve to control noise levels and create aesthetically pleasing environments in which to live.

The Midwest City Council demonstrated its support for the development of the urban forest by forming a Tree Board to oversee the “care, preservation, trimming, planting, replanting, removal, or disposition of trees and shrubs; in public ways, streets, parks, and alleys.” As required in section 42-3(f) of the Midwest City Municipal Code the Midwest City Tree Board has developed a Landscape Master Plan identifying the goals, plans, and objectives necessary to enhance the development of the urban forest in Midwest City. The following document provides detailed information concerning the Midwest City Tree Board’s Landscape Master Plan.



# Midwest City Tree Board



# Purpose

The Midwest City Tree Board has developed a Landscape Master Plan, which establishes city policy concerning tree planting and landscaping. The Landscape Master Plan facilitates orderly and consistent tree planting and landscaping throughout the city. The purpose of this plan is to accumulate and present the data needed to enhance and increase the tree population of Midwest City. Apart from the development of the Landscape Master Plan, the Tree Board has researched and prepared regulations pertaining to tree pruning, removal, disposal, and specifications for planting within city right-of-ways.



# Midwest City Tree Board



# Tree Board Standing Committees

The Midwest City Tree Board held its first meeting in March 1980. The seven-member board works closely with several government agencies including the City of Midwest City Public Works Department and the Oklahoma Department of Agriculture's Urban Forestry Division. The Oklahoma State University Horticultural Extension Center also serves as a consultant to the Tree Board. Standing committees serve at the pleasure of the Tree Board. Standing committee members are appointed by the Chairman and are confirmed by the board.

## Public Image

The Public Image sub-committee engages the news media and special programs to enlist public support and to inform Midwest City residents of the Tree Board's progress and plans.

## Master Plan

The Master Plan sub-committee defines and delineates those areas that are to be a part of the Master Plan. The extent of a planting project and its priority are also assigned.

## Annual Work

The Annual Work sub-committee works with the Street Department to implement the programs approved by the Tree Board.

## Community Projects

The Community Projects sub-committee provides a communication link with various community organizations and civic groups. This committee is responsible for the solicitation of funds from community groups.



# Midwest City Tree Board

## Master Plan Phase History

- Phase I - S. Midwest Blvd. from the 2200 block to the 2700 block within the easement on the west side of the roadway
- Phase II - S.E. 15<sup>th</sup> St. from Century Blvd to Woodbriar Ln. along the walking trail located on the north side of the roadway
- Phase III - S.E. 29<sup>th</sup> St. from the 6500 block to the 6900 block within the center islands of the roadway
- Phase IV - Hudiburg Dr. from S.E. 15<sup>th</sup> St. to Adair Blvd. within the center islands of the roadway
- Phase V - Parklawn Dr. from E. Reno Ave. to National Ave. within the center islands of the roadway
- Phase VI - S.E. 15<sup>th</sup> St. from S. Westminster Rd. to S. Anderson Rd. within the center islands of the roadway
- Phase VII - S. Post Rd. from E. Reno Ave. to S.E. 15<sup>th</sup> St. within the center islands of the roadway





# The Value of Trees in a Community

The role of trees in providing beauty and shade in our communities and neighborhoods is widely appreciated. But what is less generally understood are the many vital and often unseen things trees do to make our cities and towns more pleasant and healthful places in which to live.

## In The Community, Trees:

**Reduce Energy Costs** – Trees have been called the low tech solution to energy conservation. Shade from trees reduces the need for air conditioning in summer. In winter, trees break the force of winter winds.



Studies have shown that parts of cities without cooling shade from trees can literally be “heat islands,” with temperatures as much as 12 degrees Fahrenheit higher than surrounding areas.



# Midwest City Tree Board

**Clean the Air** ~ Trees produce oxygen that we breathe. In addition, trees remove air pollution by lowering air temperature, by releasing water into the atmosphere, and by retaining particulates. By reducing the need for heating and cooling systems, trees also reduce emissions that contribute to atmospheric carbon dioxide and the greenhouse effect.

**Produce Economic Benefits** ~ Trees add value to retail areas by making them more attractive places for shopping. Trees along streets and on private property increase property values. Studies conducted in two communities in New York and Connecticut showed that the presence of trees increased the selling price of homes by as much as 15 percent.

**Screen Noise and Undesirable Views** ~ Strips of densely planted trees and shrubs will not completely remove the annoyance of city noise, but they can significantly reduce it. Urban forestry researchers have shown that even narrow belts of trees can reduce noise by three to five decibels. And, trees can provide privacy or screen out undesirable views.

**Attract Wildlife** ~ Trees can provide habitat for songbirds and other desirable wildlife, adding natural sounds and beauty in the urban environment.

**Slow Runoff and Prevent Erosion** ~ The leaves of trees break the force of rain, reducing flooding by helping water percolate into the soil instead of quickly running off. Tree roots also help hold the soil in place on steeper hillsides, preventing erosion and improving water quality.



# Midwest City Tree Board



# The Importance of Urban & Community Forestry

To some it may sound like a contradiction of terms, but many foresters actually work in cities. Their work may not be as well-known as that of their rural colleagues, but urban foresters play a vital role in the health and future of some of America's most important forests—the trees along our streets and urban river corridors, and in our parks and yards. Every citizen wants professional police protection, a high quality fire department, and the best possible administrators of the city coffers. It is important that the welfare of our communities' tree resources be similarly entrusted to professional management.

According to studies cited by The National Arbor Day Foundation, only 39 percent of American municipalities have programs to systematically care for their publicly owned trees. Yet the health and appearance of a community's trees is one of the most important factors in determining a city's visual image and quality of life.

“Trees are vital elements in the fabric of any community,” says John Rosenow, president of the Foundation. “They provide cooling shade in summer, help reduce the chill of winter winds, clean the air, reduce noise, and provide a home for songbirds, to name just a few of the benefits of trees in an urban setting.”

The National Arbor Day Foundation operates the Tree City USA program to help encourage community forestry programs and provide recognition to cities and towns that meet certain standards for community tree planting and care.

Rosenow notes that every community's forestry program will be different, tailored to the needs and circumstances of its citizens and trees. Flying the flag of Tree City USA is a symbol of good urban forestry, but that symbol represents a lot of hard work. Some of the goals that city foresters seek to attain for their communities include:



## Midwest City Tree Board



## 1. Making the Community a Beautiful Place

Trees make life more pleasant. City forestry programs work toward giving greater vitality to neighborhoods and a unique character to the community. In turn, this attracts and retains residents and desirable industries, increasing both property values and the tax base. A well-managed city forestry program contributes to the well-being of the community through the beauty of trees.

## 2. Keeping Public Trees Safe

Proper selection of tree species, routine inspection, knowledgeable pruning and maintenance, control of insects and diseases, and the timely removal of dangerous or dead trees- these are some of the ways city forestry programs provide for public safety and protect people and property from falling limbs or trees.



## 3. Efficiency in Tree Care

With 134 trees per mile lining the streets of an average American city, a systematic approach to tree management is needed. After making a well-developed inventory of publicly owned trees, city foresters can use scheduled maintenance instead of crisis management. The result is longer life of trees. Also, more time and money can be available for planting and maintaining trees instead of removing them.

## 4. Community Involvement

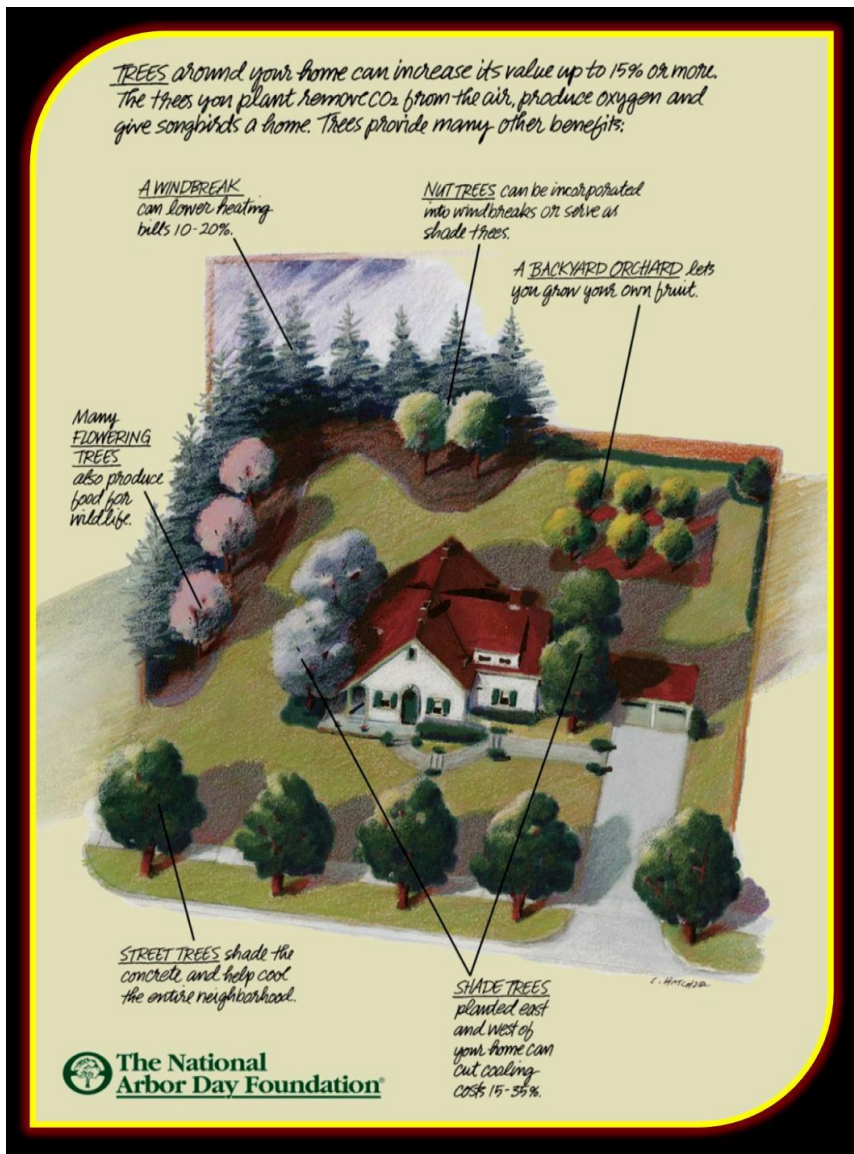
Public support is essential for the success of an urban forestry program. Therefore, city foresters work with tree advisory boards, volunteer groups and others, as well as the media. Many conduct educational outreach programs aimed at informing home and business owners about how to care for trees on their own property.

# Midwest City Tree Board



# Benefits of Trees

Trees are major capital assets in Midwest City. Just as streets, sidewalks, utilities, public buildings and recreational facilities are a part of a community's infrastructure, so are publicly owned trees. Trees and collectively the urban forest are important assets that require care and maintenance the same as other public property.



Without proper landscaping the city is a sterile landscape of concrete, brick, steel, and asphalt. Trees make the community livable as well as add beauty and create an environment beneficial to mental health.



# Midwest City Tree Board



S. Midwest Blvd.  
2200 to 2700 Block

Midwest City Tree Board







S.E. 29<sup>th</sup> St.

6800 Block Islands



Midwest City Tree Board



Hudiburg Dr.  
Center Islands

Midwest City Tree Board







Parklawn Dr.  
Center Islands



Midwest City Tree Board



Midwest City Tree Board



# Additional Tree Inventory

(Trees added 2016/2017 Fiscal Year)

|                      |   |
|----------------------|---|
| Willow Desert        | 1 |
| Kentucky Coffee Tree | 1 |
| River Birch          | 1 |
| Bosnian Pine         | 1 |
| Purple Robe Locust   | 3 |
| Loblolly Pine        | 3 |
| Chokecherry          | 3 |
| Caddo Maple          | 2 |
| Oklahoma Redbud      | 9 |
| Crabapple            | 4 |
| Blue Atlas Cedar     | 5 |
| Golden Rain          | 6 |
| Maple Amur           | 4 |
| Chinese Pistache     | 9 |
| Everclear Elm        | 2 |

Total 54



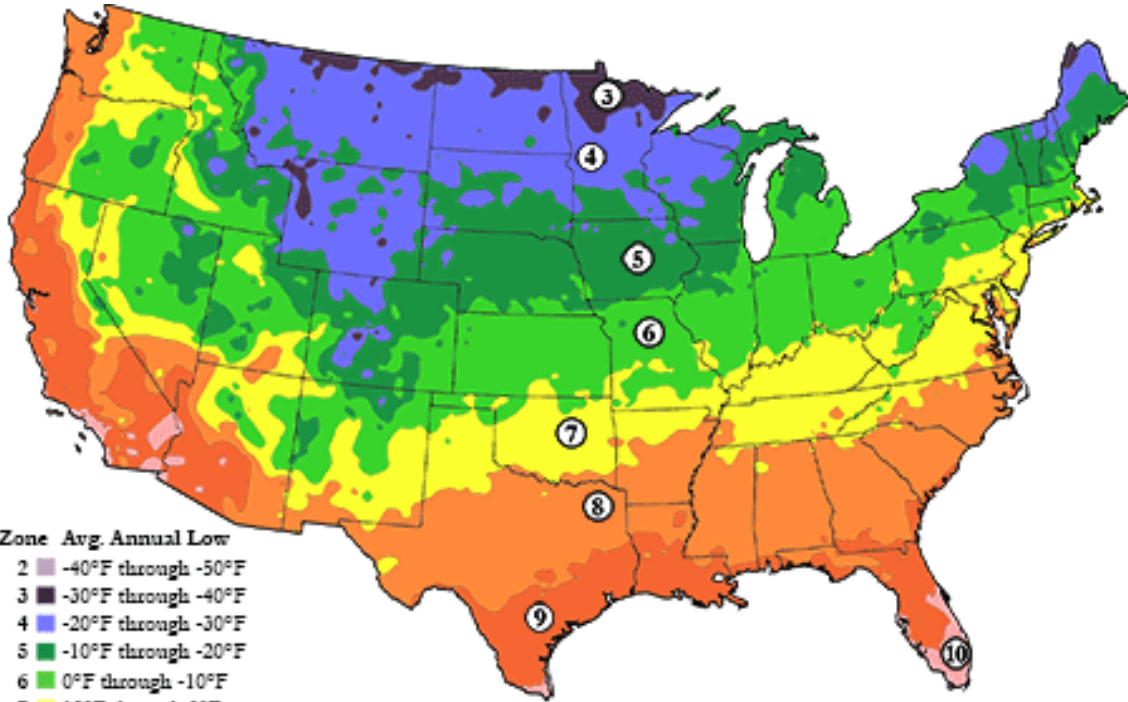
# Midwest City Tree Board



# Hardiness Zones Map

Go to [arborday.org](http://arborday.org) to find the zone for your zip code.

You can also find trees for planting in your zip code.



| Zone | Avg. Annual Low     |
|------|---------------------|
| 2    | -40°F through -50°F |
| 3    | -30°F through -40°F |
| 4    | -20°F through -30°F |
| 5    | -10°F through -20°F |
| 6    | 0°F through -10°F   |
| 7    | 10°F through 0°F    |
| 8    | 20°F through 10°F   |
| 9    | 30°F through 20°F   |
| 10   | 40°F through 30°F   |

© 2015 by the Arbor Day Foundation®



Plant A Tree

# Midwest City Tree Board



# Recommended Deciduous Trees for Midwest City

## Bald Cypress- *Taxodium distichum*

General Shape - Pyramidal

Mature Height - 60-80'

Growth Rate - Rapid

Site - Wide range of soils and locations.

Best Characteristics - Can take waterlogged conditions and drought. Perfect for low areas that flood in the spring and go bone dry in the summer.

Use - Ornamental

Mature Width - 30-40'

Pests - No major

---

## Shumard Oak - *Quercus shumardii*

General Shape - Spreading

Mature Height - 60'

Growth Rate - Slow

Site - Prefers better soils, not as tolerant to tight clay soils.

Best Characteristics - Majestic tree, long lived, bright red fall color.

Use - Shade

Mature Width - 50'

Pests - No major, sometime mites

---

## Bur Oak - *Quercus macrocarpa*

General Shape - Spreading

Mature Height - 40-60'

Growth Rate - Slow

Site - Wide range of soils and locations.

Best Characteristics - The toughest oak tolerating sites with extreme heat and wind.

Use - Shade

Mature Width - 50-70'

Pests - No major

---

## “Caddo” Sugar Maple - *Acer saccharum* “Caddo”

General Shape - Spreading

Mature Height - 50'    Mature Width - 25'

Growth Rate - Moderate

Site - Better soils preferred afternoon shade helpful.

Best Characteristics - Deep red fall color, deep green summer color.

Use - Shade

Pests - No major

---

## Chinese Pistache - *Pistacia chinensis*

General Shape - Umbrella

Mature Height - 30'    Mature Width - 25'

Growth Rate - Moderate

Site - Wide range of soils and locations, super tough tree.

Best Characteristics - Excellent recreational tree, deep rooted, no surface roots, tolerates tight clay soils, provides a little delicate shade, excellent fall color from deep orange-red to reddish purple hues.

Use - Shade

Pests - No major



# Midwest City Tree Board

# Recommended Evergreen Trees for Midwest City

## Live Oak – *Quercus virginiana*

General Shape – Spreading

Mature Height – 40 - 60'

Growth Rate – Slow

Site – Better soils preferred.

Best Characteristics – Green color in the winter.

Use - Ornamental

Mature Width – 60 - 80'

Pests – No major

Drawbacks – No major

---

## Atlas Cedar – *Cedrus atlantica*

General Shape – Spreading

Mature Height – 50'

Growth Rate – Moderate

Site – Better soils preferred.

Best Characteristics – Evergreen, variety of foliage colors.

Use - Ornamental

Mature Width – 30'

Pests – No major

Drawbacks – No major

---

## Loblolly Pine – *Pinus taeda*

General Shape – Spreading

Mature Height – 80'

Growth Rate – Moderate

Site – Better soils preferred, with at least fair drainage.

Best Characteristics – Most pest resistant pine native to the southeastern section of the United States.

Use - Ornamental

Mature Width – 30'

Pests – No major

Drawbacks – Iron chlorosis in high pH soils.

---

## Eastern Red Cedar – *Juniperus virginiana* ‘Canaertii’

General Shape – Pyramidal

Mature Height – 25'

Growth Rate – Rapid

Site – Anywhere, wide range of soils and locations, one of the toughest trees.

Best Characteristics – Excellent windbreak tree the toughest of the tough trees.

Use - Windbreak

Mature Width – 20'

Pests – Bagworms, Cedar Apple Rust

---

## Leyland Cypress – x *Cupressocyparis leylandii*

General Shape – Pyramidal

Mature Height – 40 - 60'

Growth Rate – Rapid

Site – Better soils preferred with at least fair drainage.

Best Characteristics – less rapid growth, gray green summer color.

Use - Ornamental

Mature Width – 20 - 30'

Pests – No major, sometimes Bagworms

Drawbacks – some Winter Tip-burn

# Midwest City Tree Board



# Other Deciduous Trees for Oklahoma

## Trees for wet sites

Red Maple  
River Birch  
Bald Cypress  
Willow  
Sweetgum

## Trees for showy fruit

Chinese Pistache  
Soapberry  
Hawthorn  
Possumhaw  
Winterberry

## Trees for difficult sites

Common Hackberry  
Bur Oak  
Soapberry  
Chittimwood  
Osage Orange  
Lacebark Elm  
Desert Willow  
Fruitless Mulberry  
Japanese Tree Lilac



## Trees for fall color

Chinese Pistache  
White Ash  
Ginkgo  
White Oak  
Red Oak  
Red Maple  
Cado Sugar Maple  
Tatarian Maple  
Amur Maple

## Trees for small sites or large containers

Goldenrain Tree  
Amur Maple  
Katarina Maple  
Possumhaw  
Oklahoma Redbud

## Trees for showy flowers

Saucer Magnolia  
Star Magnolia  
Japanese Pagoda  
Japanese Tree Lilac  
Crabapple  
Redbud  
Flowering Dogwood

## Trees to plant less of

Fruitless Mulberry  
American Sweetgum  
Eastern Cottonwood  
Bradford Pear

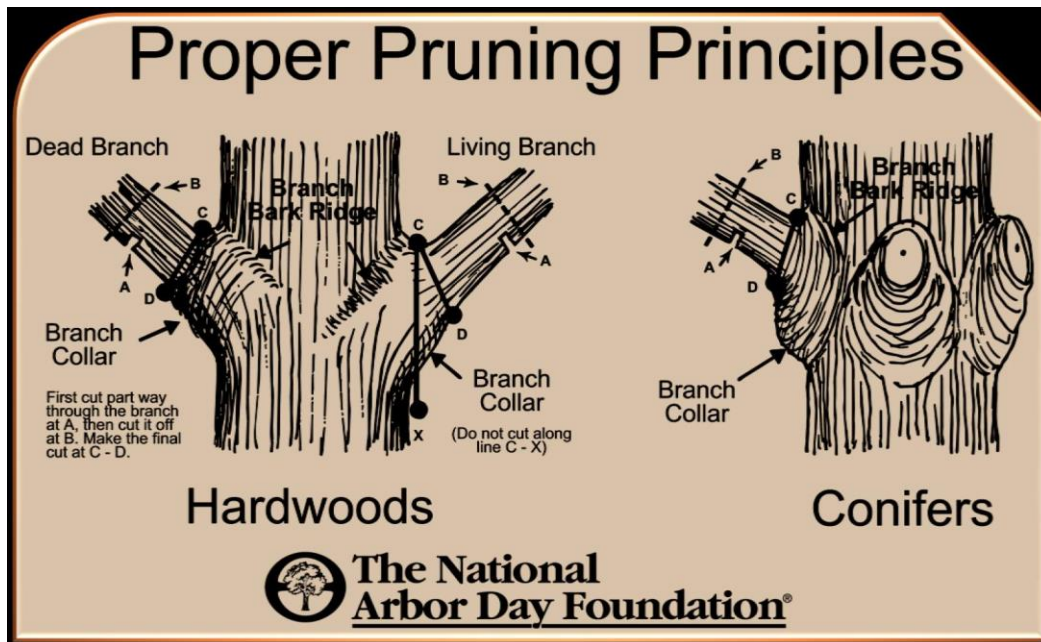


# Midwest City Tree Board



# Pruning

Proper pruning while the trees are young prevents most growth problems the tree may cause in the future. The best time to prune most species is in the dormant season. Remove all dead branches. Remove crossed branches or ones growing to the same location to prevent rubbing. Remove any branches that have severe insect or disease problems. Also, remove any water sprouts, which may have developed. Use pruning to keep only one central leader on the tree. Favor branches that have a crotch with a wide angle and remove branches with a “V” shape or narrow crotch. Never trim more than one-third of the branches at one time.



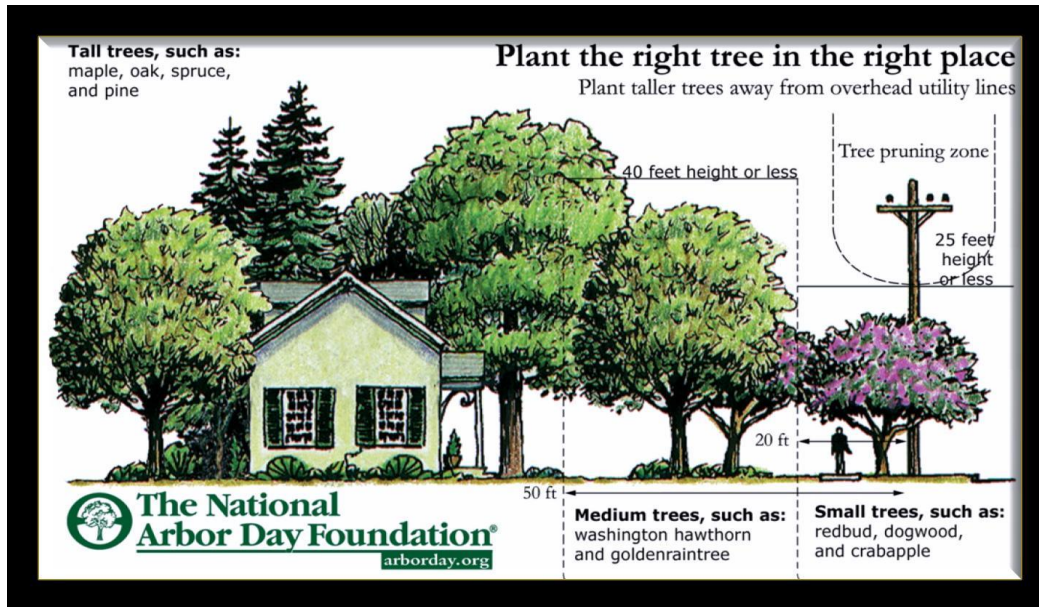
Dehorning or topping of a tree is not pruning but butchery. No one who leaves a tree looking like a hat rack understands the principles of pruning or plant growth. Dehorning a tree substantially shortens the life of a healthy tree because the stubs that are left usually become infected with heartwood rot and borers. Regrowth after dehorning forms many narrow “V” crotches, which split during storms. Such tremendous stress is placed on a tree by dehorning that most trees die prematurely as a result.

# Midwest City Tree Board



# Planting

Site selection is an important part of any planting program. The location of buildings, sidewalks, utilities and other objects can have a large influence on how well a new tree will grow and is noted in the plan.



Soil type is also an important factor to consider before digging. Soil characteristics to consider are texture, potential growing depth, availability of nutrients, and drainage.

1. Prepare a planting area five times the diameter of the root ball about 12" deep.
2. Avoid digging the hole too deep since the tree should be planted at its original depth or slightly higher (1-2 inches above grade). If the tree is planted above grade, it is important to cover the edges of the exposed root ball with soil tapered down to the surrounding soil line.
3. Once the tree is in the hole, remove all rope and wires wrapped around the ball or the container. If burlapped, remove as much fabric as possible without disturbing the root ball.



## Midwest City Tree Board

4. Fill in the planting hole with native soil and tamp lightly
5. Do not over fertilize the new tree. A newly planted tree has a very limited capacity for utilizing fertilizer until it starts to establish itself.
6. Stake young trees (top-heavy or planted in windy areas) when necessary but allow for sway. Remove all stakes after the first season if possible.
7. Avoid over pruning new trees. Leave lower limbs intact the first season if possible.
8. Keep a 5-6 feet weed and turf-free circle around the tree. Place organic mulch, 1-3 inches deep, around the tree.
9. Apply at least one inch of water weekly.
10. Wrap young trees as fall approaches. Tree wraps protect tender bark from rodent damage and environmental stresses because of temperature fluctuations. It should be noted some young trees benefit from summer wrapping to avoid sunscald.
11. Irrigate in the winter, when temperatures remain above freezing for more than a few days, to avoid dehydration injury.

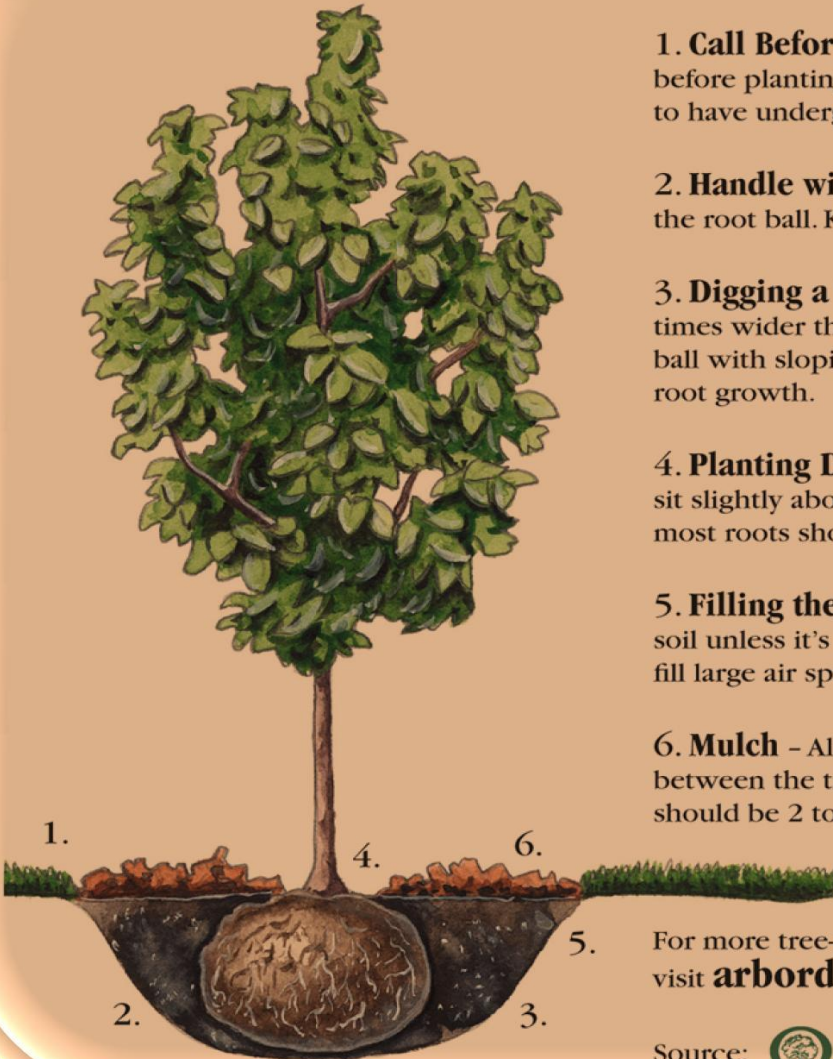
# Midwest City Tree Board





Below is an example of the correct way to plant trees as shown by the National Arbor Day Foundation.

## Six things you should know when planting a tree.



1. **Call Before You Dig** - Several days before planting, call the national 811 hotline to have underground utilities located.

2. **Handle with Care** - Always lift tree by the root ball. Keep roots moist until planting.

3. **Digging a Proper Hole** - Dig 2 to 5 times wider than the diameter of the root ball with sloping sides to allow for proper root growth.

4. **Planting Depth** - The trunk flare should sit slightly above ground level and the top-most roots should be buried 1 to 2 inches.

5. **Filling the Hole** - Backfill with native soil unless it's all clay. Tamp in soil gently to fill large air spaces.

6. **Mulch** - Allow 1 to 2 inch clearance between the trunk and the mulch. Mulch should be 2 to 3 inches deep.

5. For more tree-planting tips and information, visit [arborday.org](http://arborday.org).

Source:  **Arbor Day Foundation**

9007520



# Midwest City Tree Board

# Irrigation

Most areas of our state receive plenty of water for tree growth except during summer months. Water newly planted trees for the first three years with a slow stream or steady drip from the hose overnight. Do not repeat watering until the ground around the tree completely dries, usually 6-10 days. Long, less frequent watering allows the entire root zone to become moist, and help promote normal root growth.

Drip systems are the most efficient means of watering. Installed properly, drip systems will deliver a set amount of water per hour directly to the root zone. . Drip systems are composed of 1/2" poly hose, with a 1016 pressure regulator and three emitters each releasing one-gallon per hour at each tree.

# Mulching

Mulch helps conserve soil moisture by reducing evaporation from the soil surface and by reducing weeds that compete for water. Mulch is important for trees that are watered infrequently. Mulch also helps prevent trunk damage caused by lawnmowers and weed eaters.

Apply 2-4 inches of mulch in the planting area. Composted mulches are preferred, because fresh mulch can often tie-up soil nutrients needed by the plant. Some examples of mulch are bark, wood chips, cottonseed hulls, grass clippings, sawdust, and leaves. As mulch breaks down over time, new mulch must be added.

# Midwest City Tree Board



# In the Storm's Wake...

After a major storm, a community is instantly changed. Buildings may be damaged or destroyed, power lines down, and trees broken and torn. In the wake of this loss, neighborhoods and entire cities may experience a sense of devastation they have never known before.

"Because trees are such a large part of a city's visual landscape, damage to them from a severe storm can be a major shock to residents," says John Rosenow, president of The National Arbor Day Foundation, an organization that helps people plant and care for trees. "Seeing a favorite tree down or badly damaged in the front yard can be a traumatic experience-almost like losing an old friend."



But even in the wake of this shock, Rosenow says there are ways of coping with the loss. Among other things, he counsels patience in dealing with the storm's consequences. Trees are amazingly resilient and many recover with proper care and time. Despite the urge to do something immediately, people should try to be patient. As long as there isn't an immediate physical risk from a damaged tree, my advice is simple: if you're unsure about its condition, keep the tree for now.



# Midwest City Tree Board



“Of course, safety is the first major concern,” Rosenow says. “Everyone should stay away from downed power lines and beware of broken tree limbs that may be ready to fall. Never use pruning equipment near utility lines.” Downed utility lines should be reported to utility companies or 911 operators.



He adds that citizens' patience also allows city officials time to organize and respond properly to the situation. After a major storm, city officials, utility workers, and private tree care firms must focus first on dealing with hazards to life and property. After that, one of the city's major tasks is the removal of debris from the storm and the work of removing damaged branches and sometimes entire trees.

Homeowners should remember that street trees, usually those between the streets and sidewalks, are typically city-owned, and when that is the case, their care will be the city's responsibility.

By exercising a cool head, despite the devastation that accompanies a major storm, homeowners are helping their community as well as working to preserve their own trees and property values, Rosenow notes.

# Midwest City Tree Board





## Use a Qualified Arborist

"If a tree is large and the work is off the ground, or if a chainsaw is needed, it's best to contact a qualified arborist," Rosenow adds. "They have the equipment and know-how to safely remove broken or downed limbs and to help save and repair trees." Qualified tree experts can be found under the "Tree Service" section of most telephone directories.

"Whatever professional help you seek, make the decision wisely, as it will have long-term consequences for your trees," he says. "Locate a qualified tree care specialist and check references. Above all, don't be pressured by people with chainsaws knocking on your door and offering to remove or 'repair' your trees. Unfortunately, storms seem to produce such door-to-door callers, most of whom have no training and little interest in your trees beyond making a quick buck."

## Storm Recovery Tips for Trees from the National Arbor Day Foundation

- **Safety First** - Beware of utility lines and hazardous overhanging limbs.
- **Be Patient** - If a tree does not represent a hazard, take the time necessary to be sure it gets proper care and make a final decision about it in a few weeks or months.
- **Hire a Qualified Arborist** - If a tree is large, requires high climbing, is leaning against wires, buildings or other trees, or if wires or structures are endangered, let a professional do the job.
- **Take Heart** - Trees are amazingly resilient, and the trees of other communities have recovered over time.

## Can These Trees Be Saved?

A storm can leave trees looking like there's no tomorrow. Major limbs may be broken or damaged, foliage can be shredded or stripped, or the bark may be torn or gouged. But what at first glance may look like mortal wounds are not necessarily fatal to a tree.

Trees have an amazing ability to recover from storm damage.



# Midwest City Tree Board

# First, Assess the Damage

Before writing off a damaged tree as a “goner,” homeowners should evaluate their trees by asking the following questions:

- Other than the storm damage, is the tree basically healthy and vigorous? If the tree is basically healthy, is not creating a hazard, and did not suffer major structural damage, it will generally recover if first aid measures are applied immediately after the storm.
- Are major limbs broken? The larger a broken limb is, the harder it will be for the tree to recover from the damage. If a majority of the main branches are gone, the tree may have little chance of surviving.
- Has the leader (the main upward-trending branch on most trees) been lost? In species where a leader is important to upward growth or desirable appearance, it may have to be a judgment call. The tree may live without its leader, but at best would be a stunted or deformed version of the original.
- Is at least 50 percent of the tree’s crown (branches and leaves) still intact? This is a good rule of thumb on tree survivability. A tree with less than half of its branches remaining may not be able to produce enough foliage to nourish the tree through another season.
- How big are the wounds where branches have been broken or bark has been damaged? The larger the wound is in relation to the size of the limb, the less likely it is to heal, leaving the tree vulnerable to disease and pests. A two- to three-inch wound on a 12-inch diameter limb will seal over with new bark within a couple of years.
- Are there remaining branches that can form a new branch structure? The remaining limbs will grow more vigorously as the tree tries to replace its missing foliage. Look to see if branches are in place that can eventually fill out the tree’s appearance.



# Midwest City Tree Board



# Then, Make the Decision

The questions listed above will help you make informed decisions about your trees. In general, the answer as to what to do about a particular tree will fall into one of three categories:

## 1: It's a Keeper

If damage is relatively slight, prune any broken branches, repair torn bark or rough edges around wounds, and let the tree begin the process of wound repair.

Some examples:

### An Easy Call: Too Young to Die:

Young trees can sustain quite a bit of damage and still recover quickly. If the leader is intact and the structure for future branching remains, remove the broken branches and let the tree close over the wounds and recover itself. A mature shade tree can usually survive the loss of one major limb. The broken branch should be pruned back to the trunk. In the months to follow, large wounds should be closely monitored for signs of decay.



### Minor Damage:

Although the tree has been damaged, enough strong limbs may remain on a basically healthy tree to make saving it possible.

## 2: Wait and See

If a valuable tree appears to be a borderline case, resist the temptation to simply cut the tree down and be done with it. In such cases, it may be best to stand back for a while and think it over.

Remember that time is on your side. After careful pruning of broken branches, give the tree some time to recover. A final decision can be made later.



# Midwest City Tree Board

### Easy Does It:

Resist the temptation to prune too heavily. Remember that the tree will need all the foliage it can produce in order to make it through the next growing season. Remove only the damaged limbs, wait and see what happens.

### Hold Off:

A healthy mature tree can recover even when several major limbs are damaged. With large trees, a professional arborist should be brought in to assess damage on a borderline situation, and to safely accomplish needed pruning and branch removal.



### 3: Say Goodbye

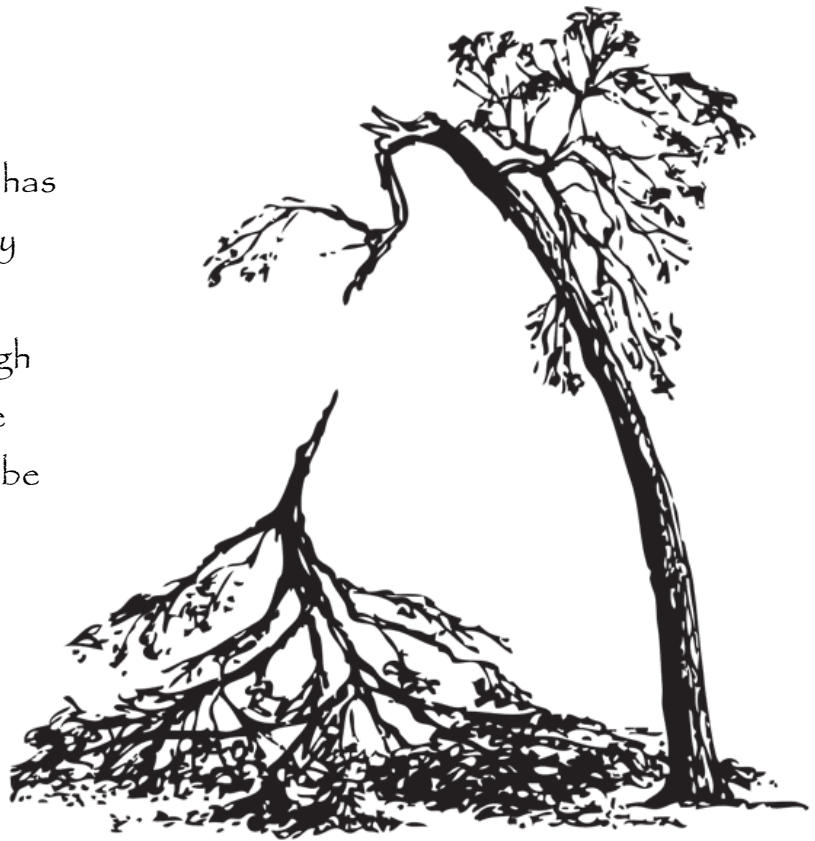
Some trees simply can't be saved or are not worth saving. If the tree has already been weakened by disease, if the trunk is split, or more than 50 percent of the crown is gone, the tree has lost its survival edge.

# Midwest City Tree Board





This otherwise healthy young tree has lost too much of its crown - the leafy head that is vital for survival. It will probably not be able to grow enough new branches and leaves to provide needed nourishment, and will never be able to regain its former beautiful shape.



### Hopeless Case:

About all that's left of this tree is its trunk. The few remaining branches can't provide enough foliage to enable the tree to make it through another growing season.

### Farewell to a Friend:

A rotten inner core in the trunk or structural weakness in branching patterns can cause a split trunk- the tree equivalent of a heart attack. The wounds are too large to ever mend, and the tree has lost its sap lifeline between roots and leaves. This tree is all but dead.



# Midwest City Tree Board

# Don't Try to Do it All Alone

Some of your trees may have damage that's too close to call, or may have hidden damage. To help with such questions, a tree professional may be needed to help you decide what to do about your trees. Don't hire just anyone who shows up at your door following a storm. Look for qualified arborists in the phone book or by contacting your state or city forester.

For free information about saving trees that have been damaged in a storm,  
send your name and address to:

The National Arbor Day Foundation  
100 Arbor Avenue  
Nebraska City, NE 68410



## Midwest City Tree Board



# Watch Out for Scam Artists Posing as Arborists

After a storm, it is common for people claiming to be tree specialists to show up at your door offering their services to remove or repair trees. In the words of one city forester: “They seem to come out of the woodwork—people we have never even heard of before.”

Unfortunately, many such individuals have little or no training, and sometimes have little interest in removing anything but money from the pocketbooks of unsuspecting residents.

The National Arbor Day Foundation urges you to not be a victim. “Make sure you are dealing with a reputable individual or tree care firm when you contemplate repairs or removal of any trees on your property,” warns John Rosenow, president of The National Arbor Day Foundation. “Legitimate arborists rarely go door to door to solicit business.”



*Hiring just anyone who shows up at your door may result in fatal damage to your trees. It's best to go with a qualified professional arborist.*

—National Arbor Day Foundation illustration

Here are eight guidelines to help you find qualified tree-care specialists:

1. Make sure they are part of an established business in the community or nearby area, with a listing in the phone book, usually under Tree Service.
2. Have them provide you with evidence that they are actually working for the company, rather than moonlighting.
3. Ask for current certificates of insurance showing that they are fully insured for property damage, personal liability, and worker compensation.
4. Ideally, they should be members of a professional association of arborists such as the International Society of Arboriculture (ISA), the National Arborist Association (NAA), or the American Society of Consulting Arborists (ASCA).



## Midwest City Tree Board



5. Arborists who have received certification from their professional associations, such as ISA Certified Arborists, will have received training and access to current technical information on tree care, repair, and removal.
6. If possible, get more than one estimate to ensure that the price offered is competitive with that offered by others for the same services.
7. In case of tree removals, have a clear understanding about who removes the limbs and debris from the property, and whether or not the price includes stump removal and clean up.
8. Check to see if the estimate has considered the possible value your tree will have as firewood or chips, either to yourself or if sold to others.

“Above all, don’t be pressured into making a decision,” Rosenow warns. “Taking the time to select a qualified tree professional can safeguard your trees and save you from the long-term consequences of wrong decisions about what to do about them after a storm.”

### Special note for victims of large-scale disasters

During large-scale disasters — such as the aftermath of Hurricane Katrina in August, 2005 — many arborists from around the country may travel to help aid in recovery from widespread, catastrophic damage. In these special cases, it may not be practical to use a local professional. In addition, professional arborists may very well be knocking on doors as they participate in coordinated efforts to canvas large areas.

### Ask for proof of insurance

The insurance certificate will list a company name that you can call directly for verification. Number eight may not apply. There may be so many trees to remove that the value of trees for firewood or chips may be drastically reduced.

# Midwest City Tree Board



# Sources of Accurate Tree Information in Your Local Area:

One of the best sources for localized information will probably be your City Forester, or other city officials who care for public trees in your communities. In many cities this is a function of the city's parks or public works department. In addition, each state has a State Forester, who is usually part of the state's department of natural resources. County and state extension services, usually affiliated with state land-grant universities, are also good sources of information about trees, tree care, and tree issues.



## Midwest City Tree Board



Midwest City Tree Board



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## Chapter 42 Trees\*

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\*Cross references: Definitions and rules of construction generally, § 1-2; shrubs, hedges, etc., around fire hydrants, § 28-4. State law references: Authority of city to regulate trees, 11 O.S. § 22-122.

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# Midwest City Tree Board



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# Midwest City Tree Board



# Article I. In General

## Sec. 42-1. Legislative findings.

(a) Trees are recognized as a valued asset, providing a healthier and more beautiful environment in which to live. They provide oxygen, shade, aesthetics, and a priceless psychological counterpoint to the man-made, urban setting. Trees aid in preventing erosion, siltation of streams and reservoirs; flash flooding; and air, noise and visual pollution. (b) Trees are economically beneficial in attracting new industry, residents and visitors. Healthy trees of the right size and species, growing in the right places, enhance the value and marketability of property, and promote the stability of desirable neighborhoods, thus helping to prevent the emergence of blighted areas and slum conditions. (c) Therefore, it is the purpose of the tree board to provide for the planting of appropriate trees and removal of dead, dying or diseased trees. (Code 1972, § 35 1/2-17)

## Sec. 42-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: Landscape shall mean the planting and maintenance of any tree, bush, shrub or any other woody vegetation. Park shall mean any public parks or may include private parks approved by the city council and maintained by homeowner associations. Park trees are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park. Property line shall mean the outer edge of a street or highway for the purpose of this chapter. Public place shall include any other ground owned by the city, any real property other than parks, streets or highways which is owned by the city or held by it in trust for the benefit of the public.

Public trees shall include all trees now or hereafter growing on any street, park or other public place.



# Midwest City Tree Board



Street or highway shall mean the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic. Street trees are trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or rights-of-way within the city. Tree lawn is that part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic. (Code 1972, § 35 1/2-18)

### **Sec. 42-3. General administrative and enforcement responsibilities.**

- (a) The tree board shall have the authority and jurisdiction of regulating the protection, maintenance, removal and planting of trees on streets, parks and public places.
- (b) The city manager or his designated representative shall be charged with authority of administering this chapter and to ensure that provisions of this chapter are not violated, including but not limited to the issuance of citations for the violation of any provisions of this chapter.
- (c) The city manager or his designee shall supervise or inspect all work done in accordance with this chapter.
- (d) The city manager or his designated representative shall have the responsibility of inventorying (and classifying as to location, species, size, condition and evaluation) the existing trees on streets, parks and other public places, as an integral part of the landscaping master plan. This inventory shall be periodically updated.
- (e) The tree board may request enforcement, supervision or other assistance from the city manager or his designated representative.
- (f) The tree board shall also have the authority to prepare and submit to the city council the landscape master plan. The master street plan shall include the inventory of existing trees, and shall specify the species of tree to be protected, maintained, removed and/or planted on each of the streets, parks and other public places of the municipality. From and after the effective date of the master street tree plan, or any amendment thereof, all tree work shall conform thereto.

(Code 1972, § 35 1/2-19; Ord. No. 2092, §§ 7-10, 1-14-86)

# Midwest City Tree Board



## Sec. 42-4. Reserved.

Editor's note: Section 6 of Ord. No. 2092, adopted Jan. 14, 1986, repealed § 42-4 which pertained to requirements for new developments to be landscaped with trees which derived from Code 1972, § 35 1/2-20.

## Sec. 42-5. Street tree species to be planted.

The following list constitutes the official street tree species for the city. Trees were selected based on their ability to perform well in the surrounding soil conditions and climate. Also considered was the tree's ability to withstand wind without severe breakage and the amount of debris produced by the tree. No species other than those included in this list shall be planted as street trees without written permission of the city tree board:

### *Small Trees:*

Flowering Crabapple  
Redbud  
Purpleleaf Plum  
Bradford Pear  
Amur Maple  
Smoketree  
Russian Olive  
Winterberry Euonymus  
Deciduous Holly  
Yaupon Holly  
Red Buckeye  
Panicked Goldenrain Tree  
Crape Myrtle  
Pomegranate

### *Medium Trees:*

Pin Oak  
Kentucky Coffee Tree  
Red Mulberry (male)  
Osage Orange  
(male/thornless)  
Chinese Pistachio  
Ginko  
Lacebark Elm  
Austrian Pine  
Scotch Pine  
Live Oak  
River Birch  
Japanese Pagoda  
Ash

### *Large Trees:*

Bur Oak  
Hackberry  
American Sycamore  
Pecan  
Red Oak  
Caddo Sugar Maple  
Sweetgum  
Sawtooth Oak  
Chinquapin Oak  
Water Oak  
Willow Oak  
Shumard Oak  
Bald Cypress  
European Sycamore  
(London Plane)

(Code 1972, § 35 1/2-29; Ord. No. 2401, § 1, 4-24-90)



# Midwest City Tree Board

## **Sec. 42-6. Street tree species prohibited from planting.**

No American Elm, Siberian or Chinese Elm, Mimosa, Female Cottonwood or Peach tree will be allowed for planting. (Code 1972, § 35 1/2-30; Ord. No. 2401, § 2, 4-24-90)

## **Sec. 42-7. Spacing of street trees.**

The spacing of street trees will be in accordance with the tree species size classes listed in section 42-5 of this chapter, and no trees may be planted closer together than the following: Small trees, twenty (20) feet; medium trees, thirty (30) feet; and large trees, forty (40) feet. Nothing in this section shall be construed to allow planting in the sight distance triangle. (Code 1972, § 35 1/2-31)

## **Sec. 42-8. Distance from curb and sidewalk.**

The distance street trees may be planted from curbs or curblines and sidewalks will be in accordance with the tree species size classes listed in section 42-5 of this chapter, and no street trees shall be planted closer to any curb or sidewalk than six (6) feet. (Code 1972, § 35 1/2-32)

## **Sec. 42-9. Distance from fireplugs.**

No street tree shall be planted closer than ten (10) feet from any fireplug. (Code 1972, § 35 1/2-33)

## **Sec. 42-10. Protection of utilities.**

No street tree, other than those species listed as small trees in section 42-5 of this chapter, may be planted near or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground waterline, sewer line, transmission line or other utility. (Code 1972, § 35 1/2-34)

# Midwest City Tree Board



## Sec. 42-11. Sight distance triangle.

Limitations on obstructing sight triangles are defined in section 4.8.3 of the zoning ordinance and are incorporated by reference into this chapter, and limitations therein shall be expressly made applicable to the planting and cultivating of any permissible tree. (Code 1972, § 35 1/2-35; Ord. No. 2092, § 11, 1-14-86) Cross references: Zoning, App. A.

## Sec. 42-12. Requests for waivers.

The requirements set out in sections 42-7 through 42-10 of this Code may be waived in those instances whereby if relief from said requirements, if granted, would not cause substantial detriment to the public good, impair the purpose or intent of the section or where the conditions requiring the waiver request are peculiar to the piece of property involved. (Ord. No. 2092, § 1, 1-14-86)

## Sec. 42-13. Application procedures.

Any request for waiver of the requirements of sections 42-7 through 42-10 shall be in writing addressed to the Chairman of the Midwest City Tree Board received at least fourteen (14) days in advance of the next regularly scheduled meeting. The chairman will advise the representative of the Midwest City Manager of the request and the manager's representative shall present a staff report and recommendation to the members of the board at least three (3) days before the next regularly scheduled meeting. The staff representative shall also cause said requested waiver to be placed on the agenda of said meeting and notify the applicant in writing of the time and place of the meeting. (Ord. No. 2092, § 2, 1-14-86)



# Midwest City Tree Board

## Sec. 42-14. Planting trees within public right-of-way; removal or relocation; fees.

(a) Prior to planting any tree(s) within public right-of-way, a site plan shall be submitted showing the location and species of trees to be planted. Any plantings within public right-of-way shall comply with sections 42-5 through 42-11 of this Code.

(b) Prior to the removal or relocation of any tree within public right-of-way, an application shall be made to the Midwest City Tree Board as prescribed in sections 42-12 and 42-13 of this Code. It shall be the responsibility of the applicant to submit a site plan showing the exact location, diameter and species of the tree(s) to be removed from the public right-of-way. The tree board shall have the authority to grant or deny the removal or relocation of any street tree. The tree board shall have the power to authorize said applicant to have a professional landscaper to relocate the tree(s) in a different location on the public right-of-way adjoining the subject property at no fee cost to the applicant as prescribed in section 42-14; if the applicant submits in writing to the tree board guaranteeing should the tree(s) die within a three-year period after being relocated, the applicant will replace the tree(s) with a species approved by the tree board as prescribed in section 42-5. In lieu of relocating the tree(s) on the public right-of-way adjoining the property, the tree board may require the tree(s) to be located to a different location within the city upon payment of fees by the applicant as prescribed in section 42-14(c). If fees are charged for the removal and relocation of any tree(s), it shall be the responsibility of the Midwest City Street Department to remove and relocate said tree(s) at the direction of the Midwest City Tree Board.

(c) The following fees shall be paid prior to the removal or relocation of any street tree(s):

(1) Three-inch diameter or smaller--\$150.00.

(2) More than three-inch diameter--\$50.00 per inch. In calculating fees, inches shall be rounded off to the next whole inch. The diameter of the tree shall be measured from three (3) feet to four (4) feet from the base of the tree.

(3) Fees collected shall be deposited to the tree board account.

(Ord. No. 2390, § 1, 2-13-90)

Secs. 42-15--42-22. Reserved.

# Midwest City Tree Board



# Article II. Tree Board\*

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\*Cross references: Termination of membership on board for unauthorized absence, § 2-28.

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## Sec. 42-23. Created.

There is hereby created a city tree board.

(Code 1972, § 35 1/2-1)

## Sec. 42-24. Members.

(a) The city tree board shall be composed of seven (7) members, all of whom shall be residents of Midwest City, nominated by the mayor and confirmed by the council. The mayor shall be ex officio a member of the board.

(b) The term of the seven (7) members shall be three (3) years or until their successors take office, except that in the first instance, three (3) members shall be appointed for three (3) years; two (2) members for two (2) years, two (2) members for one year. The members of the board shall be nominated and appointed solely with reference to their fitness and without reference to party affiliation, and shall serve without compensation as hereinafter provided. Members may be removed by the city council only for inefficiency, neglect of duty or malfeasance in office. Absences from meetings by the board members shall be governed by section 2-28 of the Municipal Code. Vacancies occurring otherwise than through the expiration of terms shall be filled only for the unexpired term by the mayor with confirmation by the city council, provided that each member appointed prior to the effective date of this chapter shall continue to hold office for the balance of the term for which he is appointed.

(Code 1972, § 35 1/2-1, 35 1/2-2; Ord. No. 2238, § 4, 1-12-88; Ord. No. 2405, § 1, 5-8-90)



# Midwest City Tree Board



### **Sec. 42-25. Officers.**

The city tree board shall elect a chairman and a secretary and shall create and fill such other offices as it may determine. The term of chairman and secretary shall be one (1) year, with eligibility for reelection.

(Code 1972, § 35 1/2-3)

### **Sec. 42-26. Standing committees.**

The city tree board shall receive recommendations and assistance from standing committees. Forestry master plan committee, public image committee, annual work plans committee, park board liaison, and community projects committee. Members shall be appointed by the chairman and confirmed by the board. Each committee shall serve at the pleasure of the board. (Code 1972, § 35 1/2-4; Ord. No. 1864, § 1, 5-24-83; Ord. No. 2503, § 1, 5-26-92)

### **Sec. 42-27. Meetings required.**

The city tree board shall hold at least one (1) regular meeting each calendar quarter. (Code 1972, § 35 1/2-5; Ord. No. 2929, § 1, 8-24-04)

### **Sec. 42-28. Quorum.**

Four (4) members of the city tree board shall constitute a quorum for the transaction of business. (Code 1972, § 35 1/2-7; Ord. No. 2503, § 2, 5-26-92)

### **Sec. 42-29. Reserved.**

Editor's note: Section 5 of Ord. No. 2092, adopted Jan. 14, 1986, repealed § 42-29, relative to council approval of tree board action, which derived from Code 1972, § 35 1/2-8.

# Midwest City Tree Board



### Sec. 42-30. General powers.

In general, the board shall have such powers as may be necessary to enable it to fulfill its functions, promote sound urban forest management, maintain a healthy and beneficial tree population, and carry out the purposes of this chapter. (Code 1972, § 35 1/2-12)

### Sec. 42-31. Duties and responsibilities.

It shall be the responsibility of the board to study, investigate, counsel and develop and/or update annually a written plan for the care, preservation, trimming, planting, replanting, removal or disposition of trees and shrubs in public ways, streets, parks and alleys. Such plan will be presented annually to the city council and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the city. The board, when requested by the city council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work. In addition to the above described duties and responsibilities the Midwest City Tree Board shall hear all requests for waivers as outlined in section 42-12 and section and section 42-13 of the Code. A report with the recommendation of the tree board shall be forwarded to the city council for final action on each application. Said hearing shall be open to the public and all interested parties shall be given the opportunity to be heard. The board shall propose rules to govern these hearings to the council for approval.

(Code 1972, § 35 1/2-9; Ord. No. 2092, § 3, 1-14-86; Ord. No. 2503, § 3, 5-26-92)

### Sec. 42-32. Entry powers.

The city tree board, its members, officers and employees, in the performance of their functions, may enter public ways, streets, alleys and parks to make examinations and surveys.

(Code 1972, § 35 1/2-10)



# Midwest City Tree Board

### Sec. 42-33. Interference with board.

It shall be unlawful for any person to prevent, delay or interfere with the city tree board, or any of its agents, or employees while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees or park trees as authorized in this chapter. (Code 1972, § 35 1/2-11)

### Sec. 42-34. Master plan.

The city tree board shall have the power and the duty to make and recommend to the city council for adoption a master plan for the development of a forestry program for the city. The plan shall be made with the general purposes of guiding and accomplishing a coordinated forestry program. The landscape master plan shall outline tree planting needs relative to the specific landscape plans for individual areas, such as parks and other major public areas.

(Code 1972, § 35 1/2-13, 35 1/2-14)

### Sec. 42-35. Annual work plans.

The work plan developed annually by the city tree board shall implement the master plan, working with the general public. The annual plan shall describe planned activities for the coming year in tree planting, tree maintenance, and tree removal and disposal. Main items of the work plan, shall include what is to be done, how it is to be done, who is to do it, and estimated cost to the community. The annual work plan committee shall make recommendations to the board. The annual work plan shall be coordinated with the park and recreation board and then presented to the city council for final approval.

(Code 1972, § 35 1/2-15)

### Sec. 42-36. Review by city council.

The city council shall review the conduct, acts, decisions and recommendations of the city tree board. No action of the city tree board shall become final until approved by the city council. Requests for waivers considered by the city tree board pursuant to section 42-31 shall be considered by the city council by public hearing.

(Code 1972, § 35 1/2-16; Ord. No. 2092, § 4, 1-14-86)

# Midwest City Tree Board



**Sec. 42-37. Rules authorized; records.**

The city tree board shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record.

(Code 1972, § 35 1/2-6)

Secs. 42-38--42-48. Reserved.



Midwest City Tree Board

## Article III. Tree Trimming, Etc.\*

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\*Cross references: Tree trimming by CATV franchises, § 17-57(f).

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### Sec. 42-49. Trimming; clearance.

Every owner of any tree or shrub overhanging any street or right-of-way within the city shall trim the branches so that such branches shall not obstruct the light from any street lamp, or obstruct the view of any street, intersection or traffic control device or sign, and so that there shall be a clear space of twelve (12) feet above the surface of the street or right of way. Every property owner shall remove from the owner's property all dead, diseased or dangerous trees and shrubs, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the authority to order the trimming or removal of any tree or shrub that interferes with the proper spread of light from a street light, or interferes with visibility or any traffic control device or sign, or does not provide a clear space of twelve (12) feet above the surface of the street or right of way. In the event of failure of owners to comply with the provisions of this section, the city shall also have the authority to trim or remove any tree or shrub that violates the provisions of this section and charge the cost of trimming or removal to the owner.

(Code 1972, § 35 1/2-21; Ord. No. 2656, § 1, 10-8-96)

### Sec. 42-50. Dead or diseased tree removal within right-of-way.

The city shall have the right to cause the removal of any dead or diseased trees on right-of-way abutting private property within the city when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The city tree board will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within thirty (30) days after the date of service or notice. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal to the owner.

(Code 1972, § 35 1/2-22)

# Midwest City Tree Board





## Sec. 42-51. Notice to owner.

(a) After ten (10) days' written notice by the city to the property owner by certified mail with return receipt requested, or by personal service to the owner of such property, at the address shown by the current year's tax rolls in the county treasurer's office, a hearing shall be held by the governing body as hereinafter provided. (b) If the property owner is unable to be notified by certified mail, or if the property owner refuses receipt of the certified mail, then notice of said violation shall be published in two (2) consecutive Thursday issues in an official newspaper in the city; and the last publication shall be at least four (4) days prior to the day set for the hearing prescribed by section 42-52. (Code 1972, § 35 1/2-23)

## Sec. 42-52. Hearing.

Upon the date specified in the notice given as required by this article, the city council shall hold a hearing on the report and shall receive information thereon, including anything which may be presented by the owner of the premises, personally or by agent or attorney. The owner of such property may give his written consent to the city authorizing the removal of dead, dying or diseased trees or any part of the tree, and waive his right to a hearing by the city council. (Code 1972, § 35 1/2-24)

## Sec. 42-53. Order to trim or remove.

If the city council determines that the conditions specified in sections 42-49 and 42-50 exist upon such premises and declares same to be a nuisance, it shall order the property to be removed of dead, dying or diseased trees or any part of the tree, if necessary to abate the conditions found to exist. (Code 1972, § 35 1/2-25)



# Midwest City Tree Board



### **Sec. 42-54. Work to be done by city forces or contract.**

The work ordered to be performed under section 42-53 may be done by the employees of this city under the supervision of the department head designated by the city manager, or it may be let by contract to the lowest and best bidder, after appropriate notice, in the manner for letting other contracts by public bid.

(Code 1972, § 35 1/2-26)

### **Sec. 42-55. Cost to be determined; statement of cost to be sent.**

Upon completion of the work ordered to be performed under section 42-52, the department head designated by the city manager shall report the cost thereof to the city council. Such report shall be itemized as to each tract as follows: Actual cost of the labor, maintenance and equipment required for removal or trimming, including the cost of notice and mailing. The city council shall examine its report, and after receiving appropriate information shall determine the total actual costs of the work, and shall direct the city clerk to forward a statement and demand payment thereof, by certified mail with return receipt requested to the owner of the property at the address shown by the current tax rolls in the office of the treasurer of the county in which the property lies.

(Code 1972, § 35 1/2-27)

### **Sec. 42-56. Failure to pay costs to be certified to county treasurer.**

If the payment for the work performed under this chapter is not made within thirty (30) days from the date of mailing the notice prescribed by section 42-55, the city clerk shall forward a certified statement of the amount of such costs to the county treasurer of the county in which the property upon which the work was done is located, to be levied upon the property and to be collected by the county treasurer in the manner prescribed by the laws of this state.

(Code 1972, § 35 1/2-28)

# Midwest City Tree Board



# Recommendations and Conclusions

The Midwest City Tree Board's primary goal during the next year is to continue planting trees and therefore, expand the development of the urban forest in Midwest City.

In addition to planting trees during the next year, the Tree Board anticipates the creation of a "tree sensitive" educational program aimed at creating awareness for trees and the issues surrounding their growth and development. The program will emphasize the need for botanical awareness and appeal to a broad range of age groups. The National Arbor Day Foundation has selected the City of Midwest City as a "Tree City USA" for over thirty (30) years. The Midwest City Tree Board is proud of this achievement. In the future, the Tree Board's ability to form public/private-funding partnerships will be a key issue in the continued development of Midwest City's urban forest. Working together under a focused vision will ensure that Midwest City's citizens benefit from the value of trees. Together we can make a difference.



**TREE CITY USA®**



Midwest City Tree Board

# NOTES

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Midwest City Tree Board





The City of  
**MIDWEST CITY**  
COMMUNITY DEVELOPMENT DEPARTMENT

Billy Harless, Community Development Director

ENGINEERING DIVISION  
Patrick Menefee, City Engineer  
CURRENT PLANNING DIVISION  
Kellie Gilles, Manager  
COMPREHENSIVE PLANNING  
Julie Shannon, Comprehensive Planner  
BUILDING INSPECTION DIVISION  
Christine Allison, Building Official  
GIS DIVISION  
Greg Hakman, GIS Coordinator

TO : Honorable Mayor and City Council

FROM : Billy Harless, Director

DATE : April 24, 2018

SUBJECT : Discussion and consideration of reappointing Jim Campbell to the Builders' Advisory Board for an additional three-year term.

The term of Jim Campbell expires May 8, 2018. He wishes to be considered for reappointment.

In accordance with Sec. 9-17 of the Municipal Code, the Builders Advisory Board shall consist of seven (7) members to be appointed by the mayor and approved by the city council. The members of the board shall be chosen from the residents of the city at large with reference to their fitness for such office. Ownership, operation or involvement in the building, construction or development business within the city shall also qualify one to serve on the board.

The Builders Advisory Board meets on call. Members of the Board serve 3-year terms and are as follows:

Tom Jordan (expires 3-12-19)  
Jim Campbell (expires 5-8-18)  
Allen Clark (expires 1-23-21)  
Mike Castleberry (expires 5-23-20)  
Jim McWhirter (expires 3-12-19)  
Todd Isaac (expires 5-23-20)  
Charlie Hartley (expires 2-13-21)

Action is at the discretion of the Council.

\_\_\_\_\_  
Billy Harless, AICP  
Community Development Director

BH:lkb



DISCUSSION ITEMS





The City of  
**MIDWEST CITY**  
COMMUNITY DEVELOPMENT DEPARTMENT

Billy Harless, Community Development Director

ENGINEERING DIVISION  
Patrick Menefee, City Engineer  
CURRENT PLANNING DIVISION  
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Christine Allison, Building Official  
GIS DIVISION  
Greg Hakman, GIS Coordinator

**To:** Honorable Mayor and City Council

**From:** Billy Harless, Community Development Director

**Date:** April 24, 2018

**Subject:** (PC-1942) Public hearing with discussion and consideration of a resolution to amend the Comprehensive Plan from Low Density Residential to Commercial and an ordinance to redistrict from R-6, Single Family Detached Residential to SPUD, Simplified Planned Unit Development, for the property described as the west ½ of Lot 4, Block 2 of the Couch Heights Addition, located at 9200 NE 10<sup>th</sup> Street.

**Executive Summary:** This SPUD is being requested as the property does not have the 100' of frontage along NE 10<sup>th</sup> for C-3, Community Commercial, zoning as required by the Zoning Ordinance. The applicant currently owns and operates Green Country Electric and Supply Inc. out of a building in Choctaw and is hoping to build and open a new shop in Midwest City. The SPUD has been used for other small office uses along arterial streets when going from residential to commercial or office zoning. Other than the 100' of frontage along NE 10<sup>th</sup>, no other variances are requested in this SPUD. The requested SPUD is to be governed by the C-3, Community Commercial district. Staff recommends approval.



**Dates of Hearing:** Planning  
Commission – April 3, 2018  
City Council – April 24, 2018

**Owner/Applicant:** Brandon Pitts

**Proposed Use:** Electric business  
and supply

**Size:**  
The area of request is a corner  
property containing 75' of frontage  
along NE 10<sup>th</sup> St. and a depth of  
approximately 300' for an area of  
approximately 22,500 square feet.



**Development Proposed by Comprehensive Plan:**

Area of Request – LDR, Low Density Residential  
North – OR, Office/Retail  
South and West – LDR, Low Density Residential  
East – COMM, Commercial

**Zoning Districts:**

Area of Request – R-6, Single Family Residential  
North – C-3, Community Commercial  
South and West – R-6, Single Family Residential  
East – PUD, Planned Unit Development

**Land Use:**

Area of Request – vacant lot  
North - Vacant  
South and West – Single Family Residences  
East – Indoor Storage Facility

**Comprehensive Plan Citation:**

Commercial Land Use

Areas designated for commercial land use are intended for a variety of commercial uses and establishments with outside storage, display and sales. Examples of such uses include automobile-related services, manufactured home sales, self-storage units, welding shops and pawn shops. Commercial uses often locate along major thoroughfares not because they need the visibility, as retail uses generally do, but because they need accessibility.

**Municipal Code Citation:**

**2.26 SPUD, Simplified Planned Unit Development**

**2.26.1. General Description**

The simplified planned unit development, herein referred to as SPUD, is a special Zoning district that provides an alternate approach to conventional land use controls to produce unique, creative, progressive or quality land developments.

The SPUD may be used for particular tracts or parcels of land that are to be developed as one unit according to a master development plan map.

The SPUD is subject to special review procedures and once approved by the City Council it becomes a special zoning classification for the property it represents.

**2.26.2 Intent and Purpose**

The intent and purpose of the simplified planned unit development provisions are to ensure:

**(A) Innovative development**

Encouraging innovative development and protect the health, safety and welfare of the community.

**(B) Efficient use of land**

Encourage efficient use of land, facilitate economic arrangement of buildings and circulation systems;

**(C) Appropriate limitations and compatibility**

Maintain appropriate limitations on the character and intensity of use, assuring compatibility with adjoining and proximate properties, and following the guidelines of the comprehensive plan.

**History:**

1. This property have been zoned Single Family Detached Residential since the adoption of the 1985 zoning code.
2. The Planning Commission recommended approval of this item on April 3, 2018.

**Staff Comments:**

**Engineer's report:**

Water Supply and Distribution

A ten (10) inch public water main is located on the south side of N.E. 10th Street in the street right-of-way extending along the north side of the area of request.

Public water line improvements are not required with this application, however, a water line extension down the full frontage of the property located along Esther Avenue will be a requirement of any building permit submitted for the area of request.

Connection to the public water supply system for domestic service is a building permit requirement per Municipal Code 43-32 for all existing and new buildings.

Sanitary Sewerage Collection and Disposal

An eight (8) inch public sanitary sewer main is located on the west side of Esther Avenue in the street right-of-way extending along the west side of the area of request.

Public sewer line improvements are not required with this application.

Connection to the public sanitary sewer system for service is a building permit requirement per Municipal Code 43-109 for all existing and new buildings.

Streets and Sidewalks

Access to the area of request is available from N.E. 10th Street and Esther Avenue. N.E. 10th Street is classified as a secondary arterial in the 2008 Comprehensive Plan. N.E. 10th Street is a four (4) lane, 65-foot wide, curbed, asphalt concrete roadway. Current code requires a total street right-of-way width of one hundred (100) feet for a secondary arterial and presently, N.E. 10th Street has one hundred (100) feet of right-of-way adjacent to and parallel to the north side of the area of request. Esther Avenue is classified as a local street in the 2008 Comprehensive Plan. Esther Avenue is a two (2) lane, 26-foot wide, uncurbed, asphalt concrete roadway. Current code requires a total street right-of-way width of fifty (50) feet for a local street and presently, Esther Avenue has fifty (50) feet of right-of-way adjacent to and parallel to the west side of the area of request.

Right of way grants to the city are not required with this application.

Street and sidewalk improvement plans are not required with this application, however, half street improvements along the full frontage of the property located along Esther Avenue and sidewalk improvement plans for both frontages will be a requirement of any building permit submitted for the area of request.

Drainage and Flood Control, Wetlands, and Sediment Control

Drainage across the area of request is via overland flow from the east to the west. Currently, the area of request is undeveloped. None of the area of request is affected by flood zone AE (the 100-year floodplain) as shown on the effective Flood Insurance Rate map (FIRM) number 40109C0330H, dated December 12, 2009.

On site detention improvements will be a requirement of any building permit. Drainage for this area is part of the Soldier Creek, Tributary 4 drainage basin. When water leaves the area, it travels overland through different unimproved channels and through tinhorn drainage culverts as it proceeds west to Douglas Boulevard and eventually into Soldier Creek. The City has received requests in the past to construct drainage improvements in this area by some of the residents. Staff has met with and has tried to acquire easements from the key property owners with no success. Without access to the drainage channels, they are still in an unimproved, natural state on inaccessible private property.

All development on the proposed tracts must conform with the applicable requirements of Municipal Code Chapter 13, "Drainage and Flood Control."

Easements and Right-of-Way

No additional rights-of-way and/or easements are required with this application.

**Fire Marshal's report:**

The property is required to meet and maintain the requirements of Midwest City Ordinances Section 15.

**Plan Review Comments:**

As shown on the attached site plan the applicant is proposing to build a 5000 square foot building. The building will be used to house the applicants business, Green Country Electric Supply. The applicant currently runs his business out of a building in Choctaw and is looking to build his own building and move the business to Midwest City.

A SPUD, Simplified Planned Unit Development, is being requested as the lot does not contain the 100' of frontage along NE 10<sup>th</sup> Street that is required to rezone to commercial or office. This is similar to a request that the Council approved for a real estate office on S. Post and a dental office on E. Reno in the last few years. These are becoming more common as people purchase residential lots located along arterial streets and want to use them for office or commercial purposes.

The 5000 square foot building will contain 2000 square feet of office space and 3000 square feet of warehouse space. For the office space, 13 parking spaces will be required (1 space per 150 sq. ft. GLA) and for the warehouse, 3 parking spaces will be required (1 space per 1,000 sq. ft. GFA) for a total of 16 parking spaces. The site plan shows 6 parking spaces at the front of the building and a gravel yard in the rear. At least 10 additional paved parking spaces will be required. Midwest City does not allow parking in gravel areas and staff would not support a variance to this requirement. The parking spaces may be added to the rear of the building but must be accessible to members of the public visiting the business if needed. Dimensions of the parking areas are not shown on the site plan. City code requires the spaces to be a minimum of 9'x18.5' for spaces at a 90 degree angle.

Other items of note include:

1. Exterior lighting will be limited to 15' in height and shielded to prevent glare into the residential area.
2. Only one pole sign will be on this site and will be limited to 20' in height and 200 square feet in area.
3. Sight-proof screening will be required along the south property line the abutting property is zoned R6, Single Family Residential.

If approved, this development will comply with the Midwest City regulations regarding setbacks, landscaping, drainage, parking, exterior façade (80% masonry materials, with EIFS not being an acceptable product),etc. As similar rezoning requests along other arterials in Midwest City have been approved in the past and those developments have had a positive impact, staff recommends approval of this requested SPUD.

**Action Required:**

Approve or reject the ordinance to redistrict to SPUD and a resolution to amend the Comprehensive Plan to COMM for the property as noted herein, subject to staff's comments as found in the April 24, 2018 agenda packet and made a part of PC-1942 file.



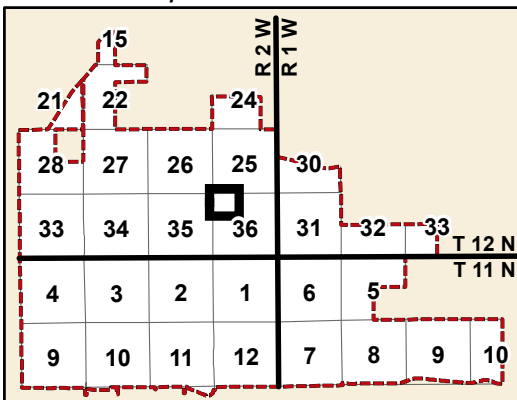
Billy Harless,  
Community Development Director

KG





Locator Map

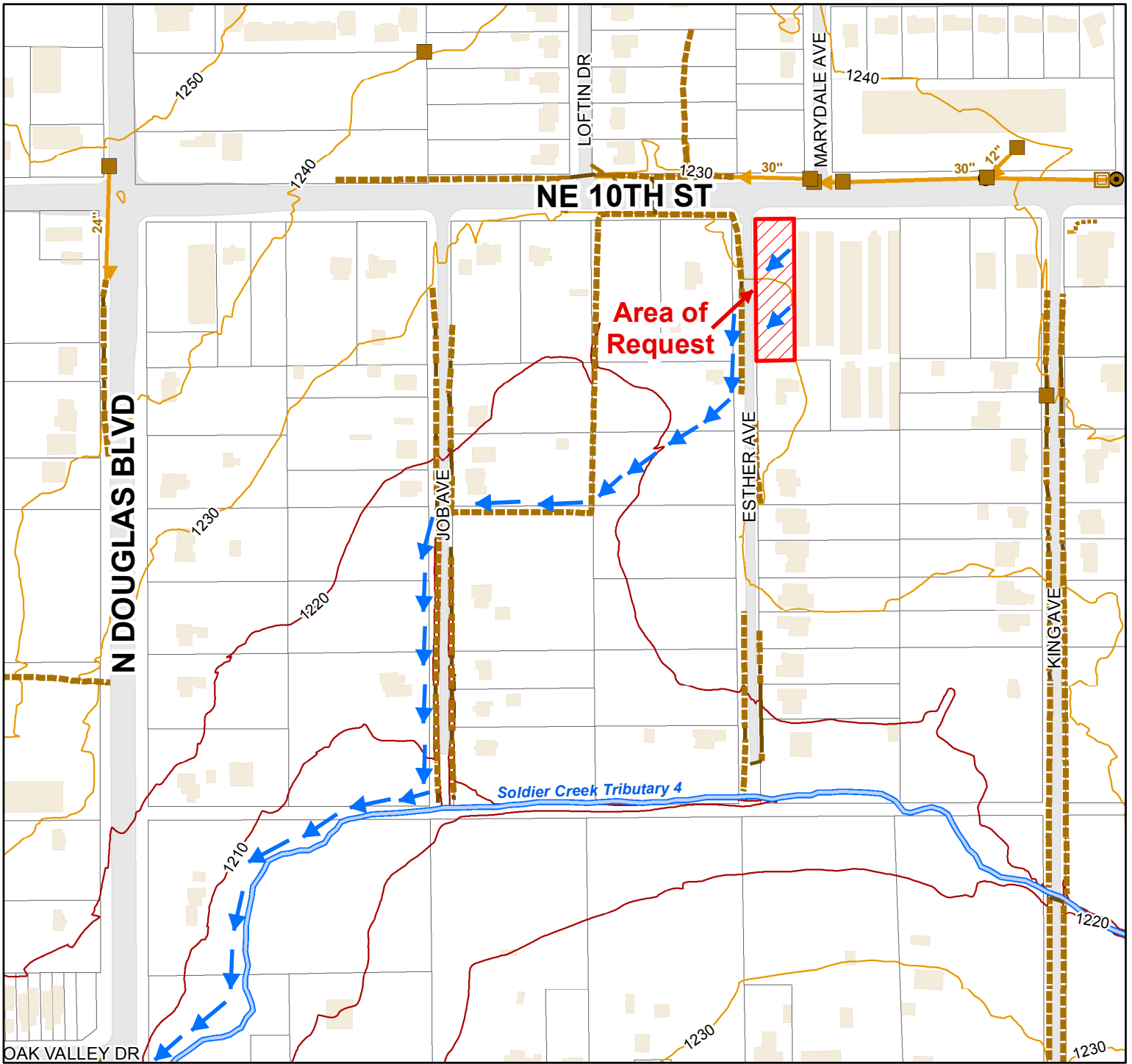


**2017 DOP (AERIAL) VIEW FOR  
PC-1942  
(NW/4, Sec. 36, T12N, R2W)**

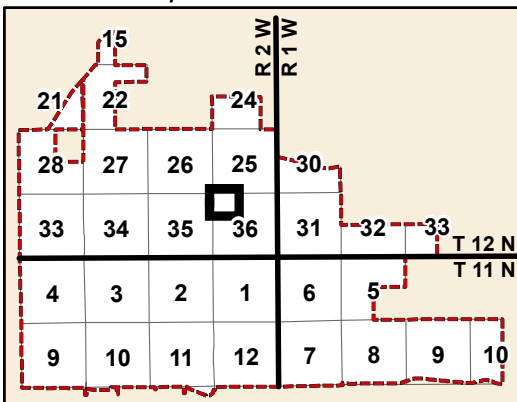


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Locator Map

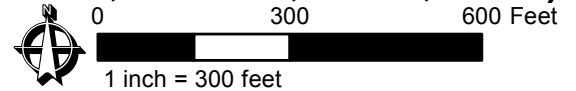


- Drainage Legend**
- Curb Inlets
  - Inlets
  - Junction Box
  - Culverts
  - Flumes
  - Developed Channels
  - Trickle Channels
  - Undeveloped Channels
  - Storm Lines
  - Creeks
- ELEVATION**
- 1166-1204 ft
  - 1204-1228 ft
  - 1228-1250 ft
  - 1250-1278 ft
  - 1278-1324 ft

2009 FEMA Floodplains

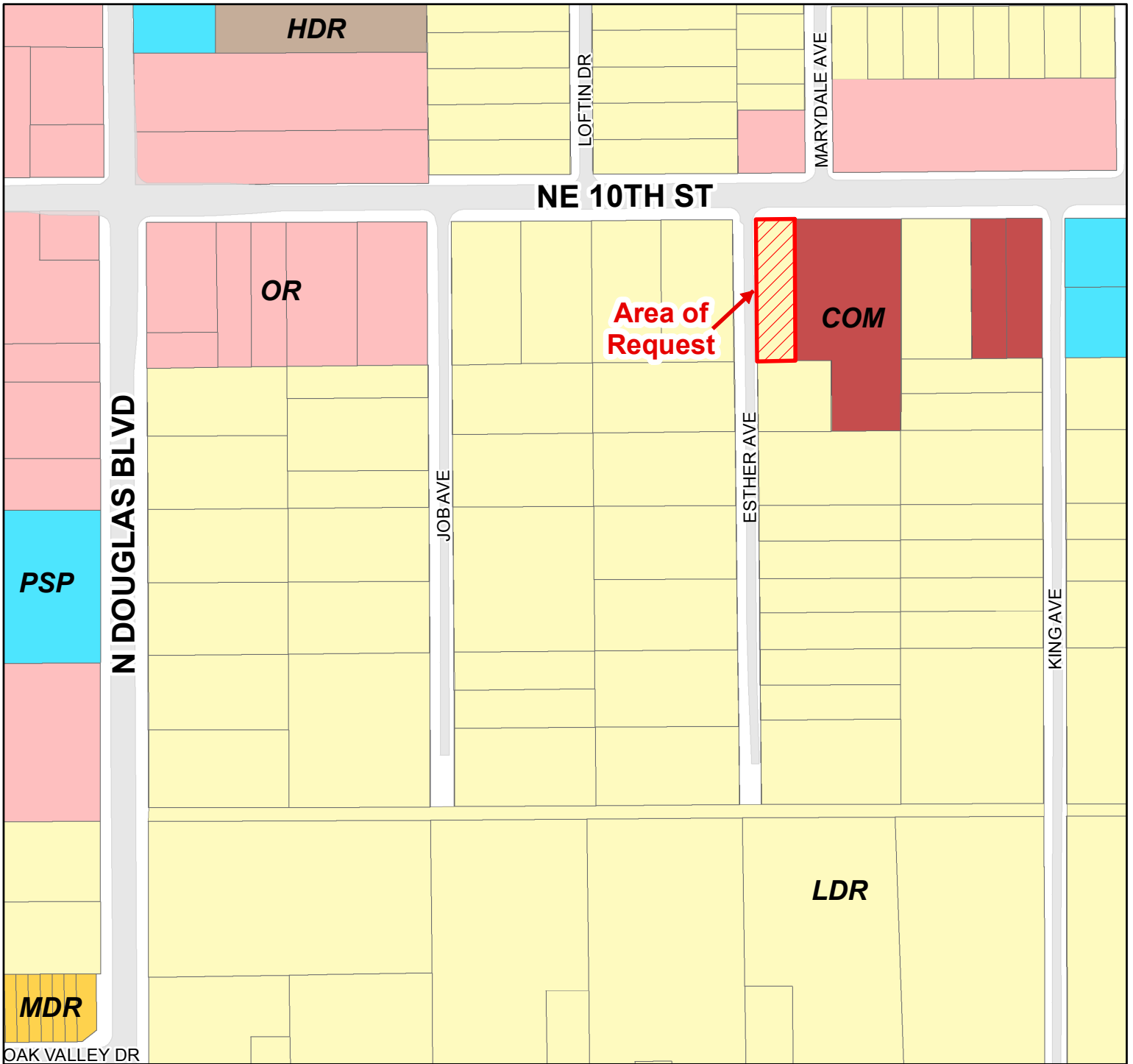
- 500-yr floodplain
- 100-yr floodplain
- 2009 FEMA Floodway
- FLOODWAY

# DRAINAGE LOCATION MAP FOR PC-1942 (NW/4, Sec. 36, T12N, R2W)

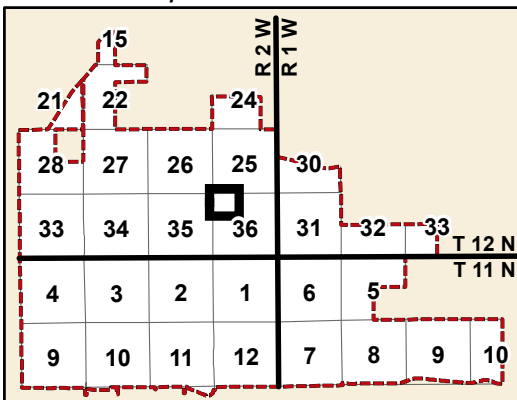


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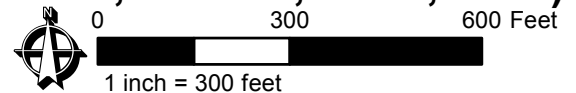
Locator Map



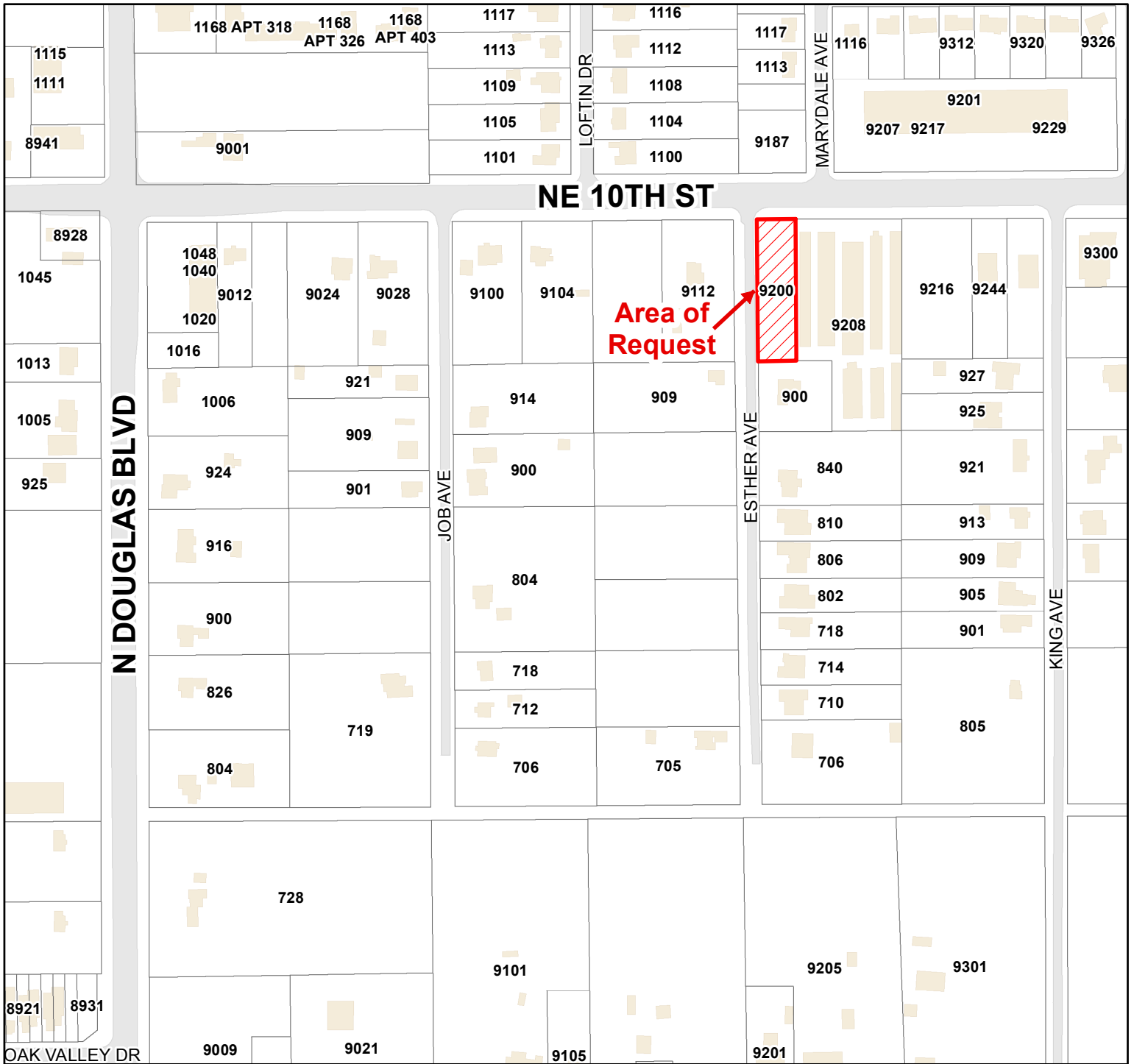
Future Land Use Legend

- Single-Family Detached Residential
- Medium Density Residential
- High Density Residential
- Manufactured Home
- Public/Semi-Public
- Parks/Open Space
- Office/Retail
- Commercial
- Industrial
- Town Center

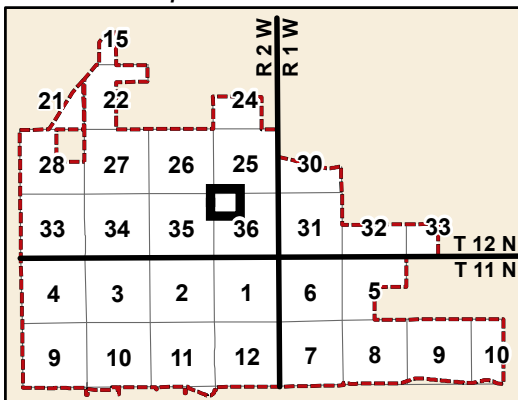
**FUTURE LAND USE  
MAP FOR  
PC-1942  
(NW/4, Sec. 36, T12N, R2W)**








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Locator Map



**General Map Legend**

-  Area of Request
-  Parcels with Addresses
-  Buildings
-  Edge of Pavement
-  MWC City Limits

**GENERAL MAP FOR  
PC-1942**

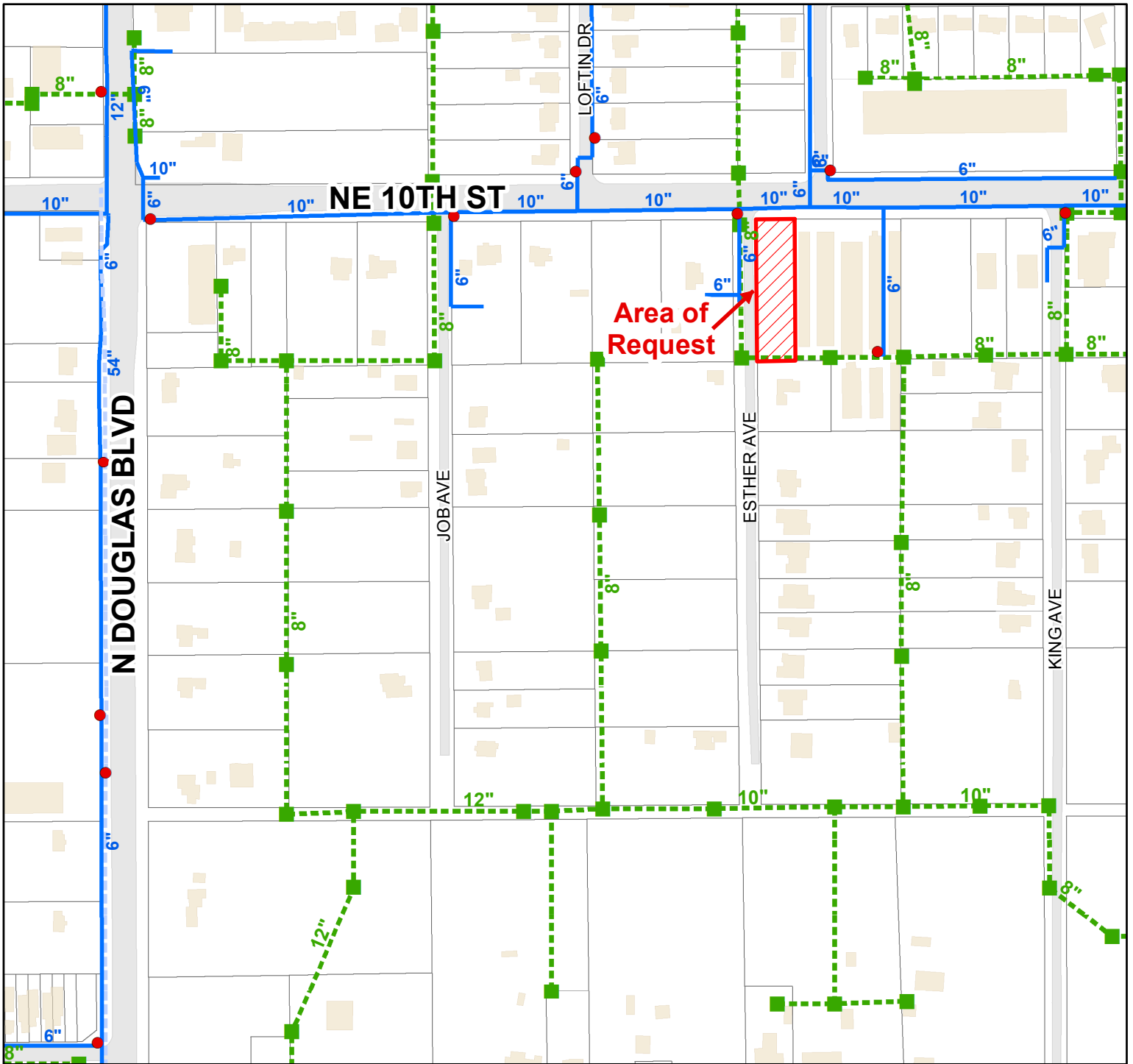
**(NW/4, Sec. 36, T12N, R2W)**



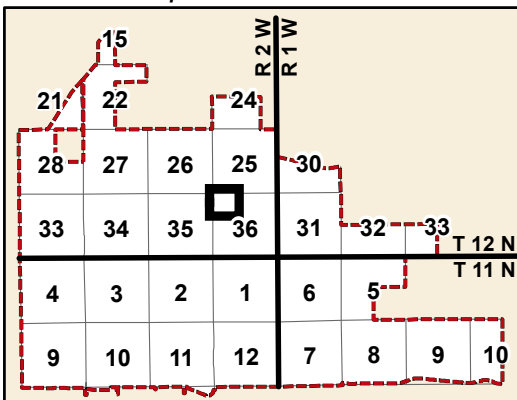
0 300 600 Feet

1 inch = 300 feet

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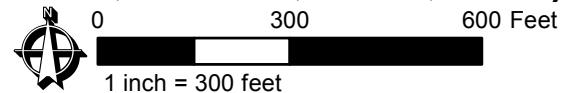
Locator Map



**Water/Sewer Legend**

- Fire Hydrants
- Water Lines
  - Distribution
  - Well
  - OKC Cross Country
  - Sooner Utilities
  - Thunderbird
  - Unknown
- Sewer Manholes
- Sewer Lines

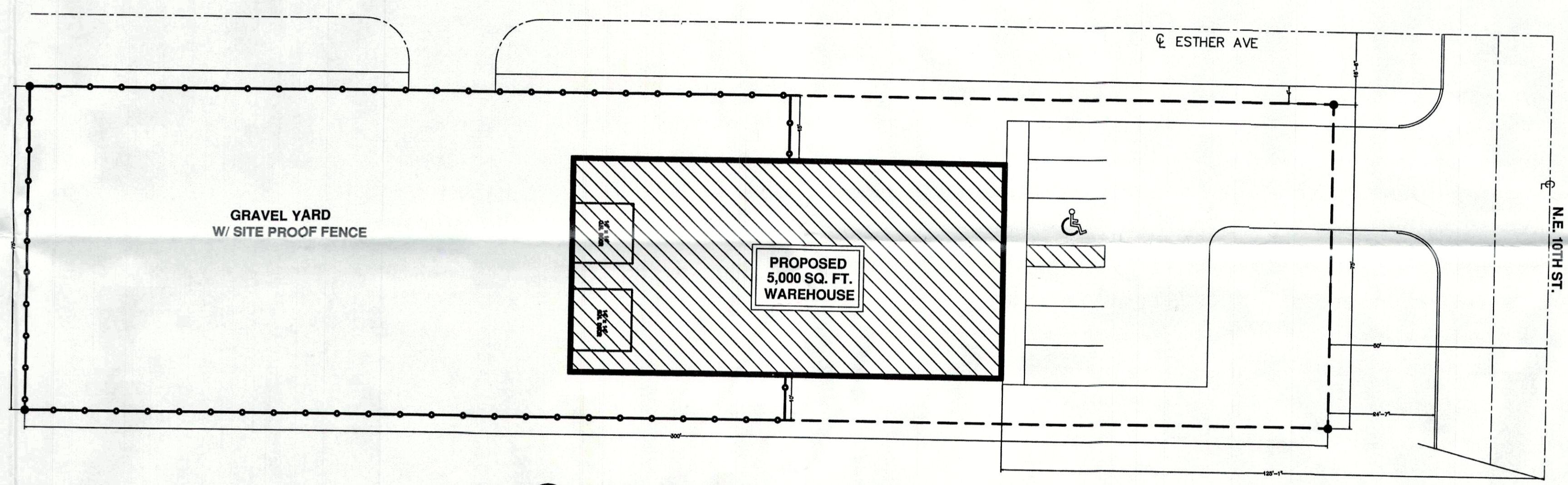
**WATER/SEWER LINE  
LOCATION MAP FOR  
PC-1942  
(NW/4, Sec. 36, T12N, R2W)**



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| Revisions | By |
|-----------|----|
|           |    |
|           |    |
|           |    |
|           |    |



1 SITE/LANDSCAPE/FLOOR PLAN  
A1 SCALE: 1"=20'

**BRANDON PITTS**  
MIDWEST CITY, OKLAHOMA

EMAIL: APOLLORIDG@AOL.COM  
PHONE: 405.790.0335  
FAX: 405.790.0316  
101 INDUSTRIAL BLVD  
MOORE, OK 73160



BUILDING SYSTEMS, INC.

Date: 01/27/14  
Scale: 1"=20'  
Drawn: JERIMY MEEK  
Job: 9200 NE 10TH  
MWC, OK

**SEAL**  
CORPORATE  
OKLAHOMA

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The City of  
**MIDWEST CITY**  
COMMUNITY DEVELOPMENT DEPARTMENT

Billy Harless, Community Development Director

ENGINEERING DIVISION  
Patrick Menefee, City Engineer  
CURRENT PLANNING DIVISION  
Kellie Gilles, Manager  
COMPREHENSIVE PLANNING  
Julie Shannon, Comprehensive Planner  
BUILDING INSPECTION DIVISION  
Christine Allison, Building Official  
GIS DIVISION  
Greg Hakman, GIS Coordinator

**To:** Honorable Mayor and City Council

**From:** Billy Harless, Community Development Director

**Date:** April 24, 2018

**Subject:** (PC-1943) Public hearing with discussion and consideration of a an ordinance to redistrict from HOS, Hospitality to SPUD, Simplified Planned Unit Development, for the property described as lots 15 and 16 of block 5 of the Aviation Acres Addition, located at 1721 Hudiburg Drive.

**Executive Summary:** This SPUD is being requested to create a mixed use development, offering both multi-family residential and commercial uses. The proposed multi-family portion of the site will include 23, two-bedroom units. The commercial portion includes a 2700 square foot building. The only variance the applicant is asking for is to the parking requirements for the commercial use. 14 parking spaces are proposed for that area and 18 are required. Due to the mixed use nature of the proposed development, staff is agreeable to this request. All other requirements of the Zoning Ordinance including landscaping, parking for the residential area, signage and the exterior construction materials will be met. Staff recommends approval.



**Dates of Hearing:**

Planning Commission –  
April 3, 2018

City Council – April 24,  
2018

**Owner/Applicant:** Al  
Sahli and Robert Dillon

**Proposed Use:** Mixed  
use development  
including multi-family  
residential and  
commercial uses

**Size:**

The area of request  
contains 350' of frontage  
on Hudiburg Dr. and 200'  
of frontage on Short St.

100 N. Midwest Boulevard • Midwest City, Oklahoma 73110

Community Development Department (405) 739-1220 • FAX (405) 739-1399 • TDD (405) 739-1359

*An Equal Opportunity Employer*

**Development Proposed by Comprehensive Plan:**

Area of Request – MDR, Medium Density Residential

North – HDR, High Density Residential and MDR, Medium Density Residential

South – MDR, Medium Density Residential

East – HDR, High Density Residential and PSP, Public/Semi-Public

West – HDR, High Density Residential

**Zoning Districts:**

Area of Request – HOS, Hospitality

North, South and West – HOS, Hospitality

East – R-HD, High Density Residential and C-3, Community Commercial with a SUP for a college

**Land Use:**

Area of Request – vacant lot

North – Apartments and one single family residence

South – Single family residence

East – Rose State Apartments and college

West - Apartments

**Comprehensive Plan Citation:**

Commercial Land Use

The future land use map associated with the Comprehensive Plan shows the area of request as MDR, Medium Density Residential. While a portion of the property will fit that description, this is a proposed Mixed Use Development. While Mixed Use Developments are identified in the Comprehensive Plan and encouraged where appropriate, they are not listed as a specific use unit classification. The Comprehensive Plan states that a mixture of land use development “could be appropriate in some areas of Midwest City and it is recommended that if such a development is proposed, the City should consider approving it. Specific consideration should be given to how the various types of land use relate to one another within the development as well as to how the overall development relates to the existing land uses surrounding it.”

**Municipal Code Citation:**

**2.26 SPUD, Simplified Planned Unit Development**

2.26.1. General Description

The simplified planned unit development, herein referred to as SPUD, is a special Zoning district that provides an alternate approach to conventional land use controls to produce unique, creative, progressive or quality land developments.

The SPUD may be used for particular tracts or parcels of land that are to be developed as one unit according to a master development plan map.

The SPUD is subject to special review procedures and once approved by the City Council it becomes a special zoning classification for the property it represents.



2.26.2 Intent and Purpose

The intent and purpose of the simplified planned unit development provisions are to ensure:

**(A) Innovative development**

Encouraging innovative development and protect the health, safety and welfare of the community.

**(B) Efficient use of land**

Encourage efficient use of land, facilitate economic arrangement of buildings and circulation systems;

**(C) Appropriate limitations and compatibility**

Maintain appropriate limitations on the character and intensity of use, assuring compatibility with adjoining and proximate properties, and following the guidelines of the comprehensive plan.

**History:**

1. This property have been zoned Single Family Detached Residential since the adoption of the 1985 zoning code.
2. The Planning Commission recommended approval of this item April 3, 2018.

**Staff Comments:**

**Engineer's report:**

Water Supply and Distribution

A twelve (12) inch public water main is located on the west side of Hudiburg Drive in the street right-of-way extending along the east side of the area of request. A six (6) inch public water main is located on the north side of Short Street in the street right-of-way extending along the south side of the area of request.

Public water line improvements are not required with this application.

Connection to the public water supply system for domestic service is a building permit requirement per Municipal Code 43-32 for all existing and new buildings.

Sanitary Sewerage Collection and Disposal

An eight (8) inch public sanitary sewer main is located on the south side of Short Street in the street right-of-way extending along the south side of the area of request.

Public sewer line improvements are not required with this application.

Connection to the public sanitary sewer system for service is a building permit requirement per Municipal Code 43-109 for all existing and new buildings.

Streets and Sidewalks

Access to the area of request is available from Hudiburg Drive and Short Street. Hudiburg Drive is classified as a collector street in the 2008 Comprehensive Plan. Hudiburg Drive is a two (2) lane, 32-foot wide, curbed, asphalt concrete roadway. Current code requires a total street right--

of-way width of sixty (60) feet for a collector street and presently, Hudiburg Drive has sixty (60) feet of right-of-way adjacent to and parallel to the east side of the area of request.

Short Street is classified as a local street in the 2008 Comprehensive Plan. Short Street is a two (2) lane, 26-foot wide, uncurbed, asphalt concrete roadway. Current code requires a total street right-of-way width of fifty (50) feet for a local street and presently, Short Street has sixty (60) feet of right-of-way adjacent to and parallel to the south side of the area of request.

Right of way grants to the city are not required with this application.

Street and sidewalk improvement plans are not required with this application, however, half street improvements along the full frontage of the property located along Short Street and sidewalk improvement plans for both frontages will be a requirement of any building permit submitted for the area of request.

#### Drainage and Flood Control, Wetlands, and Sediment Control

Drainage across the area of request is via overland flow from the southwest to the northeast. Currently, the area of request is undeveloped. None of the area of request is affected by flood zone AE (the 100-year floodplain) as shown on the effective Flood Insurance Rate map (FIRM) number 40109C0310H, dated December 12, 2009.

On site detention improvements will be a requirement of any building permit. Drainage for this area was addressed during the Hudiburg Drive roadway project. Hudiburg Drive does have underground concrete pipe drainage improvements that are located along the east side of the area of request. When water leaves the area, it will go directly into the City's underground system and will not have an impact on any adjacent property.

All development on the proposed tracts must conform with the applicable requirements of Municipal Code Chapter 13, "Drainage and Flood Control."

#### Easements and Right-of-Way

No additional rights-of-way and/or easements are required with this application.

#### **Fire Marshal's report:**

The electric gate must meet City Ordinance 15-26 - Access and operational standards for controlled access gates and gated subdivisions. The property is required to meet and maintain the requirements of Midwest City Ordinances Section 15.

#### **Plan Review Comments:**

As noted above, the applicant is proposing a mixed use development combining commercial as well as multi-family residential uses. The site plan shows 23 two-bedroom multi-family units. These dwelling units are split into five individual buildings. On the southern portion of the site, the applicant is proposing one 2700 sq. ft. building for commercial uses. The SPUD is proposed to be governed by the R-HD, High Density Residential and C-3, Community Commercial districts.

For the multi-family residential portion of the site, 46 parking spaces are required. The site plans shows 46 parking spaces. For a commercial building of 2700 sq. ft., 18 parking spaces would be required. The site plan shows 14 parking spaces for this area.

In general, mixed use developments are intended to be walkable, with commercial and office uses serving the nearby residents without them having to get in their automobile and drive there. Outside of the multi-family residential part of this proposed development, there are two multi-family residential complexes to the west and the Village at Rose State, a student housing complex, to the east of the site. This commercial area will serve as a convenient place to serve the needs of many of the nearby residents. Staff is agreeable to this requested variance due to the walkable, mixed use nature of the proposed development.

The applicant will meet the requirements for the dimensions of the parking spaces and aisles, exterior construction and setbacks as listed in the zoning ordinance. With regard to landscaping, the applicant is required to plant a minimum of six trees and twelve shrubs for each new building plus two trees and two shrubs for every ten parking spaces installed. As this development contains six buildings and sixty parking spaces, a total of 48 trees and 82 shrubs. All of the landscaping must be installed prior to issuance of a Certificate of Occupancy for any of the buildings.

Regarding signage, the applicant would be allowed one free-standing sign along the Short Street frontage and one free-standing sign along the Hudiburg Drive frontage. Staff would recommend that these be monument signs no taller than 7'.

Site proof screening will be required where the multi-family portion of the site abuts a single family residential district on the north as well as where the commercial area abuts multi-family residential on the southwest side of the property.

Earlier in this report, it is mentioned that mixed use is not a specific land use category in the Comprehensive Plan, however, the Comprehensive Plan does acknowledge that mixed use developments are seeing a resurgence and that there is renewed interest in combining various land uses. One of the mixed use design concepts listed in the Comprehensive Plan is a horizontal mixing of land uses where the buildings only have one type of land use but the buildings throughout the development have different land use types. The proposed development fits within this concept. The Comprehensive Plan does identify the area of request as a Special Planning Area. The plan states that "the SPAs indicate areas where special planning considerations should be given due to an area's unique characteristics or circumstances." As noted above, the Comprehensive Plan states that the mixture of land uses "could be appropriate in some areas of Midwest City and it is recommended that if such a development is proposed, the City should consider approving it. Specific consideration should be given to how the various types of land use relate to one another within the development as well as to how the overall development relates to the existing land uses surrounding it." The applicant is requesting to rezone the property to a Simplified Planned Unit Development (SPUD). This zoning district does encourage innovative development and efficient use of land.

The proposed development meets the intent of the Comprehensive Plan and the Zoning Ordinance, staff recommends approval of this requested SPUD.

**Action Required:**

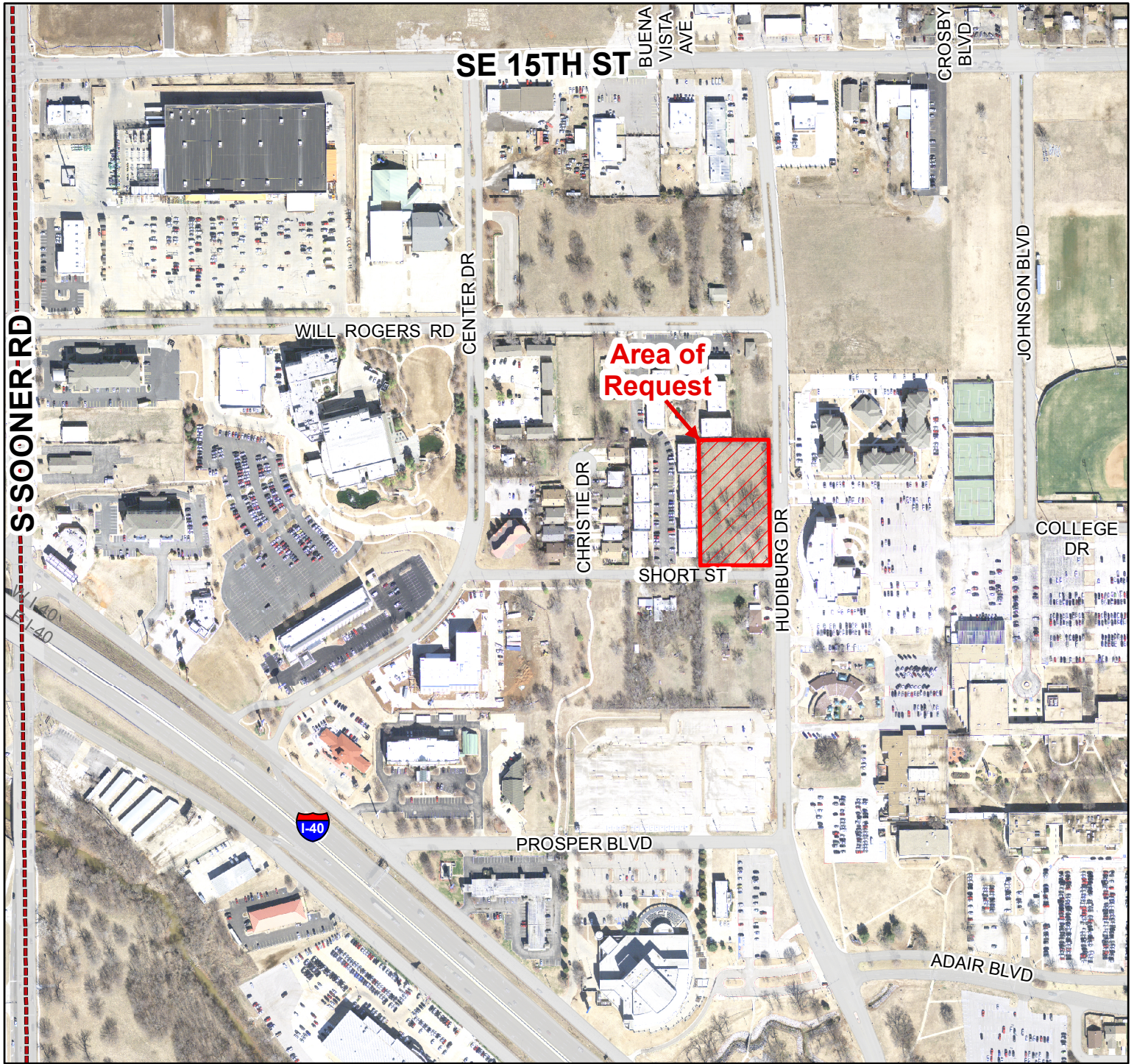
Approve or reject the ordinance to redistrict to SPUD for the property as noted herein, subject to staff's comments as found in the April 24, 2018 agenda packet and made a part of PC-1944 file.

A handwritten signature in black ink, appearing to read "Billy Harless". The signature is fluid and cursive, with a prominent initial "B" and a long, sweeping underline.

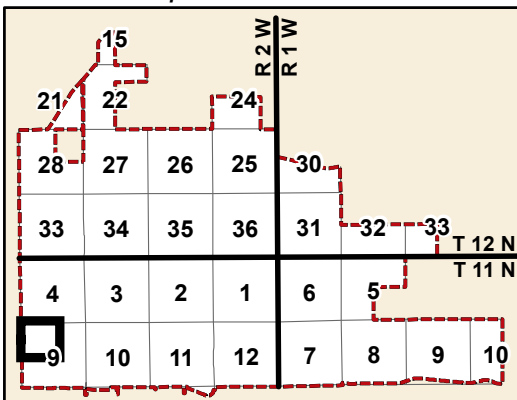
Billy Harless,  
Community Development Director

KG

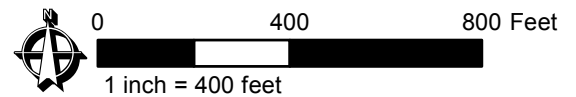




Locator Map

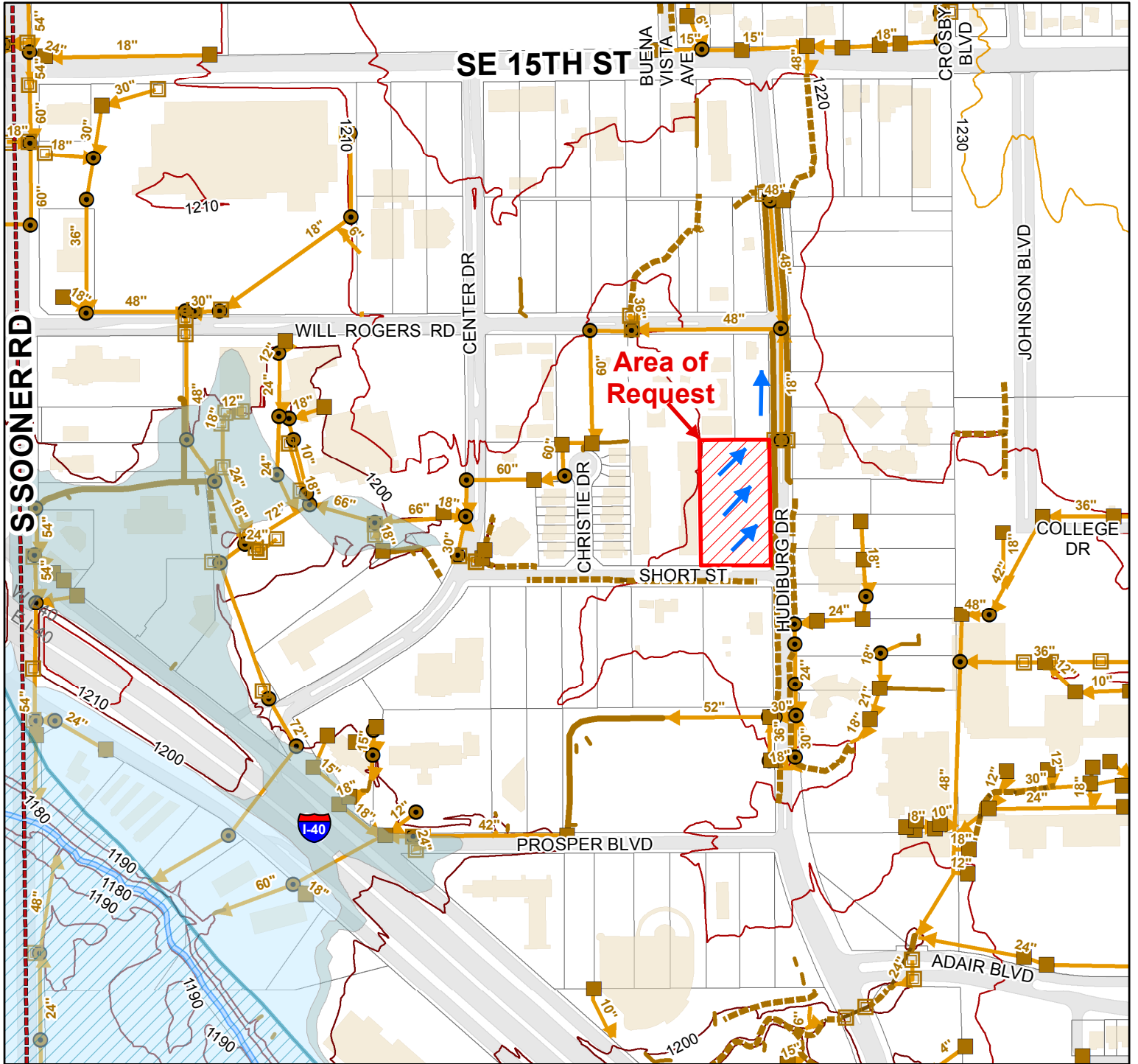


**2017 DOP (AERIAL) VIEW FOR  
PC-1943  
(NW/4, Sec. 9, T11N, R2W)**

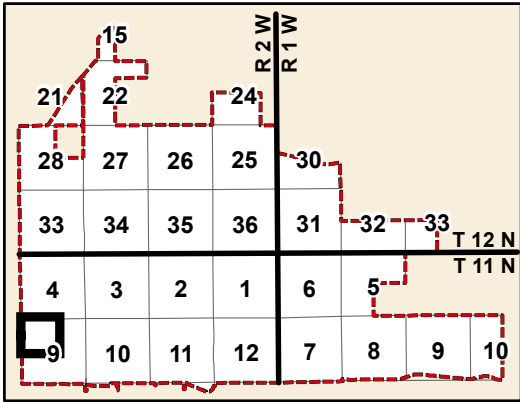


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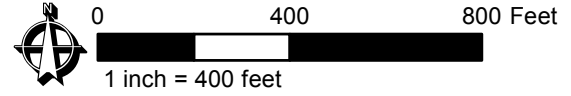
Locator Map



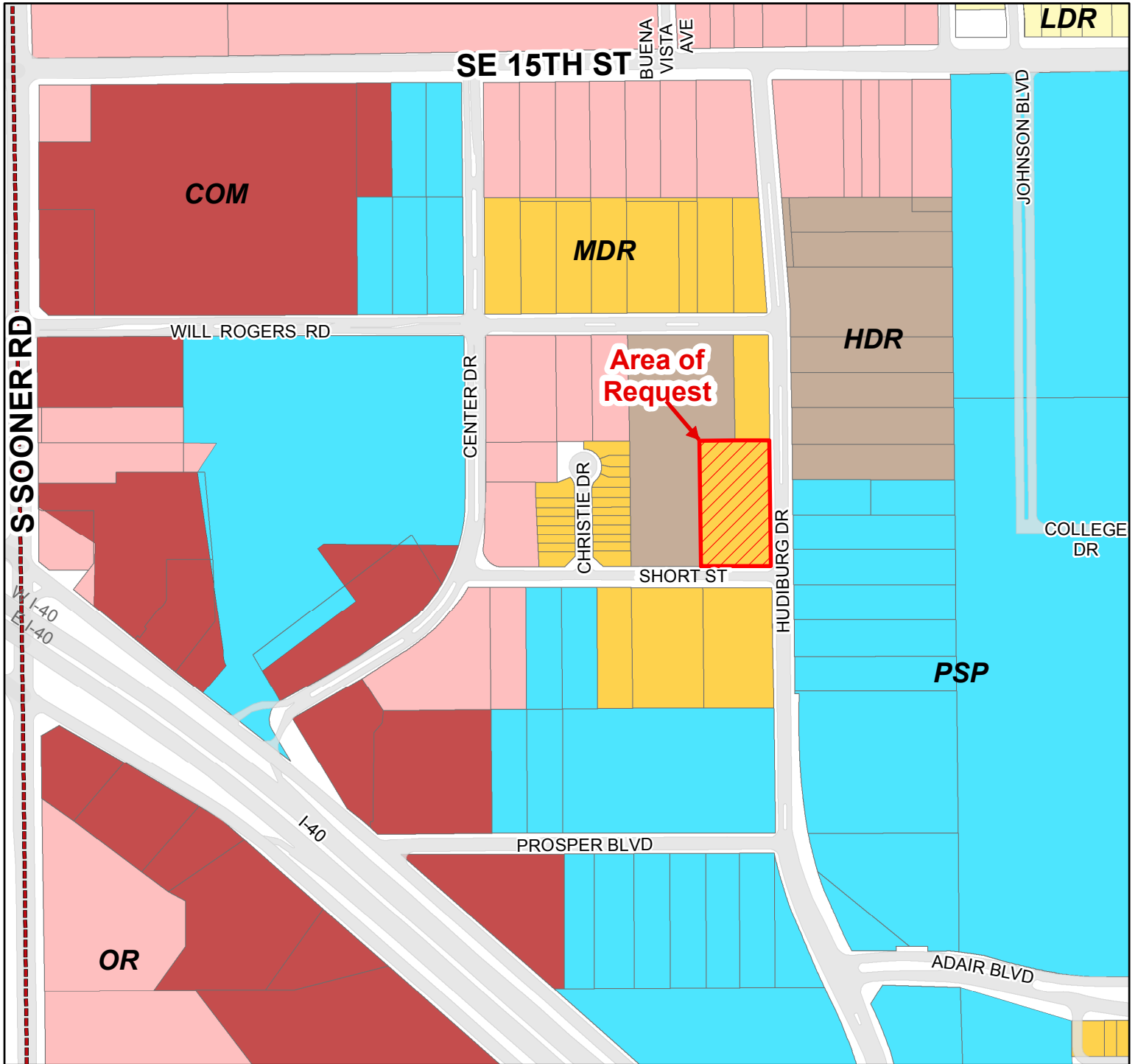
- Drainage Legend**
- Curb Inlets
  - Inlets
  - Junction Box
  - Culverts
  - Flumes
  - Developed Channels
  - Trickle Channels
  - Undeveloped Channels
  - Storm Lines
  - Creeks
- ELEVATION**
- 1166-1204 ft
  - 1204-1228 ft
  - 1228-1250 ft
  - 1250-1278 ft
  - 1278-1324 ft

- 2009 FEMA Floodplains**
- 500-yr floodplain
  - 100-yr floodplain
- 2009 FEMA Floodway**
- FLOODWAY

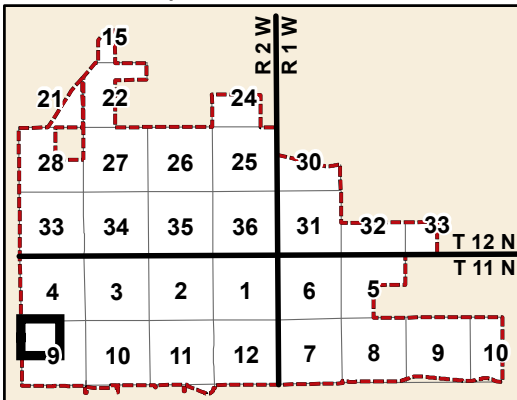
# DRAINAGE LOCATION MAP FOR PC-1943 (NW/4, Sec. 9, T11N, R2W)



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Locator Map

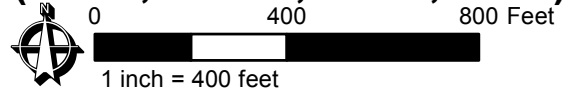


Future Land Use Legend

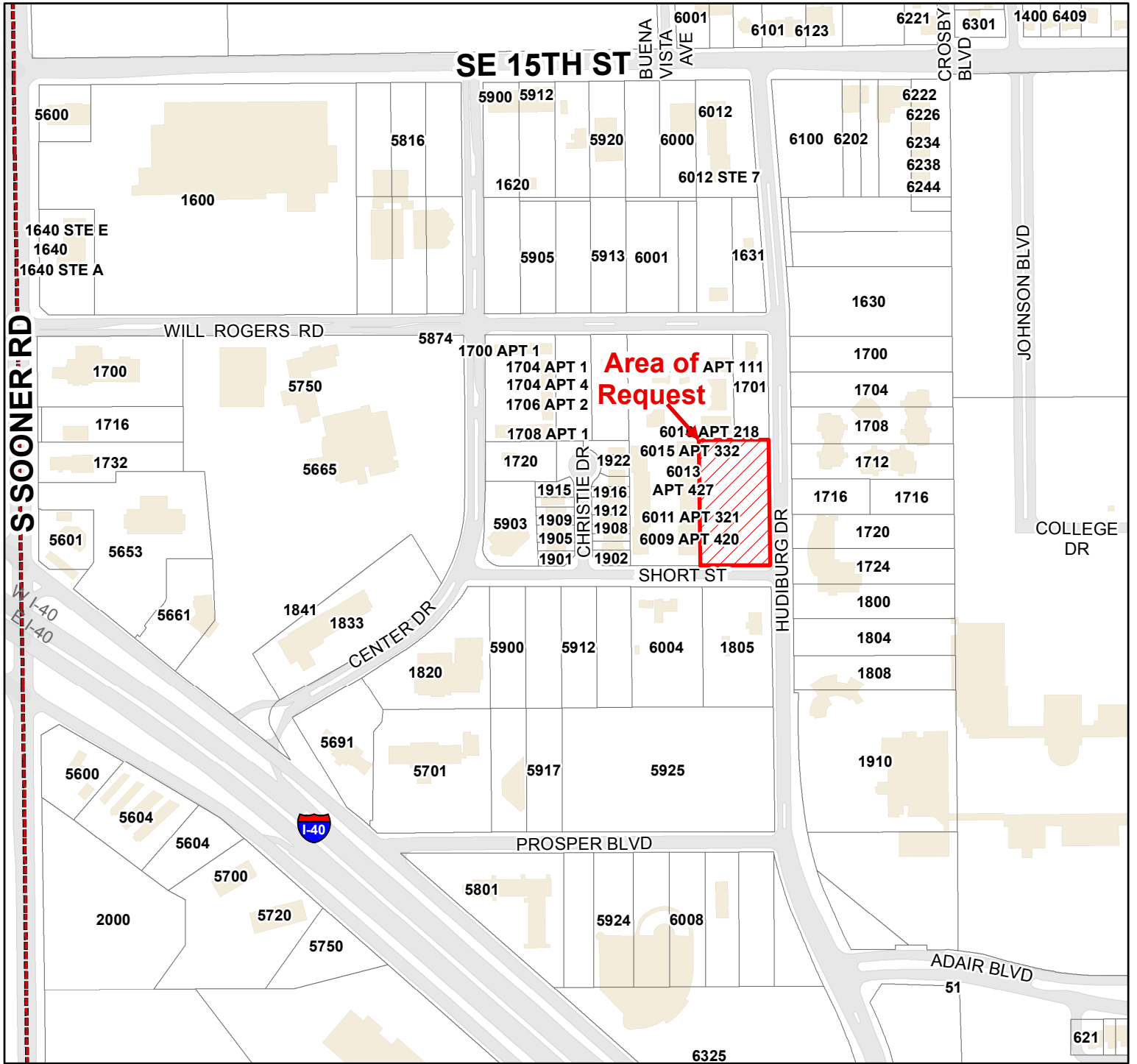
- Single-Family Detached Residential
- Medium Density Residential
- High Density Residential
- Manufactured Home
- Public/Semi-Public
- Parks/Open Space
- Office/Retail
- Commercial
- Industrial
- Town Center

**FUTURE LAND USE  
MAP FOR  
PC-1943**

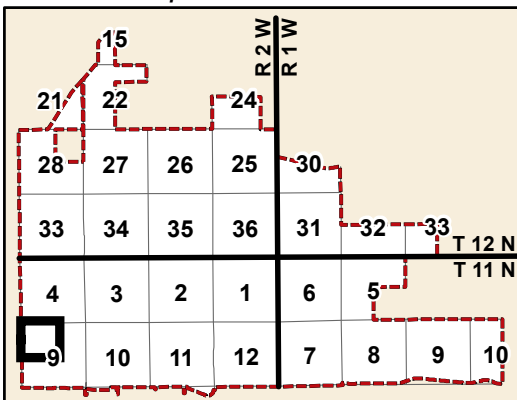
**(NW/4, Sec. 9, T11N, R2W)**








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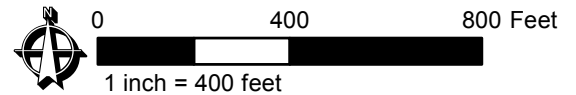
Locator Map



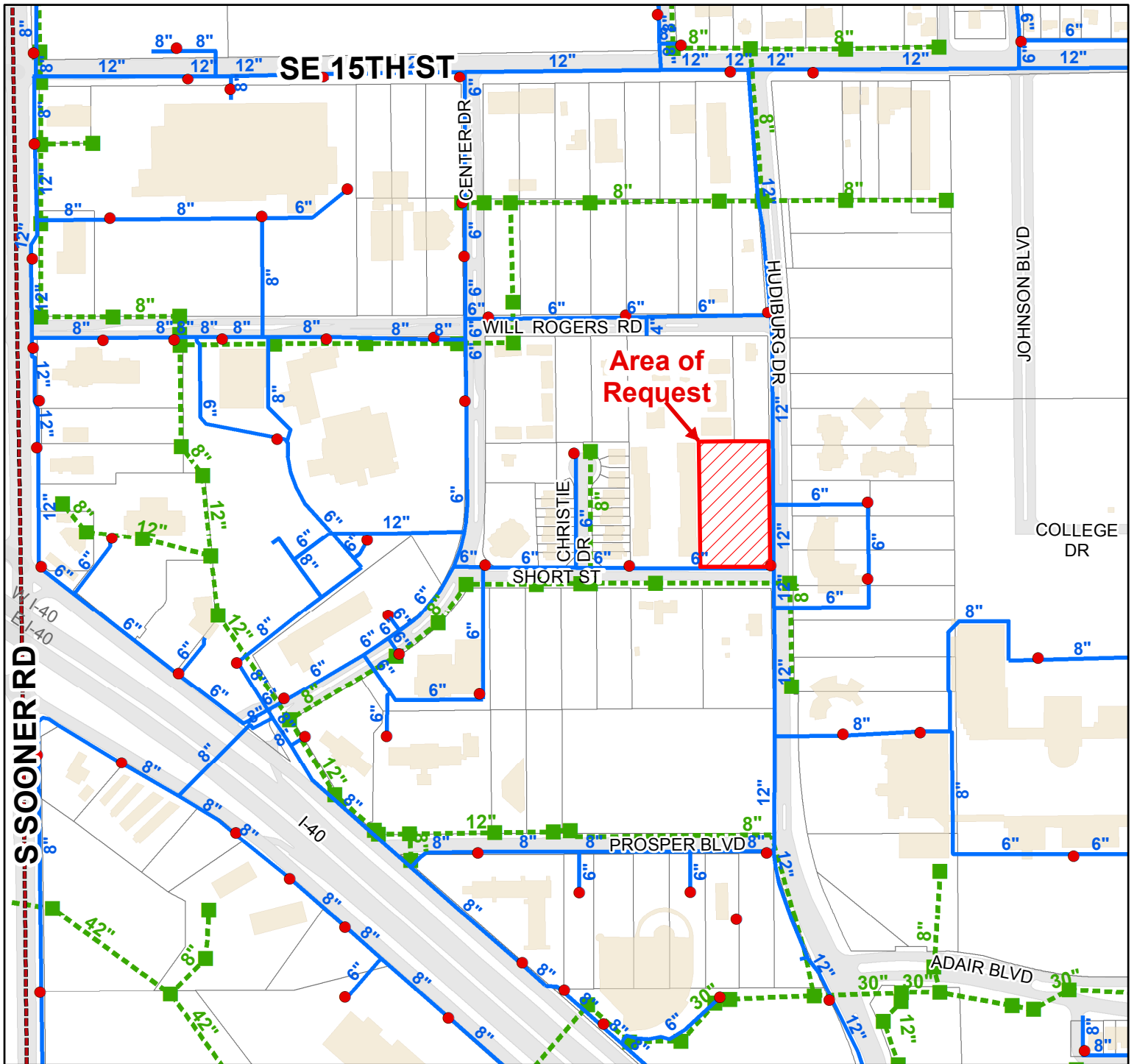
**General Map Legend**

-  Area of Request
-  Parcels with Addresses
-  Buildings
-  Edge of Pavement
-  MWC City Limits

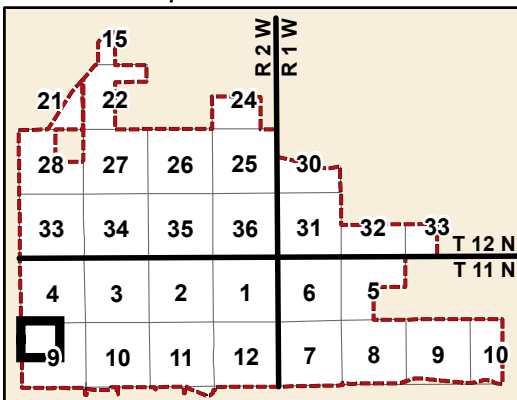
**GENERAL MAP FOR  
PC-1943  
(NW/4, Sec. 9, T11N, R2W)**



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Locator Map



**Water/Sewer Legend**

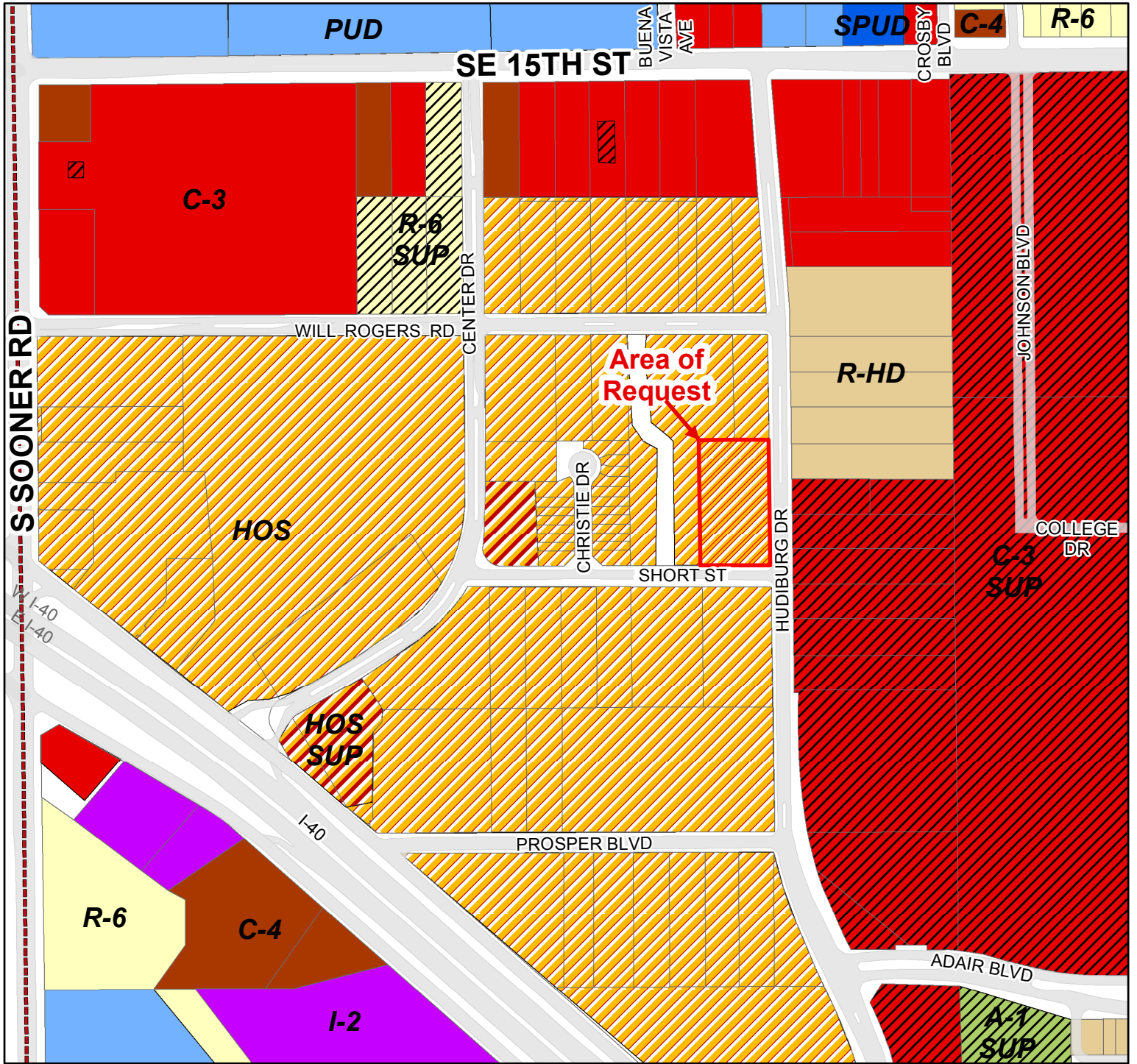
- Fire Hydrants
- Water Lines
  - Distribution
  - Well
  - OKC Cross Country
  - Sooner Utilities
  - Thunderbird
  - Unknown
- Sewer Manholes
- Sewer Lines

**WATER/SEWER LINE  
LOCATION MAP FOR  
PC-1943  
(NW/4, Sec. 9, T11N, R2W)**

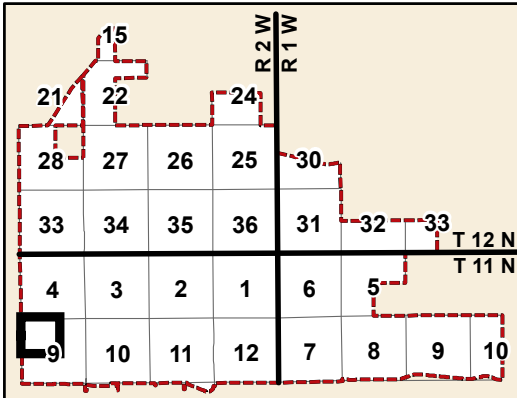


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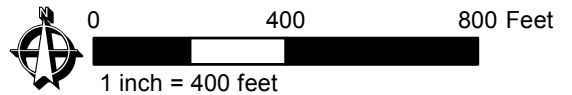
Locator Map



Current Zoning Legend

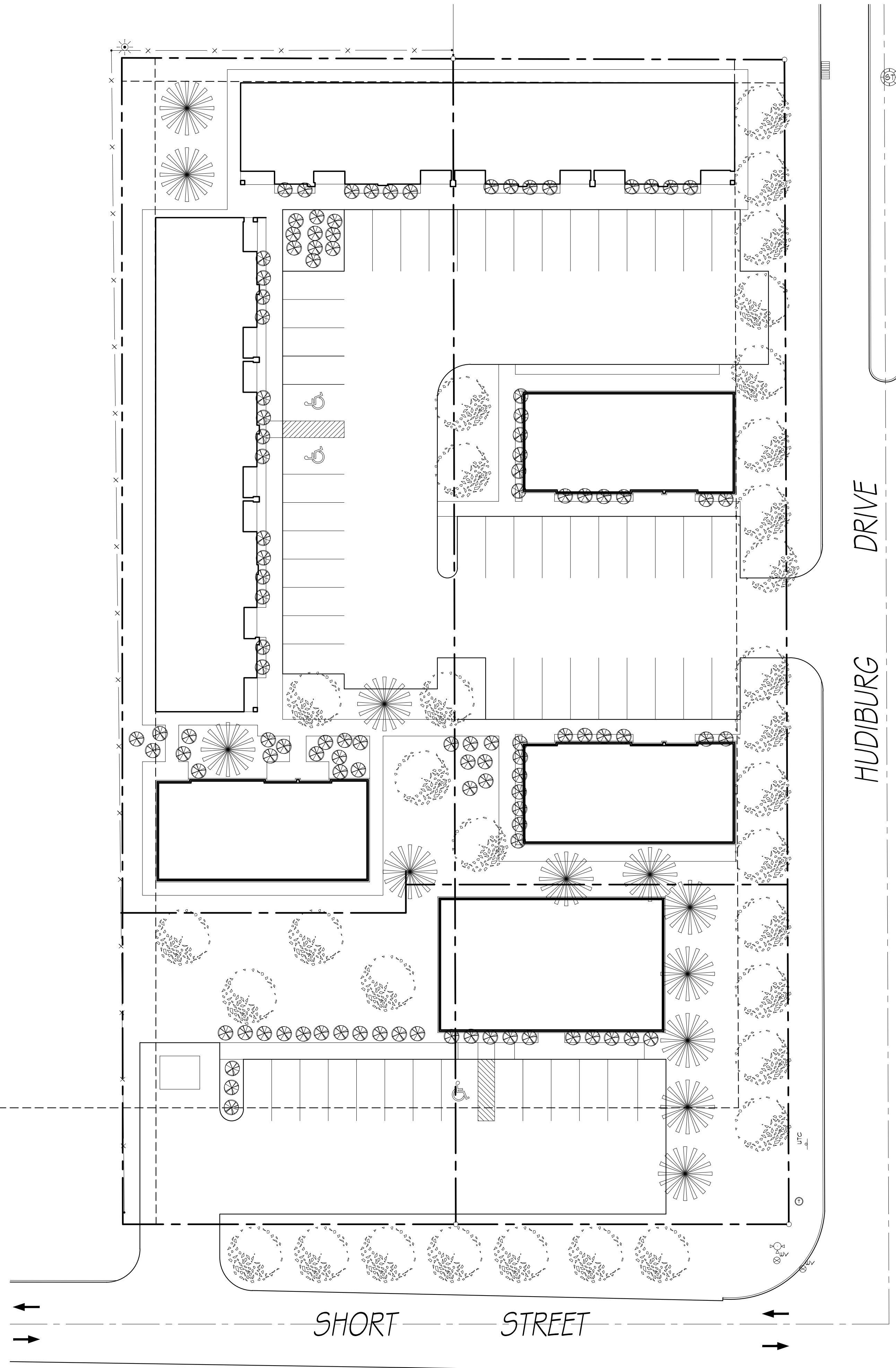
|         |         |          |
|---------|---------|----------|
| A-1     | I-2 SUP | R-35     |
| A-1 SUP | I-3     | R-2F     |
| C-1     | O-1     | R-MD     |
| C-1 SUP | O-1 SUP | R-MD SUP |
| C-2     | O-2     | R-HD     |
| C-2 SUP | O-2 SUP | R-HD SUP |
| C-3     | R-6     | R-MH-1   |
| C-3 SUP | R-6 SUP | R-MH-2   |
| C-4     | R-8     | PUD      |
| C-4 SUP | R-10    | SPUD     |
| I-1     | R-22    | HOS      |
| I-2     |         | HOS SUP  |

**ZONING MAP FOR  
PC-1943  
(NW/4, Sec. 9, T11N, R2W)**



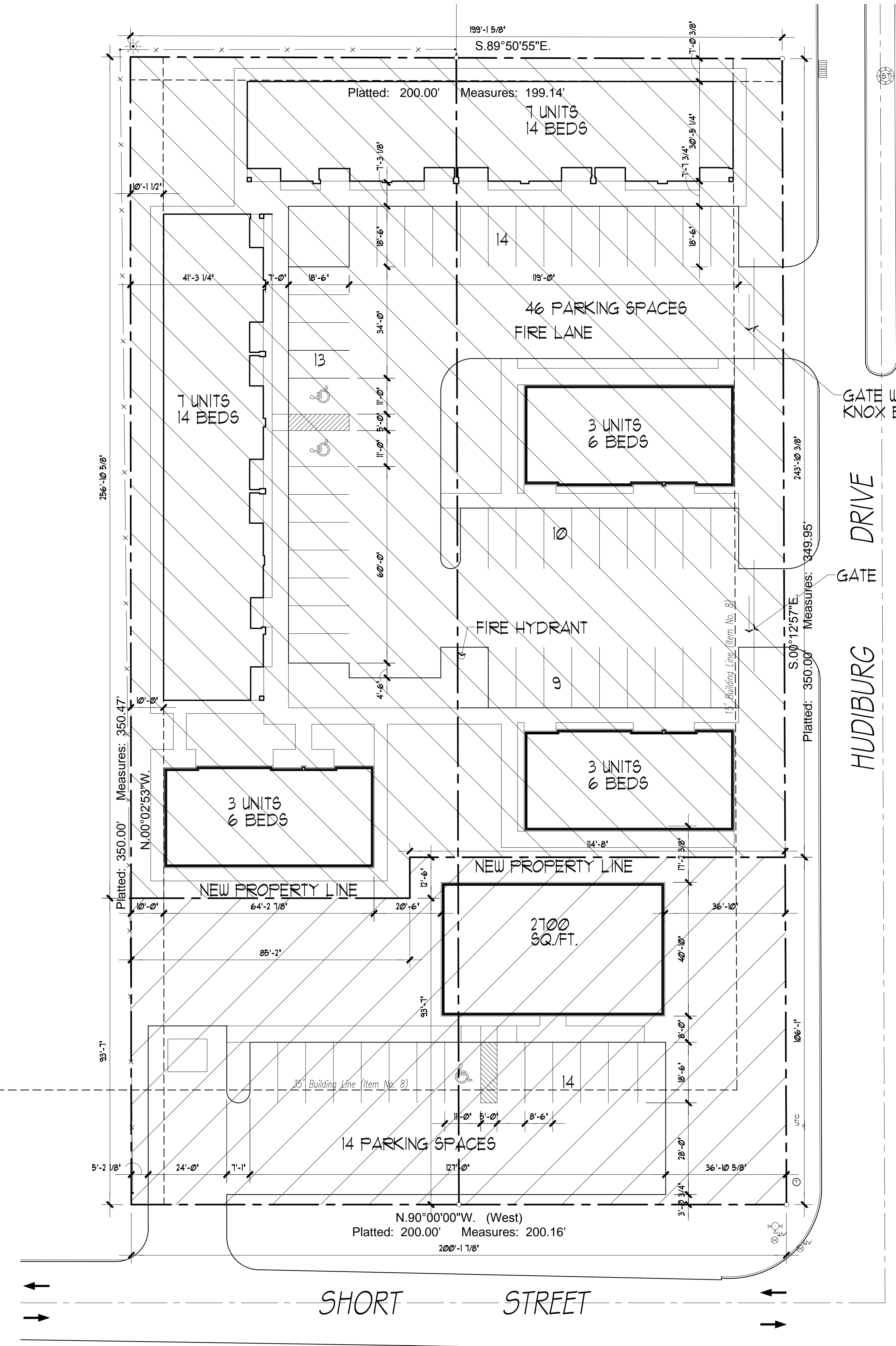
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2 LANDSCAPE PLAN  
 SCALE: 1" = 20'-0"

COMMERCIAL PROPERTY - 20,152 SQ./FT.  
 RESIDENTIAL PROPERTY - 49,165 SQ./FT.



1 SITE PLAN  
 SCALE: 1" = 20'-0"

COMMERCIAL PROPERTY - 20,152 SQ./FT.  
 RESIDENTIAL PROPERTY - 49,165 SQ./FT.



The City of  
**MIDWEST CITY**  
 COMMUNITY DEVELOPMENT DEPARTMENT

Billy Harless, Community Development Director

ENGINEERING DIVISION  
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 CURRENT PLANNING DIVISION  
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 COMPREHENSIVE PLANNING  
 Julie Shannon, Comprehensive Planner  
 BUILDING INSPECTION DIVISION  
 Christine Allison, Building Official  
 GIS DIVISION  
 Greg Hakman, GIS Coordinator

**TO:** Honorable Mayor and City Council

**FROM:** Billy Harless, Community Development Director

**DATE:** April 24, 2018

**SUBJECT:** (PC –1944) Public hearing with discussion and consideration of approval of a resolution for a Special Use Permit to allow the use of Child Care Center in the O-1, Restricted Office district, for the property described as a part of the SE/4 of Section 36 T-12-N, R-2-W, located at 9909 E. Reno Ave.

**Executive Summary:** This parcel is currently zoned O-1, Restricted Office, with a Special Use Permit for Adult Daycare. The applicants have applied for a special use permit for a Child Care Center. A The Zoning Ordinance requires a Special Use Permit for Child Care Centers within the O-1 zoning district. Notice was sent to all property owners within 300 feet of the area of request and as of this writing, staff has not received any calls or letters of protest regarding this request. Staff recommends approval.



**DATES OF HEARINGS:**  
 Planning Commission –  
 April 3, 2018  
 City Council – April 24,  
 2018

**COUNCIL WARD:** Ward  
 3

**OWNER:** Mid-Del Group  
 Home, Inc.

**APPLICANT:** James Ray

**PROPOSED USE:**  
 Child Care Center

**SIZE**  
 The area of the has a  
 frontage of approximately  
 165 feet along E. Reno

Ave. and a depth of approximately 502 feet, containing an area of approximately 82,830 square feet.

**DEVELOPMENT PROPOSED BY COMPREHENSIVE PLAN:**

Area of Request – Low Density Residential

North – Low Density Residential

East and South – Office/Retail

West – Low Density Residential

**ZONING DISTRICTS:**

Area of Request – O-1, Restricted Office, with Special Use Permit for Child Care Center

North, South and West – R-6, Single-Family Detached Residential

East – C-3, Community Commercial

**LAND USE:**

Area of Request – Adult Daycare

North and West – Single family residences

South – vacant

East – Office complex

**MUNICIPAL CODE CITATION:**

**2.16 Restricted Office**

**2.16.1. General Description**

This commercial district is intended to provide a location for administrative and professional offices which can occupy low rise structures in a low density landscaped setting.

This district places a great emphasis on open spaces and aesthetic considerations in building construction and landscaping.

Development in this district can serve as a buffer between residential areas and other land uses.

**7.6. Special Use Permit**

**7.6.1. Special Use Permit**

The uses listed under the various districts as special use permits are so classified because they more intensely dominate the area in which they are located than do other uses permitted in the district.

**(A) Consideration for compatibility**

With consideration given to the setting, physical features, compatibility with surrounding land uses, traffic, and aesthetics, certain uses may locate in an area where they will be compatible with existing or planned land uses.

**(B) Review and approval**

The Planning Commission shall review each case on its own merit, apply the criteria established herein, and recommend either approval or denial of the special use permit to the City Council. Following the Planning Commission's recommendation, the City Council shall review each case on its own merit, apply the criteria established herein, and, if appropriate, authorize said use by granting a special use permit.

**(C) Use identified by individual zoning district**

If a special use permit is granted it shall be for all the uses permitted in the specified district plus the special use permit requested.

**7.6.3 Criteria for Special Use Permit Approval**

**(A) Special use permit criteria**

The City Council shall use the following criteria to evaluate a special use permit:

- 1) Whether the proposed use shall be in harmony with the policies of the comprehensive plan.
- 2) Whether the proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
- 3) Whether the proposed use shall not adversely affect the use of neighboring properties.
- 4) Whether the proposed use shall not generate pedestrian and vehicular traffic that is hazardous or in conflict with the existing and anticipated traffic in the neighborhood.
- 5) Whether utility, drainage, parking, loading, signs, lighting access and other necessary public facilities to serve the proposed use shall meet the adopted codes of the city.

**NOTIFICATION:**

1. Written notice was mailed to owners of real property within 300 feet of the exterior boundaries of the subject property.

**HISTORY:**

1. The first Special Use Permit for an Adult Day Care Center was approved on April 27, 2010 under PC-1713.
2. The Planning Commission recommended approval of this item April 3, 2018.

**STAFF COMMENTS:**

**Engineering Staff Comments:**

Note: This application is for a special use permit for an existing development that meets current engineering requirements. No new engineering improvements are required with this application.

**Water Supply and Distribution**

A thirty (30) inch public water main is located on the south side of East Reno Avenue in the street right-of-way extending along the south side of the area of request.

Extension of the water supply to serve this property is not required as outlined in Municipal Code 43-32.

Connection to the public water supply system for domestic service is a building permit requirement per Municipal Code 43-32 for all new buildings.

**Sanitary Sewerage Collection and Disposal**

An eight (8) inch public sewer main is located on the north side of East Reno Avenue in the street right-of-way extending along the south side of the area of request. An eight (8) inch public sewer main is located in a dedicated fifteen (15) foot public utility easement located along the west side of the area of request.

Public sanitary sewer line improvements are not required with this application.

Connection to the public sanitary sewer system for service is a building permit requirement per Municipal Code 43-109 for all new buildings.

Streets and Sidewalks

Access to the area of request is available from East Reno Avenue. East Reno Avenue is classified as a secondary arterial in the 2008 Comprehensive Plan. East Reno Avenue is a four (4) lane, 52-foot wide, curbed, asphalt concrete roadway. Current code requires a total street right-of-way width of one hundred (100) feet for a secondary arterial and presently, East Reno Avenue has one hundred (100) feet of right-of-way adjacent to and parallel to the south side of the area of request.

Right of way grants to the city are not required with this application.

Street improvements are not required with this application.

Sidewalk improvements are not required with this application.

Drainage and Flood Control, Wetlands, and Sediment Control

Drainage across the area of request is via overland flow from the east to the west. Currently, the area of request is developed with an adult care facility. None of the area of request is affected by flood zone AE (the 100-year floodplain) as shown on the effective Flood Insurance Rate map (FIRM) number 40109C0330H, dated December 12, 2009.

A twenty-four (24) inch, public concrete drainage pipe is located on the north side of East Reno Avenue in the street right-of-way extending across the south side of the area of request. Drainage from the site utilizes this system. Drainage and detention improvements are not required with this application.

All development on the proposed tracts must conform with the applicable requirements of Municipal Code Chapter 13, "Drainage and Flood Control."

Easements and Right-of-Way

No additional rights-of-way and/or easements are required with this application.

**Fire Marshal's Comments:**

The property is required to meet and maintain the requirements of Midwest City Ordinances Section 15.

**Planning Division:**

Under PC-1713, this property is allowed to be used specifically as an Adult Day Care Center. The current use is a Child Care Center. The SUP needs to be updated to reflect the current use of the property.

As of this writing, staff has not received any calls or letters of protest regarding this rezoning request.



As mentioned above, criteria for special use permit approval is outlined in 7.6.3. of the Midwest City Zoning Ordinance. Below are staff's opinions as to how this application meets or does not meet the required criteria:

1. The proposed use is in harmony with the general purpose and intent of the O-1 zoning district regulations as it is located along an arterial street with a mixture of residential and office uses nearby.
2. The proposed use is not likely to adversely affect the neighboring properties.
3. Staff does not believe that the proposed use will generate pedestrian and vehicular traffic that is hazardous or in conflict with the existing and anticipated traffic in the neighborhood. The area of request is already zoned O-1 and the traffic generated from this use would be similar to that of the previous use of an adult day care center.
4. Utility, drainage, parking, loading, signs, lighting access and other necessary public facilities are all existing and will not be affected by this proposed use.

Based on the information above, staff recommends approval of this Special Use Permit to allow the use of Child Care Center at 9909 E. Reno Ave.

**Action Required:** Approve or reject the resolution for a Special Use Permit for the property as noted herein, subject to the staff comments and recommendations as found in the April 24, 2018, agenda packet and made a part of PC- 1944 file.



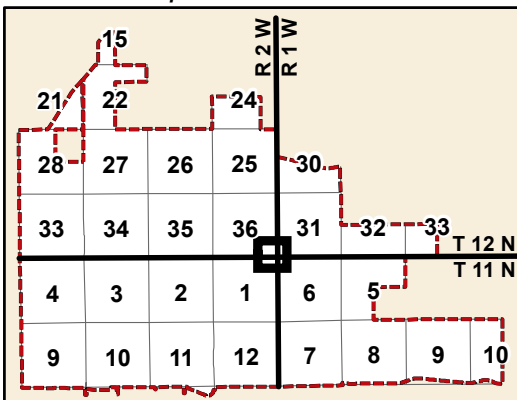
Billy Harless, AICP  
Community Development Director

LG





Locator Map

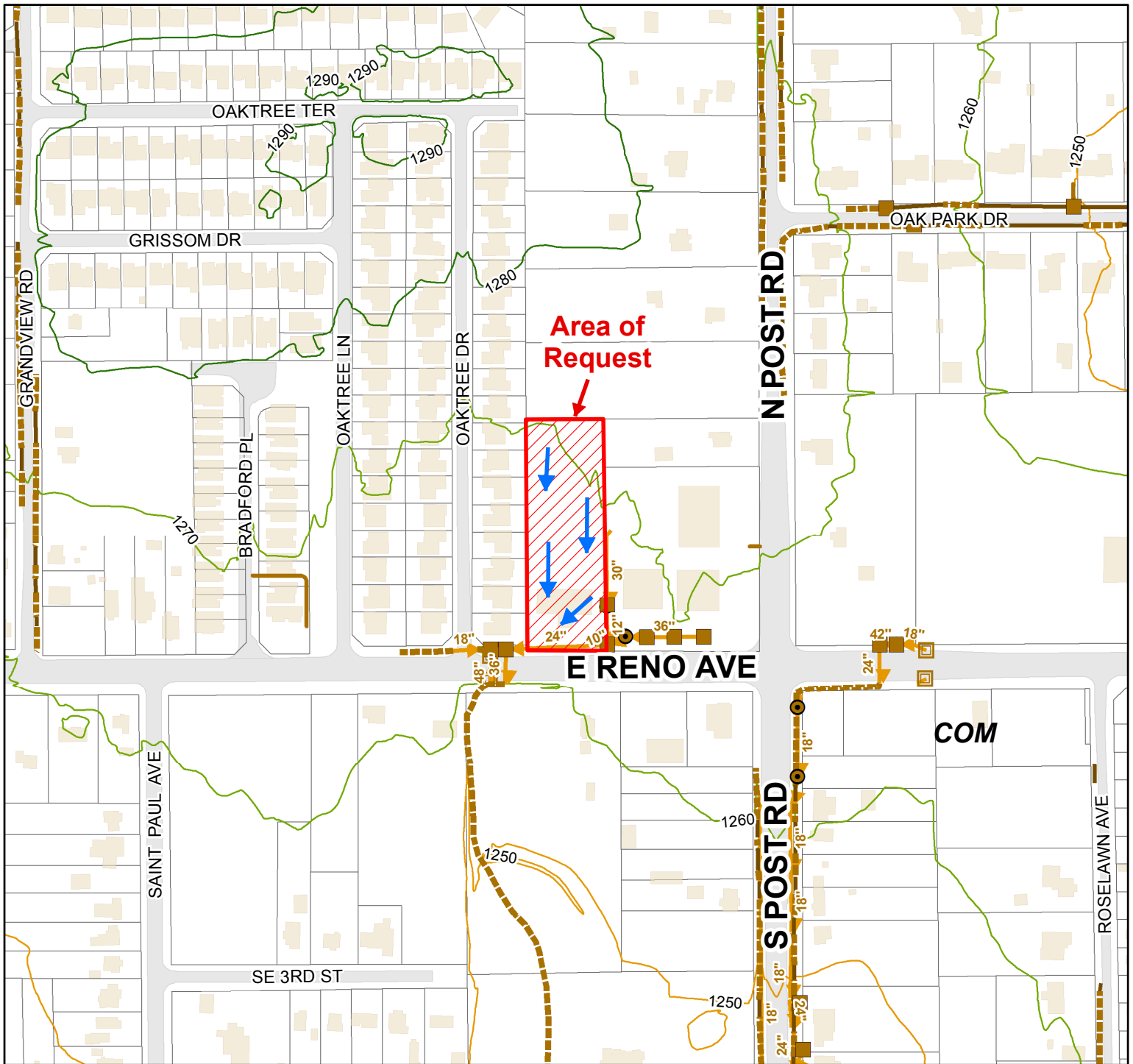


**2017 DOP (AERIAL) VIEW FOR  
PC-1944  
(SE/4, Sec. 36, T12N, R2W)**

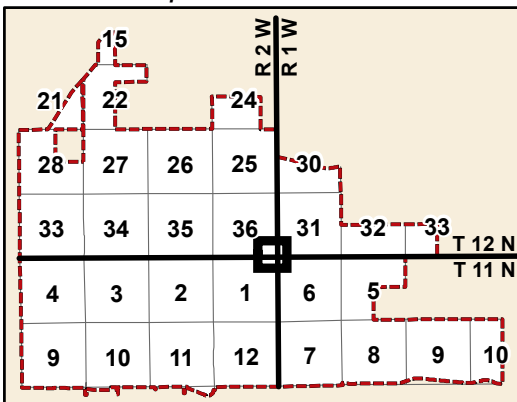


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Locator Map



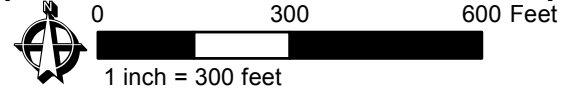
- Drainage Legend**
- Curb Inlets
  - Inlets
  - Junction Box
  - Culverts
  - Flumes
  - Developed Channels
  - Trickle Channels
  - Undeveloped Channels
  - Storm Lines
  - Creeks
- ELEVATION**
- 1166-1204 ft
  - 1204-1228 ft
  - 1228-1250 ft
  - 1250-1278 ft
  - 1278-1324 ft

**2009 FEMA Floodplains**

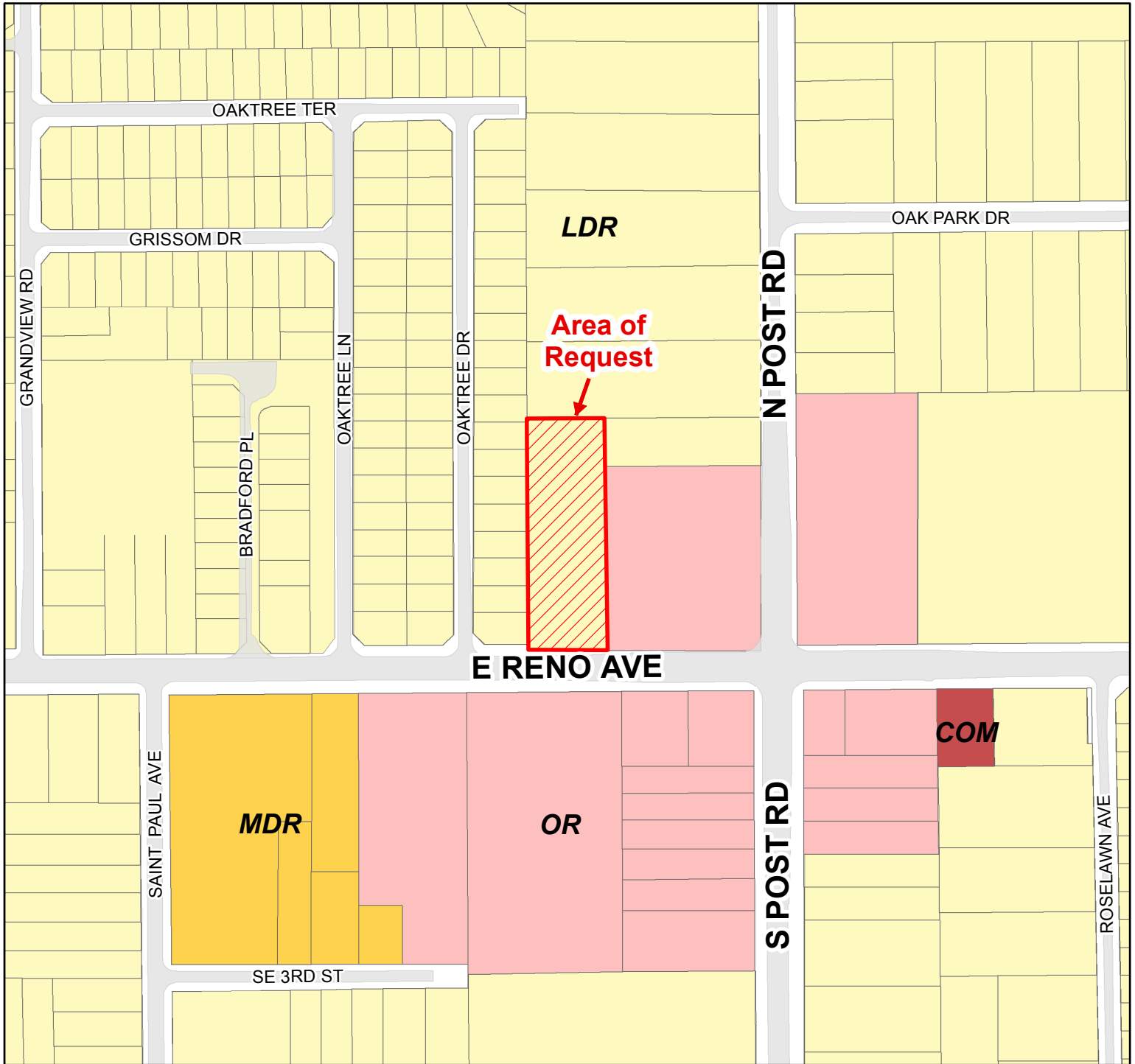
- 500-yr floodplain
- 100-yr floodplain
- 2009 FEMA Floodway

**DRAINAGE LOCATION MAP FOR PC-1944**

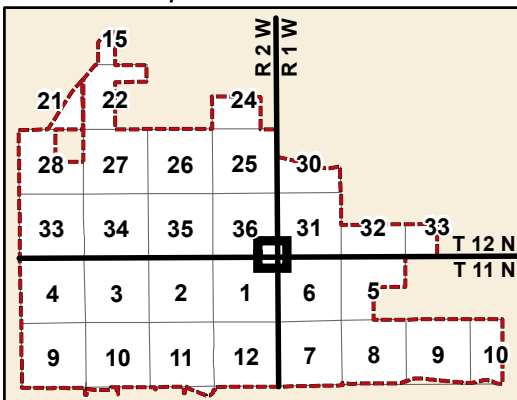
**(SE/4, Sec. 36, T12N, R2W)**



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Locator Map



Future Land Use Legend

- Single-Family Detached Residential
- Medium Density Residential
- High Density Residential
- Manufactured Home
- Public/Semi-Public
- Parks/Open Space
- Office/Retail
- Commercial
- Industrial
- Town Center

**FUTURE LAND USE  
MAP FOR  
PC-1944**

**(SE/4, Sec. 36, T12N, R2W)**



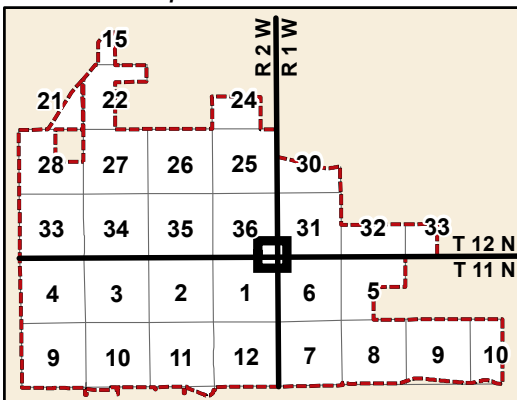
0 300 600 Feet

1 inch = 300 feet






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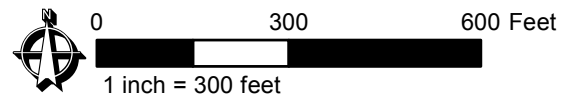
Locator Map



**General Map Legend**

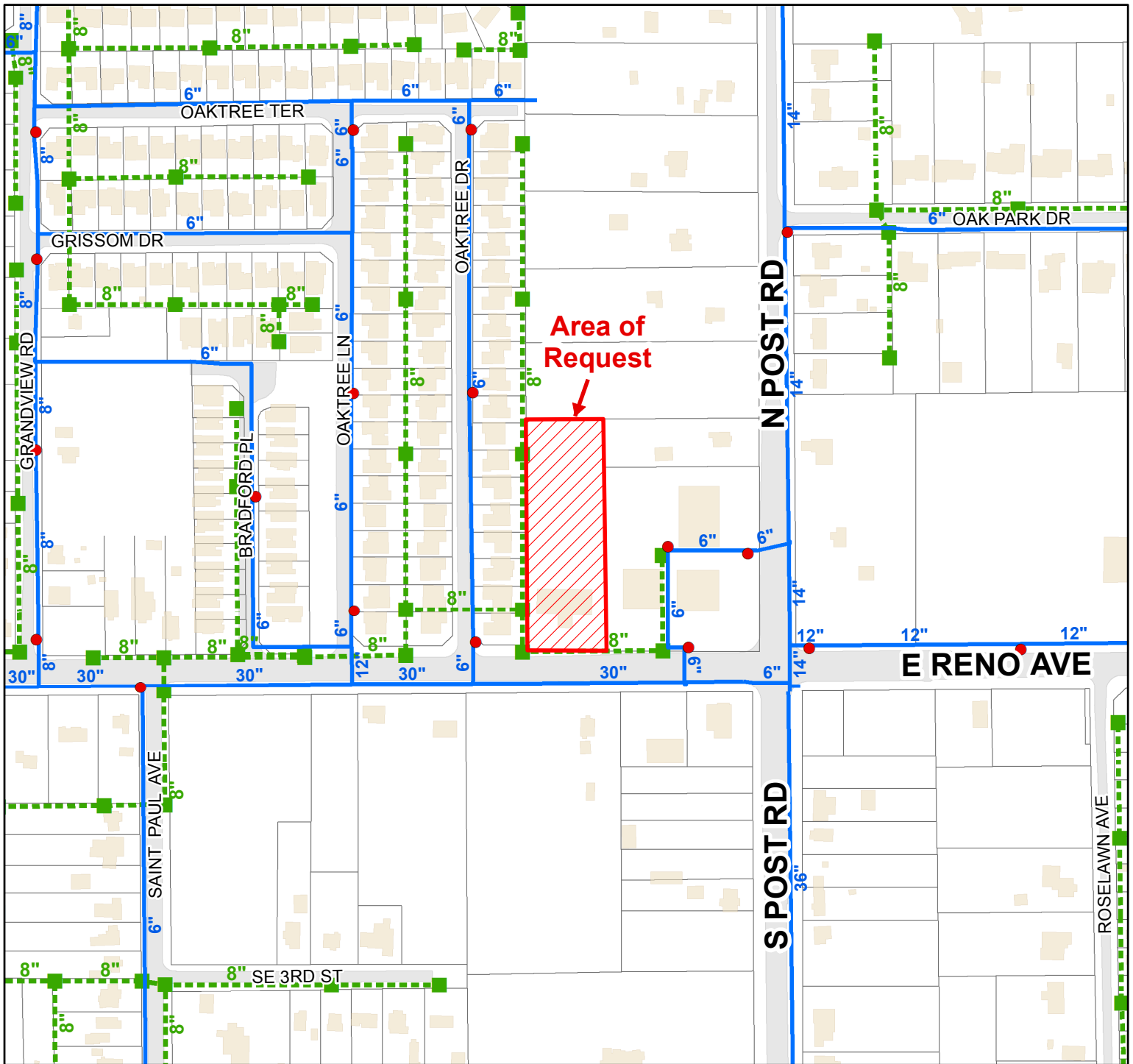
-  Area of Request
-  Parcels with Addresses
-  Buildings
-  Edge of Pavement
-  MWC City Limits

**GENERAL MAP FOR  
PC-1944  
(SE/4, Sec. 36, T12N, R2W)**

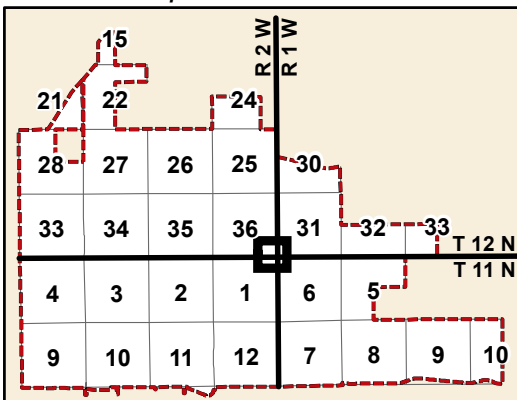


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Locator Map

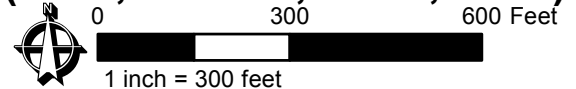


**Water/Sewer Legend**

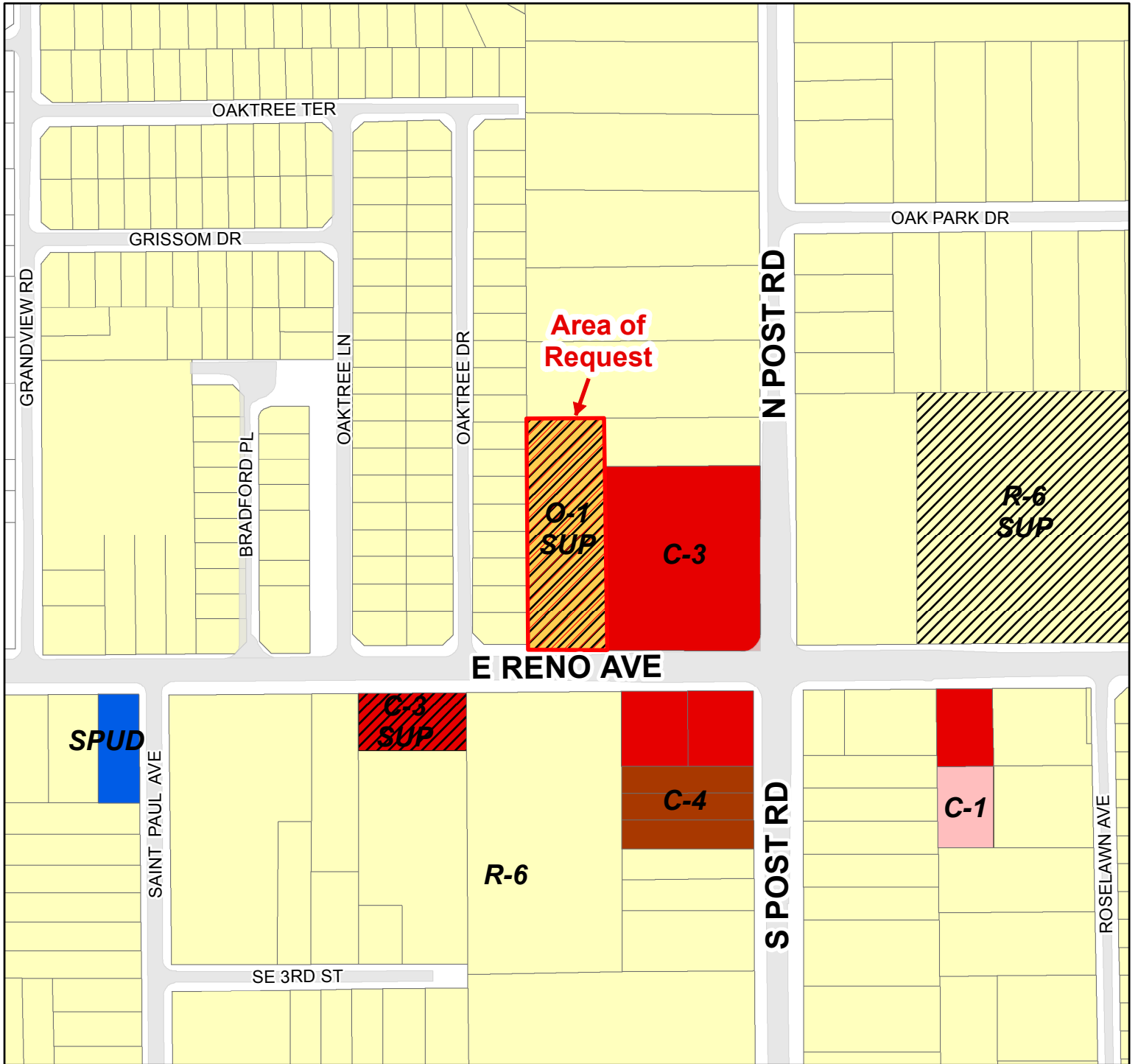
- Fire Hydrants
- Water Lines
  - Distribution
  - Well
  - - - OKC Cross Country
  - - - Sooner Utilities
  - - - Thunderbird
  - - - Unknown
- Sewer Manholes
- - - Sewer Lines

**WATER/SEWER LINE  
LOCATION MAP FOR  
PC-1944**

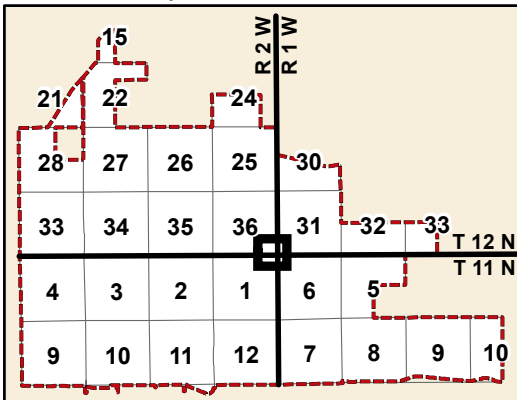
**(SE/4, Sec. 36, T12N, R2W)**



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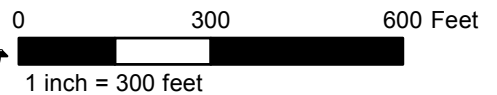


Current Zoning Legend

|         |         |          |
|---------|---------|----------|
| A-1     | I-2 SUP | R-35     |
| A-1 SUP | I-3     | R-2F     |
| C-1     | O-1     | R-MD     |
| C-1 SUP | O-1 SUP | R-MD SUP |
| C-2     | O-2     | R-HD     |
| C-3     | O-2 SUP | R-HD SUP |
| C-3 SUP | R-6     | R-MH-1   |
| C-4     | R-6 SUP | R-MH-2   |
| C-4 SUP | R-8     | PUD      |
| I-1     | R-10    | SPUD     |
| I-2     | R-22    | HOS      |
|         |         | HOS SUP  |

**ZONING MAP FOR  
PC-1944**

**(SE/4, Sec. 36, T12N, R2W)**



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The City of  
**MIDWEST CITY**  
COMMUNITY DEVELOPMENT DEPARTMENT

ENGINEERING DIVISION  
Patrick Menefee, City Engineer  
CURRENT PLANNING DIVISION  
Kellie Gilles, Planning Manager  
COMPREHENSIVE PLANNING  
Julie Shannon, Comprehensive Planner  
BUILDING INSPECTION DIVISION  
Christine Allison, Building Official  
GIS DIVISION  
Greg Hakman, GIS Coordinator

Billy Harless, Community Development Director

**To:** Honorable Mayor and City Council

**From:** Billy Harless, Community Development Director

**Date:** April 24, 2018

**Subject:** (PC – 1945) Public hearing with discussion and consideration of approval of an ordinance to amend the Planned Unit Development for the property described as Red Oak Development, a tract of land lying in the NE/4 of Section 11, T-11-N, R-2-W, of the Indian Meridian, City of Midwest City.

**Executive Summary:** This amendment to the PUD is being requested to allow the free-standing sign for the Tinker Self Storage business located within lot 6 of the Red Oak Development to exceed the 20' limitation. The original PUD was approved in 2013. This was not a requested variance in the original PUD and therefore, the applicant is requesting an amendment to the PUD. There is currently a sign on the Tinker Self Storage property and it is 20' in height as measured from the ground level. This site is unique in that the ground level of lot 6 is several feet below the grade of Douglas Blvd. The applicant has submitted a survey showing that the existing sign for Tinker Self Storage is 7.61' below the grade along Douglas Blvd. and is requesting to be allowed to extend the height of the existing sign by 7.61', bringing it to grade level. This would make the overall height of the sign 27.61' which exceeds the allowable 20' height for free-standing signs. This is the only amendment requested from the original PUD. Staff has visited the site and found that the existing sign as it is, is visible from Douglas. As



most all other signs in Midwest City have been required to meet the 20' requirement, staff recommends denial of this request.

**Dates of Hearing:**

Planning Commission – April 3, 2018

City Council – April 24, 2017

**Council Ward:**

Ward 2 – Pat Byrne

**Owner:** S A B ONE INC

**Applicant:** Deserey Aguirre

**Zoning Districts:**

Area of Request – PUD  
North – PUD  
South and West – I-2, Moderate Industrial  
East - PUD

**Land Use:**

Area of Request – Red Oak Development – Commercial/retail spaces, restaurants and self storage  
North – S & B Burger  
South and West – Vacant  
East – Commercial/retail spaces

**Municipal Code Citation:**

*2.25 PUD, Planned Unit Development*

2.25.1 General Provisions

The planned unit development, herein referred to as PUD, is a special zoning district category that provides an alternate approach to conventional land use controls to produce unique, creative, progressive, or quality land developments.

The PUD may be used for particular tracts or parcels of land that are under common ownership and are to be developed as one unit according to a master development plan.

The PUD is subject to special review procedures within the PUD application and review and once approved by the City Council it becomes a special zoning classification for the property it represents.

2.25.2 Intent and Purpose

The intent and purpose of the PUD provisions are as follows:

(A) Innovative land development

Encourage innovative land development while maintaining appropriate limitations on the character and intensity of use, assuring compatibility with adjoining and proximate properties, and following the guidelines of the comprehensive plan.

(B) Flexibility within developments

Permit flexibility within the development to maximize the unique physical features of the particular site.

(C) Efficient use of land

Encourage efficient use of land, facilitate economic arrangements of buildings and circulation systems, and encourage diversified living environments and land uses.

(D) Function, design and diversity

Achieve a continuity of function and design within the development and encourage diversified living environments and land uses.

(E) Modifications to development requirements

Provide a vehicle for negotiating modifications in standard development requirements in order to both encourage innovative development and protect the health, safety and welfare of the community.

**History:**

1. This area was zoned for industrial uses with the adoption of the 1968 Zoning Map.
2. The PUD for Red Oak Development was approved in February of 2013
3. The Final Plat for Red Oak Development was approved in December of 2013.
4. The Planning Commission recommended denial of this request on April 3, 2018.

**Staff Comments:**

**Engineering Comments:**

Note: This application is for an amendment to a PUD for an existing development that meets current engineering requirements. No new engineering improvements are required with this application.

Water Supply and Distribution

A twelve (12) inch public water main is located on the west side of South Douglas Boulevard in the street right-of-way extending along the east side of the area of request.

Extension of the water supply to serve this property is not required as outlined in Municipal Code 43-32.

Connection to the public water supply system for domestic service is a building permit requirement per Municipal Code 43-32 for all new buildings.

Sanitary Sewerage Collection and Disposal

An eight (8) inch public sewer main is located in a dedicated fifteen (15) foot public utility easement located along the south side of the area of request. A fifteen (15) inch public sewer main is located in a dedicated fifteen (15) foot public utility easement located along the west side of the area of request.

Public sanitary sewer line improvements are not required with this application.

Connection to the public sanitary sewer system for service is a building permit requirement per Municipal Code 43-109 for all new buildings.

Streets and Sidewalks

Access to the area of request is available from South Douglas Boulevard. South Douglas Boulevard is classified as a primary arterial in the 2008 Comprehensive Plan. South Douglas Boulevard is a five (5) lane, 65-foot wide, curbed, asphalt concrete roadway. Current code requires a total street right-of-way width of one hundred twenty (120) feet for a primary arterial and presently, South Douglas Boulevard has one hundred twenty (120) feet of right-of-way adjacent to and parallel to the east side of the area of request.

Right of way grants to the city are not required with this application.

Street improvements are not required with this application.

Sidewalk improvements are not required with this application.



Drainage and Flood Control, Wetlands, and Sediment Control

Drainage across the area of request is via overland flow from the east to the west. Currently, the area of request is developed with a commercial development. The area of request is affected by flood zone AE (the 100-year floodplain) as shown on the effective Flood Insurance Rate map (FIRM) number 40109C0330H, dated December 12, 2009. The development meets flood plain development requirements.

Drainage from the site utilizes the Soldier Creek drainage basin to service the development. Drainage and detention improvements are not required with this application.

All development on the proposed tracts must conform with the applicable requirements of Municipal Code Chapter 13, "Drainage and Flood Control."

Easements and Right-of-Way

No additional rights-of-way and/or easements are required with this application.

**Fire Marshal's Comments:**

The Fire Department has reviewed PC-1945. Any future development must meet Chapter 15 of the Municipal Code.

**Plan Comments:**

The applicant is not the original owner of Tinker Self Storage. When the current owner purchased the business, they began conversations with staff asking if they could increase the height for their free-standing sign. Staff looked into the address file and found that a sign contractor had applied for a sign permit but that it was never paid for. Staff has since made multiple attempts to reach the sign contractor to pay for the permit to no avail. The building inspector has issued a notice and order to the sign contractor for building the sign and failure to pay for the permit.

In researching the existing sign, staff found that it extends 20' in height which is the maximum allowable per the Sign Ordinance. The original PUD did not request a variance to allow a taller sign for this parcel. The location of the self storage business is at a lower grade than that of S. Douglas Blvd. The applicant had a survey performed that showed that the sign is 7.61' below the grade and would like to increase the height of the sign by 7.61' to be better visible from S. Douglas. The existing sign is only 66 square feet in display surface area. The maximum allowable display surface area is 200 square feet for free-standing signs. The applicant could increase the display surface area to the maximum allowed, 200 square feet, for better visibility.

Staff has visited the site and has determined that the sign is visible from both northbound and southbound Douglas Blvd. The applicant also mentions that trees also block the view of the sign, however, the trees along Douglas have no more effect on the visibility of this sign than they do for the S&B Burger Sign.

Staff would also note that Tinker Self Storage also has a large wall sign on the eastern most storage building. This sign is easily visible from S. Douglas.

The only variances that staff has been agreeable to variances to the height limitation have been for multi-tenant signs for large commercial areas such as Town Center and Sooner Rose. Most all other businesses have not been allowed to exceed the 20' maximum height as required by the Sign Ordinance. For this reason, staff recommends denial.

**Action Required:** Approve or reject the ordinance to amend the Planned Unit Development for the property noted in this report and subject to staff's comments as found in the April 24, 2018, agenda packet, and as noted in PC – 1945 file.

A handwritten signature in black ink, appearing to read "Billy Harless". The signature is fluid and cursive, with a long horizontal stroke at the end.

Billy Harless, AICP  
Community Development Director

KG



Two  
**DIAMOND**  
DENTAL  
405.737.8622

**UNITED**  
STORAGE

**BURGER**  
**JOINT**



455.5911  
MOVE-IN SPECIALS

ER  
ORACE



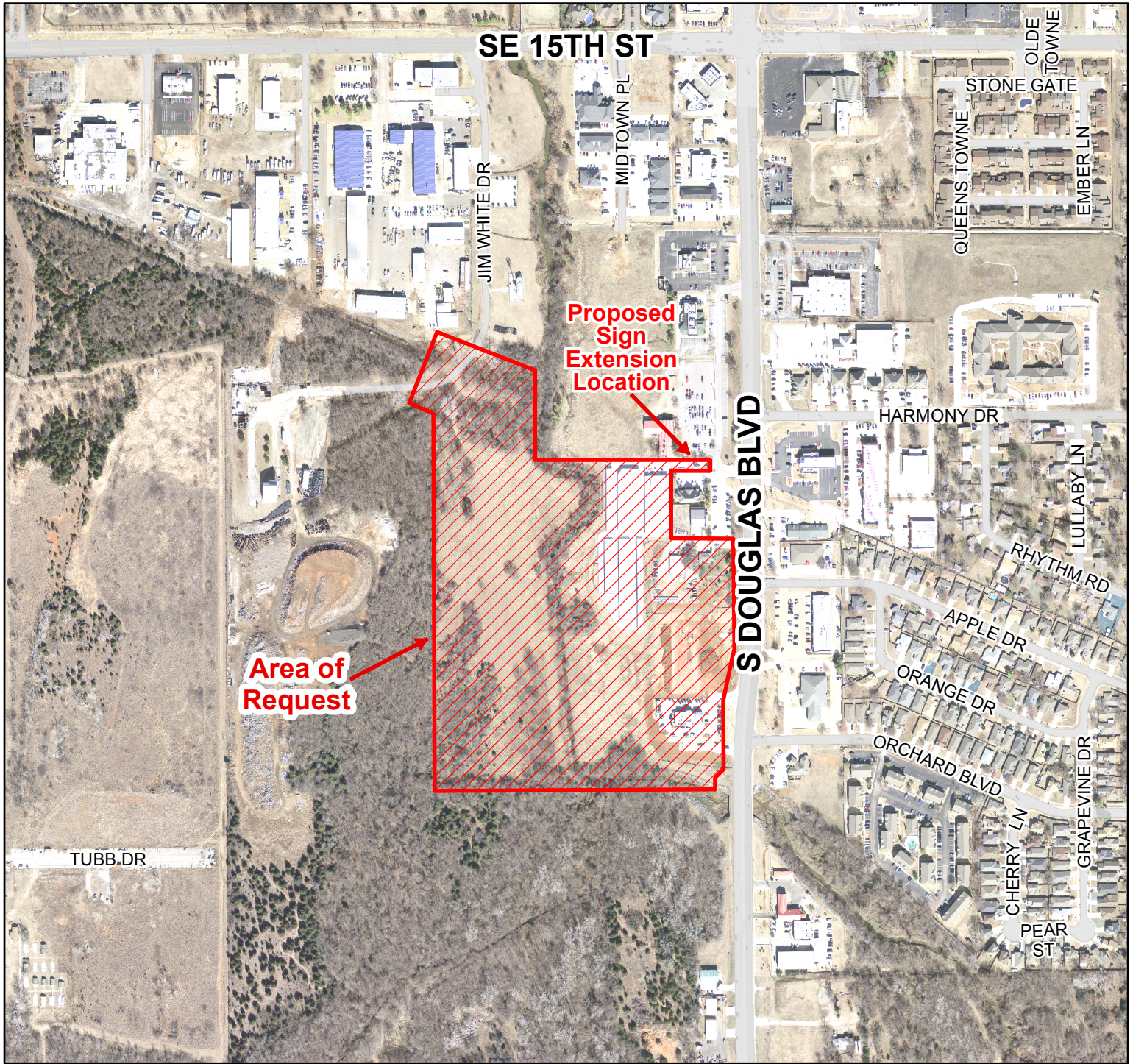




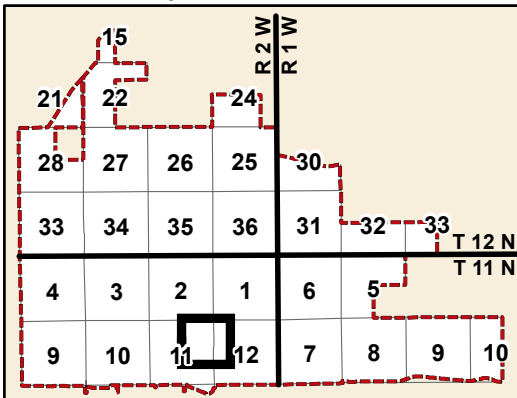




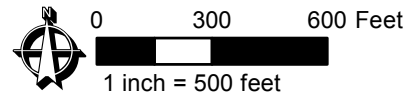




Locator Map

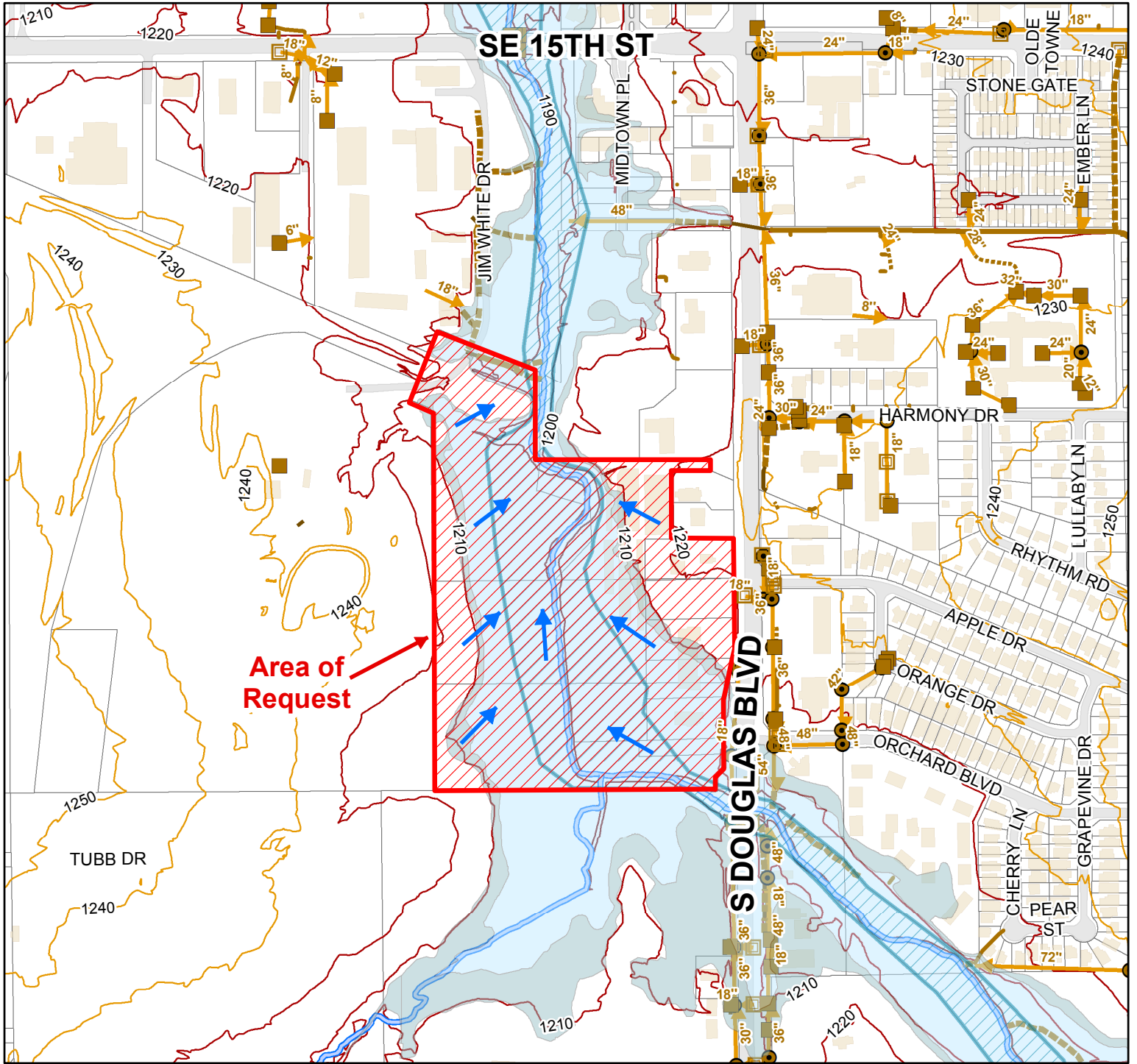


**2017 DOP (AERIAL) VIEW FOR  
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(NE/4, Sec.11, T11N, R2W)**

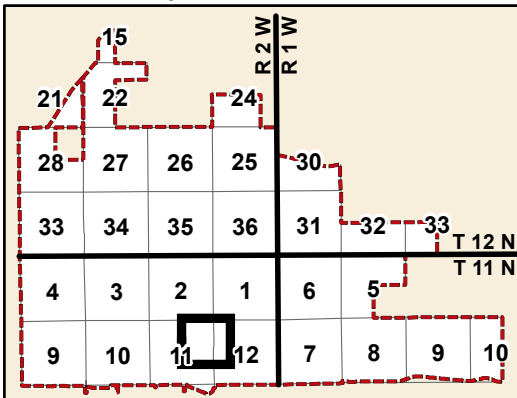


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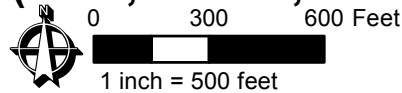
Locator Map



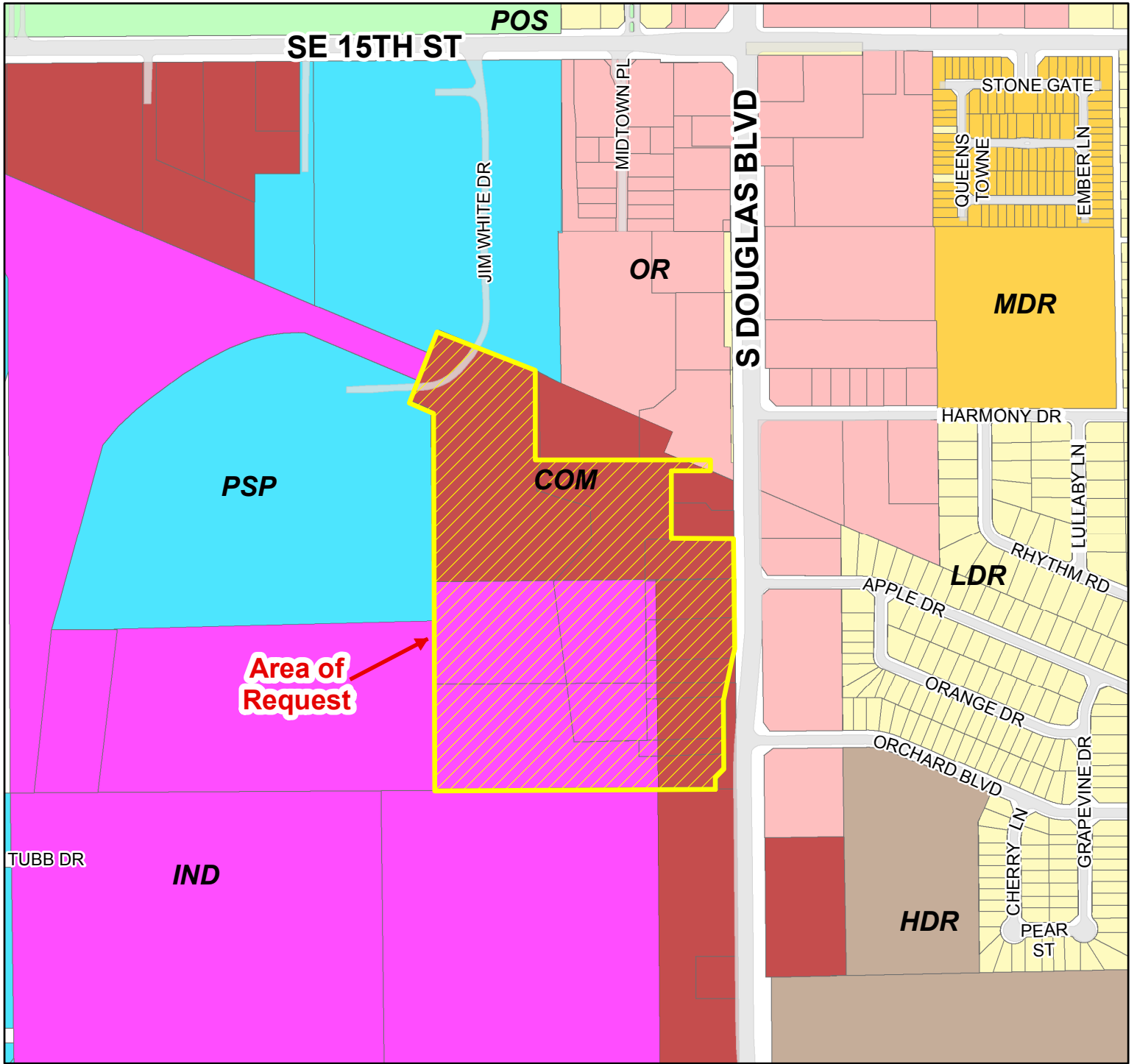
- Drainage Legend**
- Curb Inlets
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  - Culverts
  - Flumes
  - Developed Channels
  - Trickle Channels
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  - Storm Lines
  - Creeks
- ELEVATION**
- 1166-1204 ft
  - 1204-1228 ft
  - 1228-1250 ft
  - 1250-1278 ft
  - 1278-1324 ft

- 2009 FEMA Floodplains**
- 500-yr floodplain
  - 100-yr floodplain
- 2009 FEMA Floodway**
- FLOODWAY

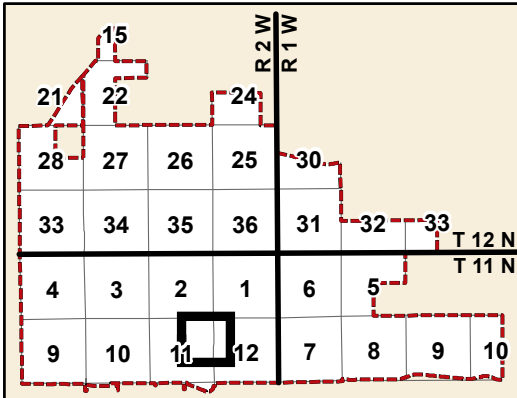
# DRAINAGE LOCATION MAP FOR PC-1945 (NE/4, Sec.11, T11N, R2W)



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



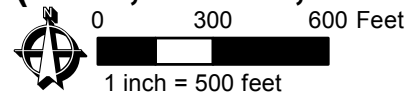
Locator Map



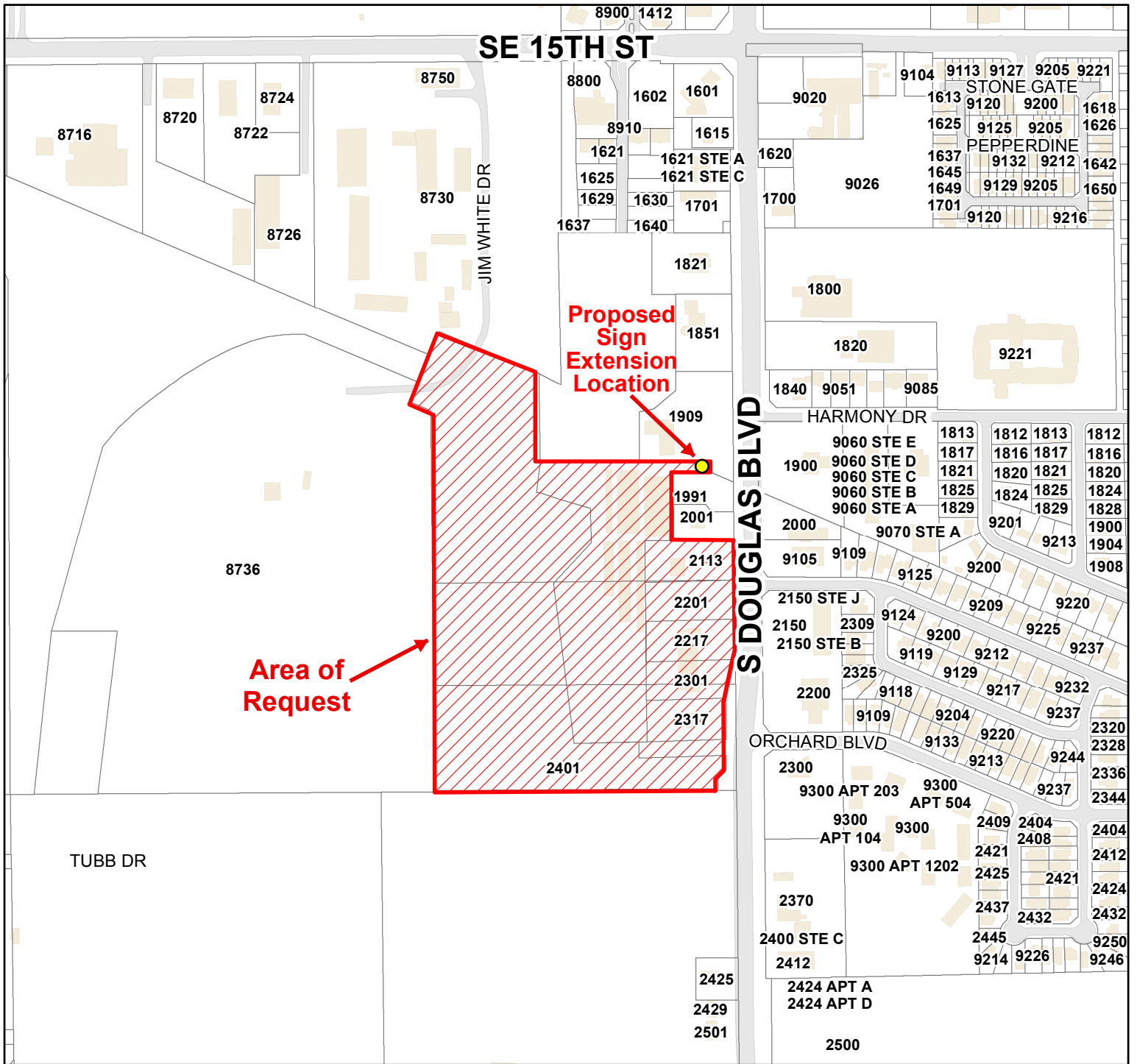
Future Land Use Legend

- Single-Family Detached Residential
- Medium Density Residential
- High Density Residential
- Manufactured Home
- Public/Semi-Public
- Parks/Open Space
- Office/Retail
- Commercial
- Industrial
- Town Center

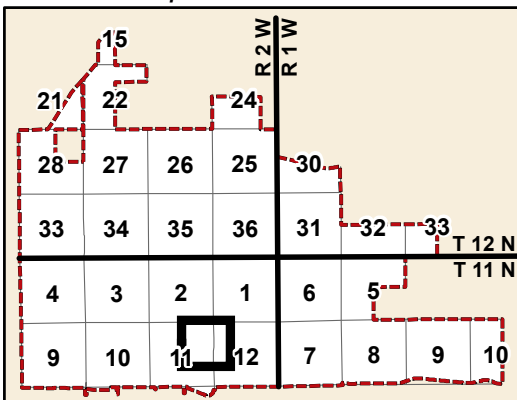
**FUTURE LAND USE  
MAP FOR  
PC-1945  
(NE/4, Sec.11, T11N, R2W)**








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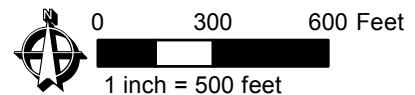
Locator Map



**General Map Legend**

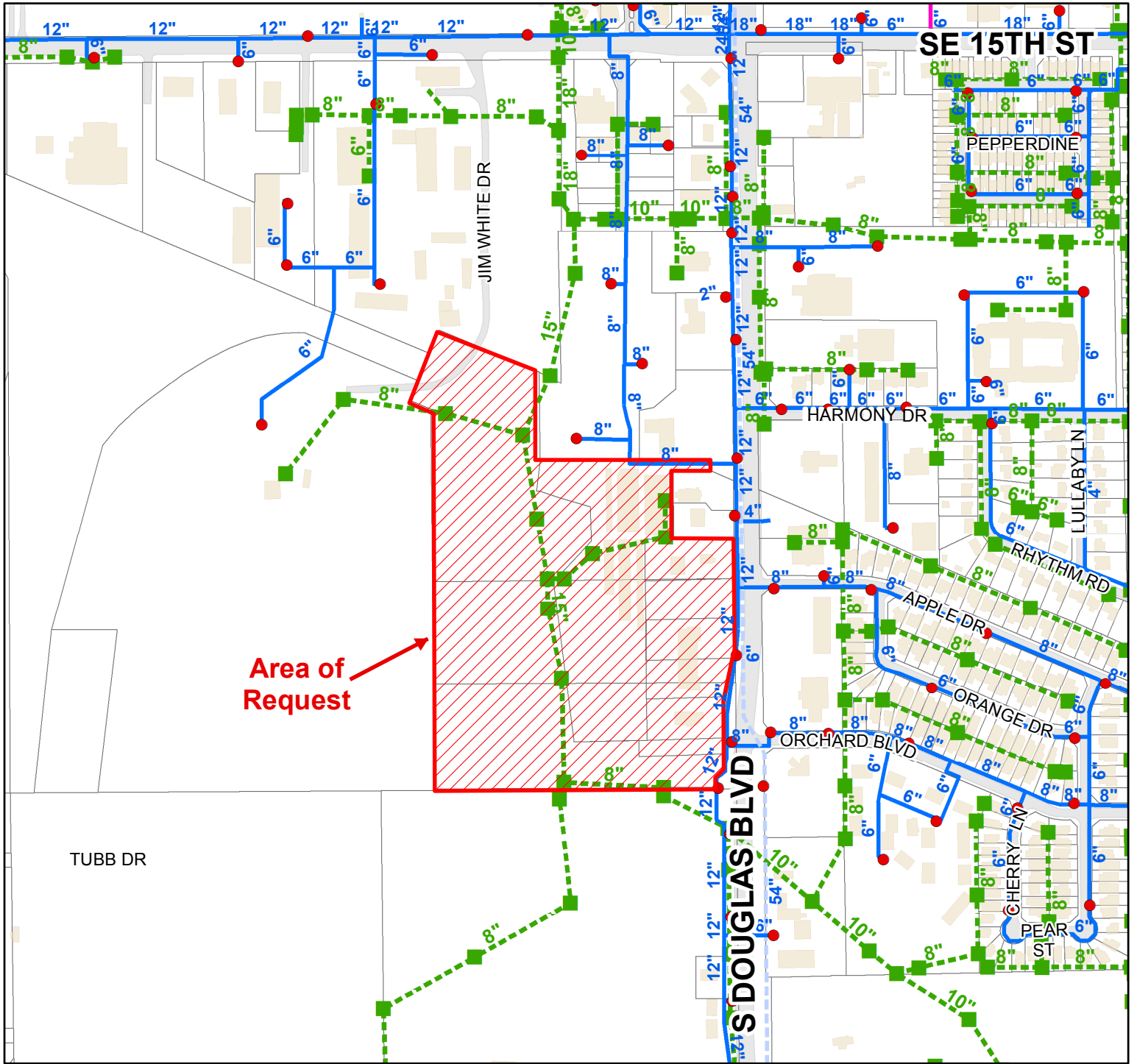
-  Area of Request
-  Parcels with Addresses
-  Buildings
-  Edge of Pavement
-  MWC City Limits

**GENERAL MAP FOR  
PC-1945  
(NE/4, Sec.11, T11N, R2W)**

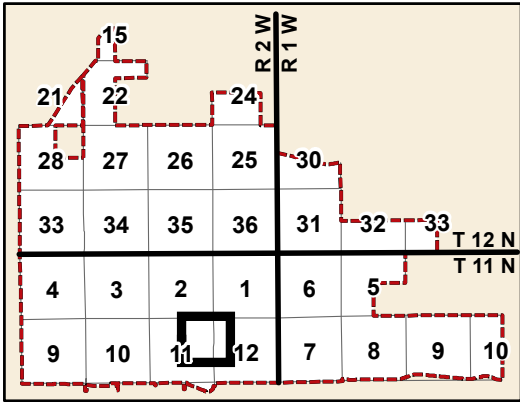


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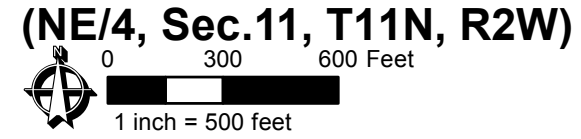
Locator Map



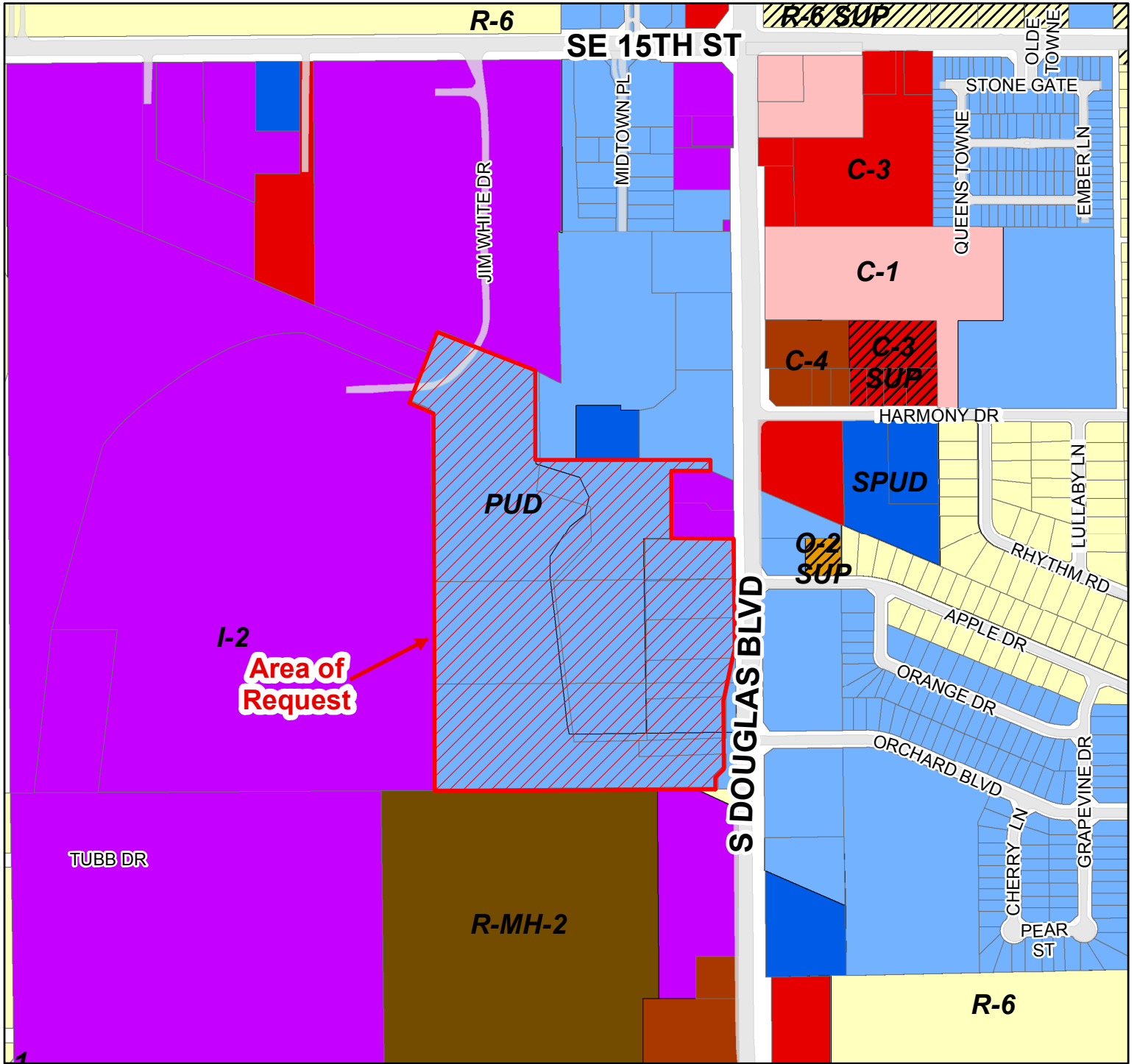
**Water/Sewer Legend**

- Fire Hydrants
- Water Lines
  - Distribution
  - Well
  - OKC Cross Country
  - Sooner Utilities
  - Thunderbird
  - Unknown
- Sewer Manholes
- Sewer Lines

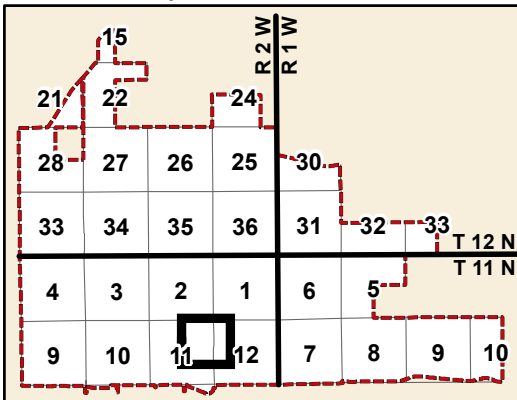
**WATER/SEWER LINE LOCATION MAP FOR PC-1945 (NE/4, Sec.11, T11N, R2W)**



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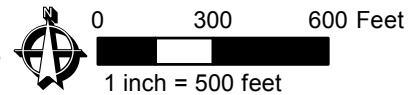
Locator Map



Current Zoning Legend

|         |         |          |
|---------|---------|----------|
| A-1     | I-2 SUP | R-35     |
| A-1 SUP | I-3     | R-2F     |
| C-1     | O-1     | R-MD     |
| C-1 SUP | O-1 SUP | R-MD SUP |
| C-2     | O-2     | R-HD     |
| C-2 SUP | O-2 SUP | R-HD SUP |
| C-3     | R-6     | R-MH-1   |
| C-3 SUP | R-6 SUP | R-MH-2   |
| C-4     | R-8     | PUD      |
| C-4 SUP | R-10    | SPUD     |
| I-1     | R-22    | HOS      |
| I-2     |         | HOS SUP  |

**ZONING MAP FOR  
PC-1945  
(NE/4, Sec.11, T11N, R2W)**



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Tinker Self Storage  
1951 S Douglas Blvd  
MWC, OK 73130

RE: Amend PUD

This application for amending the current PUD is requested due to the signage at 1951 S Douglas Blvd being 7.61 ft below road grade. With no street frontage and being down in a lower elevated area, it is very difficult to see our sign from the road. The trees along the street block our sign if one is driving northbound due to us being off the road and in a hole. An increase in our signage by 7.61 ft would only be to match the height of the other signs on S Douglas. We had an elevation survey done, and there is a 7.61 foot difference in the road grade. Please see the attached survey.

Thank you,  
Steven Bell



## OKLAHOMA SURVEY COMPANY

12509 S. 71<sup>ST</sup> EAST AVE. BIXBY, OK 74008

(405) 821-5656 (918) 720-6787

June 16, 2017

Tinker Self Storage  
1951 S. Douglas Blvd.  
Midwest City, OK 73130

To Whom It May Concern:

I have performed an elevation survey of the billboard sign at the located at the above described site. I hereby certify that the elevation of the ground at the sign base is 1224.00 feet and the elevation of the centerline of S. Douglas Blvd., perpendicular to the billboard, is 1231.61 feet. The difference is 7.61 feet. Vertical datum used is NAVD 88.

Respectfully,

Ryan R. Doudican, R.P.L.S. 1591

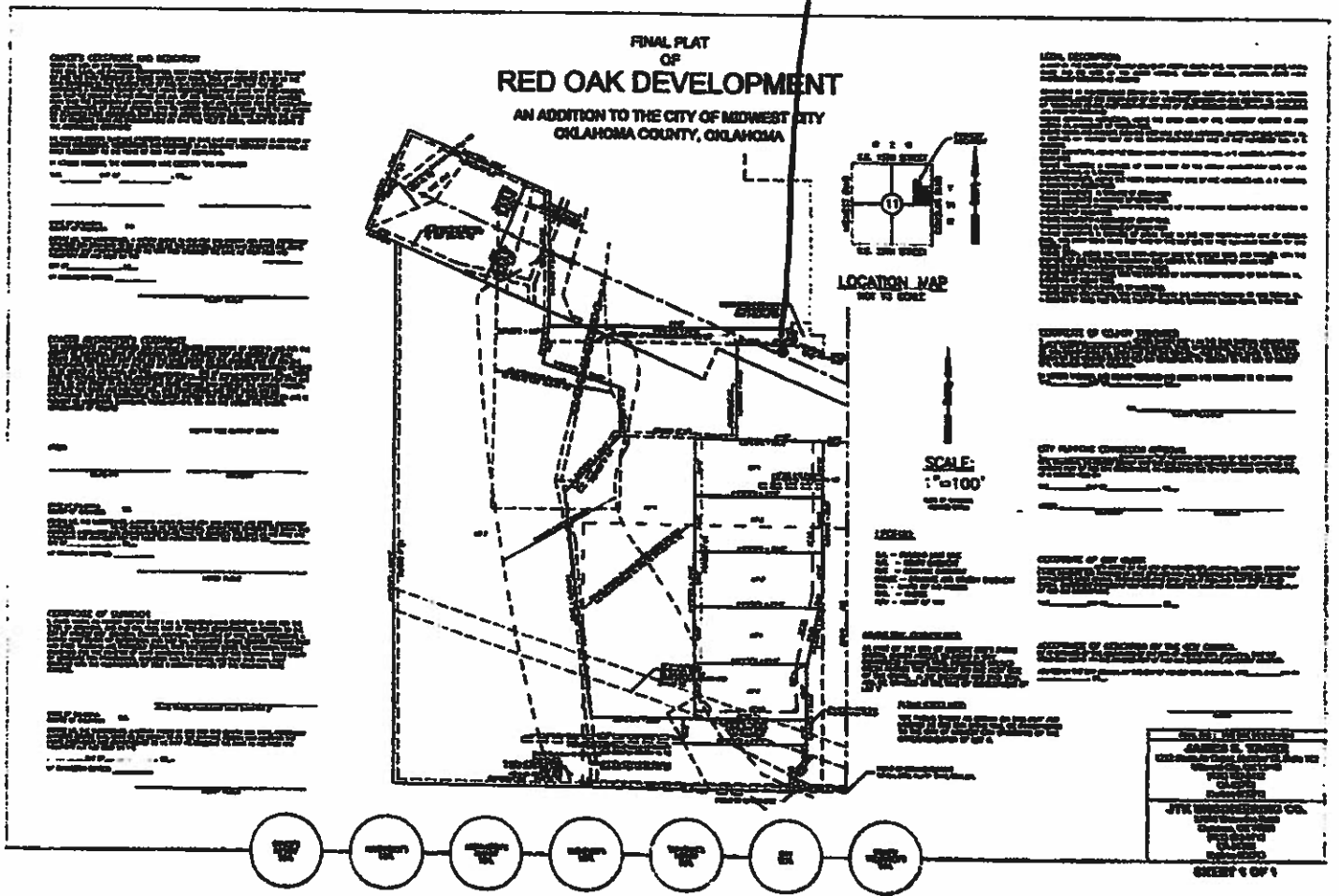


TINIER  
SELF  
STORAGE

7.61 ft in extension  
to be a total of  
20ft @ road grade

current height  
12.39 @ road  
grade

sign is in exact  
same place current  
sign.





1 **PC-1945**

2 **ORDINANCE NO. \_\_\_\_\_**

3 **AN ORDINANCE RECLASSIFYING THE ZONING DISTRICT OF THE PROPERTY**  
4 **DESCRIBED IN THIS ORDINANCE TO AMENDED PUD, PLANNED UNIT DEVEL-**  
5 **OPMENT AND DIRECTING AMENDMENT OF THE OFFICIAL ZONING DISTRICT**  
6 **MAP TO REFLECT THE RECLASSIFICATION OF THE PROPERTY’S ZONING**  
7 **DISTRICT; AND PROVIDING FOR REPEALER AND SEVERABILITY**

8 BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDWEST CITY, OKLAHOMA:

9 **ORDINANCE**

10 **SECTION 1.** That the zoning district of the following described property is hereby reclassified  
11 to Amended PUD, Planned Unit Development, subject to the conditions contained in the PC-  
12 1945 file, and that the official Zoning District Map shall be amended to reflect the reclassifica-  
13 tion of the property’s zoning district as specified in this ordinance:

14 Red Oak Development Addition, a part of the NE/4 of Section 11, T-11-N, R-2-W of the  
15 Indian Meridian, Oklahoma County, Oklahoma.

16 **SECTION 2. REPEALER.** All ordinances or parts of ordinances in conflict herewith are here-  
17 by repealed.

18 **SECTION 3. SEVERABILITY.** If any section, sentence, clause or portion of this ordinance is  
19 for any reason held to be invalid, such decision shall not affect the validity of the remaining por-  
20 tions of the ordinance.

21 PASSED AND APPROVED by the Mayor and Council of the City of Midwest City, Oklahoma,  
22 on the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

23 THE CITY OF MIDWEST CITY, OKLA-  
24 HOMA

25 \_\_\_\_\_  
26 MATTHEW D. DUKES II, Mayor

27 ATTEST:

28 \_\_\_\_\_  
29 SARA HANCOCK, City Clerk

30 APPROVED as to form and legality this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

31 \_\_\_\_\_  
32 PHILIP W. ANDERSON, City Attorney



**Public Works Administration**  
**Vaughn Sullivan, Director**  
[vsullivan@midwestcityok.org](mailto:vsullivan@midwestcityok.org)  
**R. Paul Streets, Assistant Director**  
[rstreets@midwestcityok.org](mailto:rstreets@midwestcityok.org)  
8730 S.E. 15<sup>th</sup> Street,  
Midwest City, Oklahoma 73110  
O: 405-739-1060 /Fax: 405-739-1090

### **Memorandum**

To: Honorable Mayor and Council  
From: Vaughn K. Sullivan, Public Works Director  
Date: April 24, 2018  
Subject: Discussion and Consideration of accepting a preliminary feasibility study report associated with land near the Water Resource Recovery Facility (WRRF) from C. H. Guernsey Engineers, Architects and Consultants.

On February 27, 2018 Council entered into a contract with C. H. Guernsey Engineers to provide a preliminary feasibility study report associated with city owned land near the Water Resource Recovery Facility (WRRF) on N. E. 36<sup>th</sup> Street. Guernsey staff will deliver bound copies of the report and present a brief Power Point overview of the report during the Staff Briefing.

Staff recommends acceptance of the report and will request additional feedback on future direction at a later date.

Vaughn K. Sullivan, Public Works Director



The City of  
**MIDWEST CITY**  
COMMUNITY DEVELOPMENT DEPARTMENT -  
COMPREHENSIVE PLANNING DIVISION

Billy Harless, Community Development Director

ENGINEERING DIVISION  
Patrick Menefee, City Engineer  
CURRENT PLANNING DIVISION  
Kellie Gilles, Manager  
COMPREHENSIVE PLANNING  
Julie Shannon, Comprehensive Planner  
BUILDING INSPECTION DIVISION  
Christine Allison, Building Official  
GIS DIVISION  
Greg Hakman, GIS Coordinator

---

TO : Honorable Mayor and City Council

FROM : Billy Harless, Director

DATE : April 24, 2018

SUBJECT : Discussion and consideration of filling the position left vacant on the Subdivision Regulations Update Task Force Committee when Rick Dawkins concluded his City Council term.

---

Rick Dawkins completed his City Council term, creating a vacancy on the Midwest City Subdivision Regulations Update Task Force. This Committee was created to guide the updating process for the Subdivision Regulations and Zoning Ordinance. Their primary focus is to forward recommendations to the Council regarding updates to these two sets of regulations.

This Committee is comprised of 4 members, 1 member from the Council, 1 member from the Planning Commission, 1 member from the Builders Advisory Board, and an at-large appointment, such as a local developer. Members are appointed by the Mayor and approved by the Council.

Current members are as follows:

- Vacant (Council member appointment)
- Russell Smith (Planning Commission appointment)
- Cy Valanejad (At-large appointment)
- Allen Clark (Builders Advisory Board appointment)

Action on this item is at the discretion of the Council.

---

Billy Harless, AICP  
Community Development Director



City Manager's Office  
100 N. Midwest Boulevard  
Midwest City, OK 73110  
Office: (405) 739-1218  
[ghenson@MidwestCityOK.org](mailto:ghenson@MidwestCityOK.org)

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: City Manager Guy Henson

DATE: April 24, 2018

SUBJECT: Discussion And Consideration Of A Resolution Approving The Issuance By The Midwest City Memorial Hospital Authority Of Its "Tax Apportionment Refunding Bonds, Taxable Series 2018 (Sooner Rose Increment District Project)" (The "Bonds"); Waiving Competitive Bidding On The Sale Of The Bonds; Approving The Negotiated Sale Of The Bonds; Authorizing Officers To Take Additional Actions Relating To The Bonds; And Other Matters Relating Thereto.

The attached resolution was prepared by Dan McMahan of Riggs-Abney P.S, acting as Tax Increment Finance counsel for the City and the Midwest City Memorial Hospital Authority ("Authority"). It serves as the City's endorsement of the Authority's intent to authorize the sale of the Tax Apportionment Refunding Bonds necessary for financing improvements and other obligations associated with Increment District No. 2, the Sooner Rose Increment District. It authorizes the Authority's officers to approve certain documents and to take certain actions necessary to close the transaction on behalf of the Authority.

Staff recommends approval, which requires a minimum of six (6) votes in the affirmative.

J. Guy Henson, AICP  
City Manager

**RESOLUTION NO. 2018-\_\_\_**

**RESOLUTION APPROVING THE ISSUANCE BY THE MIDWEST CITY MEMORIAL HOSPITAL AUTHORITY OF ITS “TAX APPORTIONMENT REFUNDING BONDS, TAXABLE SERIES 2018 (SOONER ROSE INCREMENT DISTRICT PROJECT)” (THE “BONDS”); WAIVING COMPETITIVE BIDDING ON THE SALE OF THE BONDS; APPROVING THE NEGOTIATED SALE OF THE BONDS; AUTHORIZING OFFICERS TO TAKE ADDITIONAL ACTIONS RELATING TO THE BONDS; AND OTHER MATTERS RELATING THERETO.**

**WHEREAS**, the Midwest City Memorial Hospital Authority (hereinafter, the “Authority”) was created by that certain “Trust Indenture” dated as of the 1st day of July, 1961, as amended by that certain “Amended and Restated Trust Indenture”, adopted April 7, 1998, which Amended and Restated Trust Indenture was further amended by that certain “First Amendment to Amended and Restated Trust Indenture of the Midwest City Memorial Hospital Authority”, dated April 20, 2017 (the Trust Indenture and all amendments and restatements thereto are hereinafter referred to, collectively, as the “Trust Indenture”); and

**WHEREAS**, the City of Midwest City has accepted beneficial interest in and to the Trust Indenture, as amended and restated, for the use and benefit of the City of Midwest City (hereinafter, the “City”) under authority of and pursuant to the provisions of Title 60, Sections 176 to 180.3, inclusive, of the Oklahoma Statutes, as amended and supplemented (hereinafter, the “Public Trust Act”) and other applicable statutes of the State of Oklahoma, as a public trust and an agency of the State of Oklahoma for public purposes as therein provided; and

**WHEREAS**, the purposes of the Authority are, in part, to promote economic and community development, within and without the territorial limits of the City, and to promote additional employment which will benefit and strengthen the economy of the City and the State of Oklahoma; and

**WHEREAS**, in order to accomplish its designated purposes, the Authority is empowered to provide funds for the costs of acquiring, constructing, rehabilitating, equipping, securing, maintaining and developing real and personal property within and near the City, and to enter into, make and perform contracts for the sale of its bonds, notes or other evidence of indebtedness to finance the costs thereof; and

**WHEREAS**, on March 28, 2017, the City adopted and approved that certain “Project Plan Relating to Increment District Number Two, City of Midwest City, Oklahoma” (hereinafter, the “Project Plan”) and has created, within the boundaries set forth in the Project Plan, “Increment District Number Two, City of Midwest City, Oklahoma” (hereinafter, the “Sooner Rose Increment District”) by Ordinance No. 3291 (hereinafter, the “Ordinance”), pursuant to the Oklahoma Local Development Act, Title 62, Section 851, et seq. of the Oklahoma Statutes, as amended; and



**WHEREAS**, the Project Plan and the Ordinance envision the generation of substantial capital investment and creation of significant new employment within the boundaries of the Sooner Rose Increment District by: (i) the development and construction of a 112,000 square foot expansion to the existing Sooner Rose Shopping Center; and (ii) the development and construction of a 50,000 square foot movie theater facility (hereinafter, collectively, the “Project Facilities”); and

**WHEREAS**, implementation of the Project Plan will expand employment in the area, attract major investment, enhance the tax base, and make possible investment, development and economic growth which would otherwise be difficult or impossible without the apportionment of ad valorem taxes, municipal sales taxes and other forms of public assistance to the Projects; and

**WHEREAS**, the developers of the Project Facilities have requested that the Authority provide development financing assistance to defray the extraordinary acquisition and building development costs required to develop and construct the Project Facilities; and

**WHEREAS**, the developers of the Project Facilities have also requested that the Authority provide development financing assistance to defray the costs of certain stormwater drainage, street, utility and other public infrastructure improvements within or near to the Sooner Rose Increment District; and

**WHEREAS**, the City and the Authority have determined such development financing assistance to be in furtherance of the purposes of the Public Trust Act, the Oklahoma Local Development Act, Title 62, Sections 850 et seq. of the Oklahoma Statutes, as amended (hereinafter, the “Local Development Act”) and the Trust Indenture pursuant to which the Authority was created; and

**WHEREAS**, the Authority has authorized the issuance of its “Tax Apportionment Refunding Bonds, Taxable Series 2018 (Sooner Rose Increment District Project)” (hereinafter, the “Bonds”), pursuant to the provisions of the Public Trust Act, the Local Development Act, and other applicable provisions of Oklahoma law; and

**WHEREAS**, Oklahoma law currently requires that all bond or note issues of public trusts must have the creation of indebtedness by said public trust approved by two-thirds (2/3’s) of the governing body of its beneficiary; and competitive bidding on the sale of bonds or notes may be waived by three-fourths (3/4’s) of the governing body of the beneficiary.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIDWEST CITY, OKLAHOMA, TO-WIT:**

**SECTION 1. Approving the Issuance of Indebtedness by the Midwest City Memorial Hospital Authority of Its “Tax Apportionment Refunding Bonds, Taxable Series 2018 (Sooner Rose Increment District Project)”; Waiving Competitive Bidding on the Sale of the Bonds; Approving the Negotiated Sale of the Bonds.** The City Council of the City of Midwest City, Oklahoma hereby approves the issuance by the Midwest City Memorial Hospital Authority of its “Tax Apportionment Refunding Bonds, Taxable Series 2018 (Sooner Rose

Increment District Project)", in a principal amount not to exceed Nineteen Million Five Hundred Thousand and 00/100 Dollars (\$19,500,000) (hereinafter, the "Bonds"), on the terms and conditions specified therein. Competitive bidding on the sale of the Bonds is hereby expressly waived, pursuant to the provisions of the Public Trust Act, and the sale of the Bonds on a negotiated basis to Wells, Nelson & Associates, LLC and D.A. Davidson & Co., at a price of not less than ninety-eight and three-quarters percent (98.75%) of par is hereby approved.

**SECTION 2. Approving the Terms and Conditions of the First Amended Security Agreement.** The terms and conditions of that certain "First Amended Security Agreement", dated as of June 1, 2018, by and between the Authority and the City, are hereby approved in substantially the same form as presented at this meeting with such additions, omissions and changes as may be approved by the persons executing the same, their execution being conclusive evidence of their approval of any such additions, omission and changes, and the Mayor and City Clerk are authorized and directed on behalf of the Authority to execute, attest, seal and deliver or approve the same prior to or simultaneously with the delivery of the Bonds.

**SECTION 3. Authorizing Officers to Take Additional Actions Relating to the Bonds.** The Mayor and City Clerk are hereby authorized and directed to execute and deliver such documents and take such other action as may be necessary or appropriate in order to effectuate the execution and delivery of the Bonds, including specifically, but not limited to, the First Amended Security Agreement and any other letter, representation or certification otherwise necessary and attendant to the delivery of the Bonds.

PASSED by the City Council of the City of MIDWEST CITY, Oklahoma this \_\_\_\_ day of April, 2018.

CITY COUNCIL OF THE CITY OF  
MIDWEST CITY OKLAHOMA

\_\_\_\_\_  
MATTHEW D. DUKES, II, Mayor

(SEAL)  
ATTEST:

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

APPROVED as to form and legality this \_\_\_\_ day of June, 2017:

\_\_\_\_\_  
PHILIP W. ANDERSON, City Attorney



City Manager's Office  
100 N. Midwest Boulevard  
Midwest City, OK 73110  
Office: (405) 739-1218  
[ghenson@MidwestCityOK.org](mailto:ghenson@MidwestCityOK.org)

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: City Manager Guy Henson

DATE: April 24, 2018

SUBJECT: Discussion and consideration of 1) approving and entering into an Economic Development Agreement with Sooner Investment, Incorporated and the Midwest City Memorial Hospital Authority in the approximate amount of \$875,000 and other goods and valuable consideration, to establish the terms and conditions under which the parties will participate in the development of approximately 6.874 acres located between Buena Vista Avenue and Crosby Boulevard north of Southeast 15th Street; and 2) authorizing the chairman and/or the general manager/ administrator to enter into such other agreements and execute such other documents as may be necessary or appropriate to effect the provisions of the Agreement.

This agreement will establish the monetary amount the Midwest City Memorial Hospital Authority ("Authority") will contribute and other terms that will govern the duties and responsibilities of Sooner Investment, Inc. ("Sooner"), the City of Midwest City ("City") and the Authority in the development of property located between Buena Vista Avenue and Crosby Boulevard north of SE 15th Street.

About .96 acres of the future Sooner development site was acquired last year when the Authority purchased 6 acres from the Vloedman family in the vicinity where the third phase of the Sooner Rose Shopping Center (SR3) was proposed. Sooner has requested this property for redevelopment, which is valued at ± \$371,000. Sooner is also requesting the Authority to take responsibility for negotiating with Enerfin Gathering for the purpose of terminating a petroleum line, reimbursing \$9900 in engineering fees and contribute 66% of the remaining public improvement costs, which are estimated at \$394,000.

The Authority, also agrees to allow Sooner to access 2 acres of its property for development of the detention pond, which the Authority also agrees to maintain into perpetuity. The value of the property for use as the detention pond and the perpetual maintenance required are not included in this document.

The end result is the creation of four (4) new commercial lots that Sooner will make available for restaurant or retail development.

The final agreement is still being edit and will be transmitted in a separate email from Robert Coleman Monday afternoon or earlier. Please check your emails frequently on Monday for this email.

Staff recommends approval.

J. Guy Henson, AICP  
City Manager

Attachments: Proposed agreement between the City, the Authority and Sooner.



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100 N. Midwest Boulevard  
Midwest City, OK 73110  
Office: (405) 739-1218  
[ghenson@MidwestCityOK.org](mailto:ghenson@MidwestCityOK.org)

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: City Manager Guy Henson

DATE: April 24, 2018

SUBJECT: Discussion and consideration of 1) approving and entering into an Economic Development Agreement with Allison's Fun, Inc. and the Midwest City Memorial Hospital Authority in the approximate amount of \$1,170,000 and other goods and valuable consideration, to establish the terms and conditions under which the parties will participate in the development of approximately 3.04 acres located between Buena Vista Avenue and Crosby Boulevard north of Southeast 15th Street; and 2) authorizing the chairman and/or the general manager/ administrator to enter into such other agreements and execute such other documents as may be necessary or appropriate to effect the provisions of the Agreement.

This agreement establishes the monetary amount the Midwest City Memorial Hospital Authority ("Authority") will contribute and other terms that will govern the duties and responsibilities of Allison's Fun, Inc. ("Allison's"), the City of Midwest City ("City") and the Authority in the development of property located between Buena Vista Avenue and Crosby Boulevard north of SE 15th Street.

The future Allison's site was acquired last year when the Authority purchased 6 acres from the Vloedman family in the vicinity where the third phase of the Sooner Rose Shopping Center (SR3) was planned. Allison's has requested a contribution of 3.04 acres for development, which is valued at ± \$1,175,600.

The Authority will oversee construction of public improvements, but Allison's is responsible for reimbursing the Authority for 34% (approximately \$194,605) of the actual cost of this work. In addition, the Authority, also agrees to grant Allison's and Sooner access to 2 acres of its property for development of the detention pond, which the Authority also agrees to maintain into perpetuity. The value of the property for use as the detention pond, and the perpetual maintenance required are not included in this document.

Staff recommends approval.

J. Guy Henson, AICP  
City Manager



STATE OF OKLAHOMA

SOONER ROSE PHASE III – ENTERTAINMENT  
DEVELOPMENT FINANCING ASSISTANCE AGREEMENT

COUNTY OF OKLAHOMA

**THIS SOONER ROSE PHASE III – ENTERTAINMENT DEVELOPMENT FINANCING ASSISTANCE AGREEMENT** (this “Agreement”) is entered into as of the 24<sup>th</sup> day of April, 2018 (the “Effective Date”), by and between the Midwest City Memorial Hospital Authority, an Oklahoma public trust (the “Authority”) and Allison’s Fun, Inc., an Oklahoma corporation (“Allison’s”), and the City of Midwest City, Oklahoma (the “City”), a municipal corporation of the State of Oklahoma.

**RECITALS**

**WHEREAS**, the Authority was created by that certain Original Trust Indenture, dated as of the 1st day of July, 1961, with subsequent amendments in 1998 and in 2017, as a public trust for the use and benefit of the City pursuant to the provisions of Title 60, Sections 176, et seq., of the Oklahoma Statutes, as amended and supplemented (hereinafter, the “Public Trust Act”) and other applicable statutes of the State of Oklahoma; and

**WHEREAS**, the City, as the beneficiary thereof, acting through its City Council, has adopted a resolution accepting beneficial interest therein on behalf of said City; and

**WHEREAS**, the purposes of the Authority are, in part, to promote economic and community development, within and without the territorial limits of the City, and to promote additional employment which will benefit and strengthen the economy of the City and the State of Oklahoma; and

**WHEREAS**, in order to accomplish its designated purposes, the Authority is empowered to provide funds for the costs of acquiring, constructing, rehabilitating, equipping, securing, maintaining and developing real and personal property within and near the City, and to enter into, make and perform contracts for the sale of its bonds, notes or other evidence of indebtedness to finance the costs thereof; and

**WHEREAS**, Allison’s has proposed to redevelop and construct a retail and entertainment development within the boundaries of the City as more particularly described in Section 2 and, in connection therewith, has requested development financing assistance from the Authority in acquiring land and in defraying the costs of certain building, site, and infrastructure improvements; and

**WHEREAS**, Allison’s has the professional ability and expertise to undertake the development described in Section 2 in a manner that will enhance and improve economic growth and development of commerce in the city; and

**WHEREAS**, both the Authority and Allison’s have a significant interest in encouraging and improving commerce and economic development in the City and agree that the two entities working together will have a greater, more positive impact on commerce and economic development in the City than each would have separately; and

**WHEREAS**, the Authority is the owner of that certain property located immediately adjacent to the west of Crosby Boulevard and the east of Buena Vista Avenue along SE 15<sup>th</sup> Street, more particularly described on Exhibit A-1 (the “Authority Property”); and

**WHEREAS**, the Authority and Sooner Investment Group, Inc. (“Sooner”) have been working with Allison’s to redevelop a portion of the Authority Property, shown on Exhibit A as the “Phase III Entertainment Development” and more particularly described on Exhibit A-2 (the “Entertainment Property”), for entertainment uses, including but not limited to, bowling, arcades and midway games, restaurants, and ancillary retail uses as more particularly shown on Exhibit B and described in Section 3;

**WHEREAS**, Sooner Investment Group, Inc. (“Sooner”) intends to concurrently redevelop the property immediately adjacent to the west of the Entertainment Property, described in Exhibit A-3 (the “Phase III Retail Property”) for retail and commercial uses complimentary to the Entertainment Development (defined below);

**WHEREAS**, the Authority and Sooner intend to enter into a separate Development Financing Assistance Agreement associated with the Phase III Retail Development concurrent with the Authority’s entering into this Agreement with Allison’s;

**WHEREAS**, the Authority intends to dedicate a nonexclusive easement agreement over a portion of the Authority Property more particularly described in Exhibit A-4 (the “Stormwater Parcel”) in favor of the Phase III Retail and Entertainment Developments for use for stormwater detention;

**WHEREAS**, the Authority and the City have concluded their independent assessment of the plan of development proposed by Sooner and has determined that the redevelopment of the Entertainment Property as proposed by Allison’s is feasible;

**WHEREAS**, the City has adopted and approved that certain “Project Plan Relating to Tax Increment District No. Two, City of Midwest City, Oklahoma (Sooner Rose Increment District Project)” (the “Project Plan”) and has created, within the boundaries set forth in the Project Plan, Increment District Number Two, City of Midwest City, Oklahoma (the “Sooner Rose Increment District”) by Ordinance No. 3291 on March 28, 2017 (the “Ordinance”), pursuant to the Oklahoma Local Development Act, Title 62, Section 851, et seq., of the Oklahoma Statutes, as amended; and

**WHEREAS**, the parties wish to set forth the manner in which the Project is to be undertaken by Sooner and the Authority, and the assistance in development financing which the Authority has agreed to provide.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which being hereby acknowledged, the parties to this Agreement agree as follows:

1. **Recitals.** The forgoing recitals are true and correct and are hereby incorporated in this Agreement.
2. **Exhibits.** The following Exhibits are true and correct and are hereby incorporated in this Agreement by this reference:

Exhibit A – Sooner Rose III Property Plan;

Exhibit A-1 – Legal Description - Authority Property;

Exhibit A-2 – Legal Description - Entertainment Property;

Exhibit A-3 – Legal Description – Phase III Retail Property;

Exhibit A-4 – Legal Description – Stormwater Parcel;

Exhibit B – Conceptual Site Plan; and

Exhibit C – Stormwater Improvements.

3. **Entertainment Development Program.** Allison’s shall redevelop the Entertainment Property for an entertainment venue which shall include bowling, arcades and midway games, indoor laser tag and bumper cars, restaurants, and ancillary retail uses, together with associated improvements (the “Entertainment Uses”), all as more particularly shown on Exhibit B and consistent with the Sooner Rose Phase III – Entertainment Planned Unit Development Agreement pursuant to Ordinance 3325, approved by the City on October 25, 2017 (the “PUD Agreement”) (collectively, the “Entertainment Development”). The Entertainment Development shall consist of a first-class building, parking, drive aisles, signage, and ancillary improvements consistent with the quality of the existing Sooner Rose shopping center located to the west of the Entertainment Property on SE 15<sup>th</sup> Street.
  - 3.1. The parties acknowledge that the Phase III Retail and Entertainment Developments shall be a unified, cohesive development program and the PUD Agreement and the PUD zoning for the Entertainment Development shall each require mutual cooperation and coordination between Sooner and Allison’s for the respective developments.
  - 3.2. The parties further acknowledge that Exhibit B and the Entertainment Development description provided in this Section represent a conceptual development program that has not been fully engineered, and that certain adjustments necessary for design, engineering, construction, or market conditions may be necessary for the Entertainment Development to proceed, which adjustments shall be incorporated into the Entertainment Development without need for further amendment to this Agreement provided such adjustments are approved by the City pursuant to the City’s permitting authority and the PUD Agreement (including any amendment thereto).
4. **Site Development Agreement.** Allison’s has entered into a Site Development Agreement or similar instrument by and between Allison’s and Sooner for the Predevelopment Activities (defined below) and Site Development (defined below) pertaining to the Entertainment Property (the “Site Development Agreement”). The parties hereto intend that Sooner shall undertake the Predevelopment Activities and Site Development of the Entertainment Property on behalf of Allison’s pursuant to the Site Development Agreement and in furtherance of Allison’s and the Authority’s mutual goals in developing the Entertainment Development as contemplated in this Agreement. The Site Development Agreement shall provide for Allison’s posting a letter of credit or other surety guarantying payment for any of Allison’s financial obligations pursuant to such agreement, including but not limited to bonding of any improvements associated with the Entertainment Development required to be bonded by City ordinances.
5. **Allison’s Obligations.** In consideration of the Authority’s obligations set forth in Section 6, Allison’s shall undertake the obligations set forth in this Section. Except as otherwise expressly provided in this Agreement, Allison’s shall undertake the obligations set forth in this Section at its sole cost and expense.
  - 5.1. From and after the Effective Date:
    - 5.1.1. Allison’s shall conduct all reasonable and necessary due diligence associated with the Entertainment Property, including but not limited to title, survey and environmental assessments as customary in acquiring land for commercial retail development, and shall provide copies of such materials to the Authority.
    - 5.1.2. Allison’s shall join in all applications and other instruments prepared by Sooner as part of the Predevelopment Activities and relating to the Entertainment Property consistent with the terms of this Agreement.
  - 5.2. Prior to the Allison’s-Authority Closing Date (defined below), Allison’s shall deliver to the Authority information concerning Allison’s financial ability to develop the Entertainment

Development to the Authority's reasonable satisfaction, which information shall include, but not be limited to:

- 5.2.1. Copies of all approvals necessary to commence construction of the Entertainment Development;
  - 5.2.2. A pro forma of the Entertainment Development with construction estimates;
  - 5.2.3. An executed contract for construction of the Entertainment Development (other than the Site Development);
  - 5.2.4. Allison's shall represent and warrant that it has entered into a Site Development Agreement with Sooner as provided in Section 4, Allison's is not in default of the Site Development Agreement, and the Site Development Agreement is in full force and effect; and
  - 5.2.5. A loan commitment or other documentation establishing that Allison's has sufficient financing or other resources to undertake and complete the construction of the Entertainment Development, including, but not limited to, Allison's payment of the Public Utility Improvements Contribution (defined in Section 5.4.2).
- 5.3. On the Allison's-Authority Closing Date, Allison's shall accept title to Entertainment Property.
- 5.4. Following the Allison's -Authority Closing Date:
- 5.4.1. Allison's, through Sooner pursuant to the Site Development Agreement, shall undertake the Site Development.
  - 5.4.2. Allison's shall pay to the Authority the Public Utility Improvements Contribution pursuant to the terms set forth in this Section.
    - 5.4.2.1. Allison's shall be obligated to pay thirty-four percent (34.0%) of the costs associated with construction of the Public Utility Improvements (as more particularly defined in Exhibit C). Not more than twice per month, the Authority shall submit written invoices for costs associated with Public Utility Improvements to Allison's (each, a "Contribution Request") identifying the activities associated with the Public Utility Improvements and the costs incurred associated therewith.
    - 5.4.2.2. Allison's shall pay the all costs actually incurred associated with the Public Utility Improvements as set forth in the Contribution Request to the Authority in the amount set forth in the Contribution Request, within fourteen (14) days of receipt of the Contribution Request.
    - 5.4.2.3. The parties hereto acknowledge that the estimates provided in Exhibit C, Section 4, are estimates only. In the event the actual costs of the Public Utility Improvements shall be less than the estimates provided in Exhibit C, Section 4, Allison's obligation to pay such costs for the Public Utility Improvements shall be only the Public Utility Improvements costs actually incurred pursuant to this Agreement. In the event the actual costs of the Public Utility Improvements exceed the estimates provided in Exhibit C, Section 4, Allison's shall nevertheless be obligated to pay for the actual costs of the Public Utility Improvements incurred regardless of the estimates provided above.
  - 5.4.3. Allison's shall construct the Entertainment Development pursuant to the terms of this Agreement. Allison's shall be solely responsible for all costs associated with the Entertainment Development except as otherwise expressly provided for herein. Allison's will, in its best judgment and discretion, develop, plan and execute the redevelopment of the Entertainment Property by designing the Entertainment Development and obtaining permits from local, state and federal agencies, rezoning the Entertainment Property (as necessary), replatting the Entertainment Property (including imposition of any declaration of covenants and easements necessary for the operation of the Entertainment Property), constructing the Entertainment Development, and performing such other duties and

assuming such other responsibilities as any other developer would undertake to complete a Class A commercial real estate development of the size of the Entertainment Property. Allison's will also take whatever other actions and perform all such other duties that, in the best professional judgment of Allison's, will lead to the successful redevelopment of the Entertainment Property, which will enhance and improve commerce and economic development in Midwest City, Oklahoma.

5.4.4. Allison's shall use reasonable efforts to include in all contracts it executes with its Entertainment Development contractors that, to the extent reasonably practicable, such contractors shall cause construction purchases to be delivered to the Entertainment Property and shall use the appropriate Midwest City, OK street address for such purchases, and that Oklahoma state and Midwest City sales/use taxes, as applicable, shall apply to such purchases of building items and construction materials. Allison's will use reasonable efforts to provide the City lists of purchase prices and copies of invoices Allison's receives from such contractors for purchases to which this provision applies.

5.4.5. Allison's shall open for business to the general public fully stocked and staffed as a prototypical Allison's Fun on or before twelve (12) months following Commencement of Construction per Section 7.4.2 (the "Entertainment Development Opening").

5.4.6. Other than the Entertainment Development, Allison's shall not develop, own or operate another development similar to the Entertainment Development, greater than twenty thousand (20,000) square feet of air-conditioned space, located within eight (8) miles of the Entertainment Property boundary for a period of ten (10) years from the Entertainment Development Opening; provided, however, a development containing a single Entertainment Use shall not constitute an "Entertainment Development" for purposes of this Section.

6. **Authority's Obligations.** In consideration of Allison's obligations set forth in Section 4, the Authority shall undertake the obligations set forth in this Section. Except as otherwise expressly provided in this Agreement, the Authority shall undertake the obligations set forth in this Section at its sole cost and expense.

6.1. Following the Effective Date:

6.1.1. As the Authority Property owner, the Authority shall join in all applications prepared by Sooner as part of the Predevelopment Activities consistent with the terms of this Agreement.

6.1.2. The Authority shall enter into an agreement with Sooner that shall provide, *inter alia*, for the Authority's construction of the Public Utility Improvements (defined below).

6.1.3. The Authority shall grant Sooner all easements and similar interests reasonably necessary for Sooner's undertaking the Site Development on the Entertainment Property prior to the Allison's-Authority Closing Date.

6.2. On the Allison's-Authority Closing Date, the Authority shall convey to Allison's the Entertainment Property pursuant to the terms of Section 7.

6.3. Following the Allison's-Authority Closing Date, the Authority shall:

6.3.1. Convey a nonexclusive stormwater easement in favor of the Phase III Retail and Entertainment Properties for perpetual use of the stormwater management system to be constructed on the Stormwater Parcel, and providing for the Authority's (or its successors or assigns) operation and maintenance of the stormwater management system to the nonexclusive benefit of the Phase III Retail and Entertainment Properties at no cost to the Phase III Retail and Entertainment Properties; and

6.3.2. Construct the Public Utility Improvements as provided in Exhibit C.



6.4. The Authority shall not provide economic/development funding or other consideration to an entertainment development similar to the Entertainment Development located within eight (8) miles of the Entertainment Property for a period of ten (10) years following the Entertainment Development Opening; provided, however, a development containing a single Entertainment Use shall not constitute an "Entertainment Development" for purposes of this Section.

**7. Entertainment Property Conveyance.**

7.1. The date on which the Authority shall convey the Entertainment Property to Allison's shall be the "Allison's-Authority Closing Date." The Allison's-Authority Closing Date shall occur upon mutual agreement by Allison's and the Authority.

7.2. Allison's shall obtain, at Allison's sole cost, an owner's title insurance policy from a title company of Allison's choice agreeing to insure title to the Entertainment Property in an amount that Allison's estimates is equal to the value of the Entertainment Property and subject to no exceptions other than those matters herein permitted, those which will be discharged prior to or at the Allison's-Authority Closing, and the standard printed exceptions and exclusions from coverage customarily contained in an owner's title policy (the "Commitment"). Allison's shall provide the Authority a copy of the Commitment upon receipt. If the Commitment discloses unpermitted exceptions or matters that render the title unmarketable, the Authority, at its option, may cure such defects to Allison's reasonable satisfaction. If the Authority fails to have the Commitment exceptions removed or the defects cured prior to the Allison's-Authority Closing Date, Allison's may terminate this Agreement or Allison's may elect, in its discretion, to take title as it then is notwithstanding such exceptions or title defects. In the event that new exceptions or matters arise by or through the Authority, the Authority shall exercise reasonable diligence in the curing of any such defects or exceptions, including payment and discharge of any liens or encumbrances affecting title of the Entertainment Property, and the Closing and other deadlines associated with development of the Entertainment Property shall be tolled until the Authority shall have cured such exceptions or defects. At the Allison's-Authority Closing, Allison's shall obtain an owner's title policy showing good and marketable title in Allison's through the Closing and subject only to the permitted exceptions and any matters accepted by Allison's.

7.3. As part of the development financing assistance the Authority is providing hereunder, and in exchange for the consideration provided by Allison's under this Agreement, the Authority shall, at the Allison's – Authority Closing, convey title to the Entertainment Property to Allison's by special warranty deed. Except as otherwise provided herein, Allison's shall pay all costs associated with the acquisition of the Entertainment Property; provided, however, the Authority shall be responsible for its own legal fees associated with this Agreement and the Closing.

7.4. The Authority shall convey the Entertainment Property to Allison's subject to easement rights conveyed to Sooner for the Site Development activities, a Temporary Use Restriction (defined below), and the Reversionary Interest (defined below).

7.4.1. The term "Temporary Use Restriction" shall mean a use restriction contained in the deed of conveyance from the Authority to Allison's, which shall restrict the use of the Entertainment Property to only the Entertainment Uses. The Temporary Use Restriction shall terminate automatically and immediately on Entertainment Development Opening. Following the Entertainment Development Opening, the parties hereto agree to cooperate in good faith with each other and Allison's lender to promptly execute and record in the real estate records such document as may be required by such lender or Allison's to terminate the Temporary Use Restriction.

7.4.2. The term "Reversionary Interest" shall mean a reversionary interest retained by the Authority as set forth in the deed of conveyance from the Authority to Allison's, which shall provide that, in the event Allison's does not Commence Construction of the Entertainment

Development within forty-five (45) days of the latter of (i) the Allison's-Authority Closing , (ii) Sooner's completion of the Site Development, and (iii) the Authority's completion of the Public Utility Improvements, fee simple title to the Entertainment Property shall vest in the Authority. The specific provision of the Reversionary Interest shall be satisfactory to Allison's and the Authority. Provided, however, that the Reversionary Interest shall terminate automatically and be of no further force or effect immediately upon the date Allison's shall commence construction of the Entertainment Development. The parties hereto agree to cooperate in good faith with each other and Allison's lender at the time Allison's shall commence construction to execute such document as may be required by such lender or Allison's to terminate the Reversionary Interest. The term "Commence Construction" shall mean the pouring of footers for the "Entertainment Venue" on the Entertainment Property as shown on Exhibit B.

- 7.5. Except as otherwise provided in this Agreement, neither the City nor the Authority is making, and each hereby specifically disclaims, any representations or warranties of any kind, express or implied, with respect to the Entertainment Property. Allison's agrees that Allison's has not relied upon and will not rely upon, either directly or indirectly, any representation of the City or the Authority (except as otherwise set forth in this Agreement) or any agent of the City or the Authority. EXCEPT AS OTHERWISE PROVIDED HEREIN, ALLISON'S ACKNOWLEDGES AND AGREES THAT UPON THE ALLISON'S-AUTHORITY CLOSING DATE THE AUTHORITY SHALL CONVEY TO ALLISON'S, AND ALLISON'S SHALL ACCEPT, THE ENTERTAINMENT PROPERTY "AS IS, WHERE IS" WITH ALL FAULTS, AND THERE ARE NO ORAL AGREEMENTS, WARRANTIES, OR REPRESENTATIONS (EXCEPT AS OTHERWISE PROVIDED HEREIN), COLLATERAL TO OR AFFECTING THE ENTERTAINMENT PROPERTY BY THE AUTHORITY, ANY AGENT OF THE CITY OR THE AUTHORITY OR ANY THIRD PARTY ACTING FOR ON BEHALF OF THE CITY OR THE AUTHORITY. The terms of this Section shall expressly survive termination of this Agreement.
8. **Predevelopment Activities.**
- 8.1. The term "Predevelopment Activities," shall mean:
- 8.1.1. Preparation of the PUD and preliminary plats, including all exhibits associated with such agreements and the plat, and the Development Financing Assistance Agreements, all for the Phase III Retail and Entertainment Developments, including but not limited to, managing the review and approval processes for all such documents through the City and Authority hearings; and
- 8.1.2. Planning, design and permitting of the Site Development for the Phase III Retail and Entertainment Developments with all applicable government agencies.
- 8.2. All Predevelopment Activities shall be generally consistent with Exhibit B, to facilitate development of the Phase III Retail and Entertainment Developments to form a cohesive retail and entertainment center comparable with first-class retail centers in the Oklahoma County, Oklahoma market.
9. **Site Development.** The term "Site Development" shall include all actions reasonably related to: clearing and grading the Phase III Retail and Entertainment Developments, all as more particularly shown on Exhibit B, and as more particularly detailed on the engineered development plans and preliminary plat prepared as part of the Predevelopment Activities and duly approved by the City of Midwest City pursuant to its ordinances. The Site Development shall be undertaken by Sooner pursuant to the Site Development Agreement. Site Development shall not include any building pad preparation or other above-ground improvements.
10. **Assignment.** Allison's rights and obligations pursuant to this Agreement may be assigned by Allison's only as set forth in this Section. Any assignment other than as provided in this Section shall be null

and void except as approved by a prior written amendment to this Agreement, executed by the parties hereto.

- 10.1. The parties hereto acknowledge that Allison's may undertake acquisition of the Property and development of the Entertainment Development via an affiliate entity owned or controlled by Allison's. Therefore, Allison's rights and obligations pursuant to this Agreement may be assigned without the prior consent of the Authority to any entity owned or controlled by Allison's, on or before the Closing Date without the need for amendment to this Agreement.
- 10.2. The parties hereto acknowledge that Allison's may undertake acquisition of the Entertainment Property and development of the Entertainment Development pursuant to an acquisition and development loan from a lender. Therefore, Allison's rights and obligations pursuant to this Agreement may be assigned, pledged and hypothecated to a lender associated with the acquisition of the Entertainment Property and construction of the Entertainment Development and without the prior consent of the Authority without the need for amendment to this Agreement.
- 10.3. Upon assignment pursuant to this Section, all the terms and conditions of this Agreement shall inure to the benefit of and bind the assignee.
11. **Tax Matters.** The contribution of the Entertainment Property and other consideration provided by the Authority pursuant to Section 6 are intended to be as permitted by Section 118 of the Internal Revenue Code, provided, however, that the City and the Authority make no representations or warranties regarding the characterization or treatment of such development financing assistance for federal or state income tax purposes.
12. **No Partnership.** Nothing contained in this Agreement shall be construed in any way as creating a joint venture, partnership, or similar business relationship between or among, the City, the Authority and Allison's. Consistent with the terms of this Agreement, Allison's shall develop, operate, maintain, lease, sell, hypothecate, and otherwise convey the Entertainment Property or portions thereof in its sole and absolute discretion.
13. **Default.** Except as otherwise expressly provided in this Agreement, in the event either party hereto shall default of any its obligations as provided in this Agreement, following thirty (30) days' prior written notice from the non-defaulting party to the defaulting party with the defaulting party's opportunity to cure such default, the non-defaulting party may terminate this Agreement or seek specific performance of the defaulting party's obligations pursuant to the terms of this Agreement; provided, however, if the default is of a nature that cannot be reasonably cured within such 30-day period, then the defaulting party shall be allowed a reasonable period of time to cure such default provided that it diligently commences the cure within the 30-day period and thereafter undertakes and continuously pursues such cure.
14. **Force Majeure.** Notwithstanding anything in this Agreement to the contrary, no party hereto shall be deemed in default with respect to the performance of any of the terms, covenants, and conditions of this Agreement to be performed by it if any failure of its performance shall be due to any strike, lockout, civil commotion, war, warlike operation, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, inability to obtain any material or service, Act of God, weather, or any other cause whatsoever beyond the reasonable control of obligated party, and the time for performance by such obligated party shall be extended by the period of delay resulting from or due to any of said causes; provided, nothing in this section shall excuse or extend a party's obligation to pay any sum due under this Agreement.
15. **Termination.** Upon the completion of Allison's obligations set forth in Section 4 and completion of the Authority's obligations as set forth in Section 6 and 7, this Agreement shall terminate and shall be of no further force or effect except as to terms and conditions that expressly survive termination.

16. **Representations.** Each of the parties hereto represent and warrant to each of the other parties that it is a duly constituted entity; has the full right and authority to execute and perform its respective obligations under this Agreement; and the Agreement is in full force and effect and constitutes a valid and legal binding obligation, enforceable in accordance with its terms as provide in this Agreement.
17. **Miscellaneous.** Nothing in this Agreement shall serve to affect or otherwise limit the City's and Authority's police powers, zoning authority or other governmental action of the City or Authority. This Agreement shall represent the entire understanding between the parties with respect to the subject matter hereof, and supersede all other negotiations and agreements made by the parties concerning the matters set forth herein. Any provision of this Agreement held by a court of competent jurisdiction to be invalid, illegal or unenforceable, shall be severable and shall not be construed to render the remainder of the Agreement to be invalid, illegal, or unenforceable. This Agreement may not be amended, unless evidenced in writing and executed by the parties hereto. This Agreement shall be governed by and constructed in accordance with the laws of the State of Oklahoma, and any legal action pertaining hereto must be brought in Oklahoma County District Court and/or the Western District of Oklahoma. This Agreement may be executed in counterparts, each of which when so executed shall be deemed an original, and all of which shall together constitute one and the same instrument. Each party acknowledges that all parties to this Agreement participated in the preparation thereof, and that it was negotiated at arm's length. Accordingly, no court construing this Agreement shall construe it more strongly against one party than the other.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the Effective Date.

Approved and agreed to by the City on the Effective Date.

**ATTEST:**

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

**CITY OF MIDWEST CITY, OKLAHOMA**, a municipal corporation

\_\_\_\_\_  
\_\_\_\_\_, Mayor

Approved as to form and legality on the Effective Date.

\_\_\_\_\_  
\_\_\_\_\_,  
City Attorney

Approved and agreed to by the Authority on the Effective Date.

**ATTEST:**

\_\_\_\_\_  
\_\_\_\_\_, Secretary

**MIDWEST CITY MEMORIAL HOSPITAL AUTHORITY**, a public trust

\_\_\_\_\_  
\_\_\_\_\_, Chairman

Approved as to form and legality on the Effective Date.

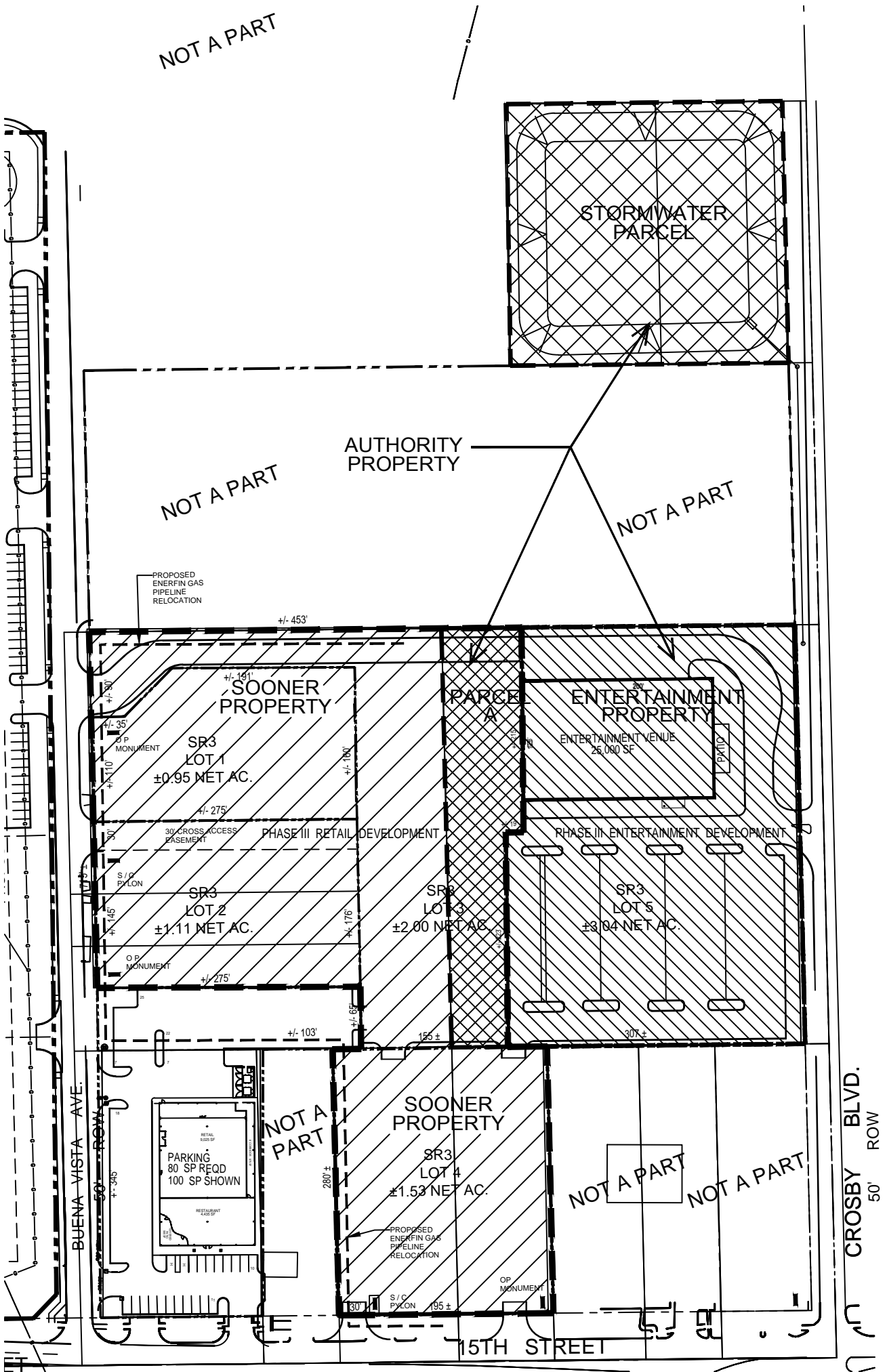
\_\_\_\_\_  
\_\_\_\_\_, Attorney for  
the Authority

Approved and agreed to by Allison's on the Effective Date.

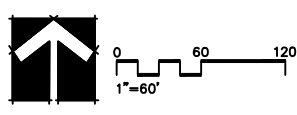
**ALLISON'S FUN, INC.**, an Oklahoma corporation

\_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_





1 **AUTHORITY PROPERTY PLAN**  
SCALE: 1" = 60'-0"



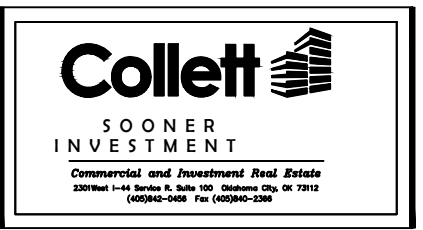
| KEY |   |
|-----|---|
|     | AUTHORITY PROPERTY  |
|     | PARCEL A<br>AUTHORITY PROPERTY<br>CONVEYED TO SOONER                      |
|     | ENTERTAINMENT PROPERTY<br>AUTHORITY PROPERTY<br>CONVEYED TO ALLISON'S FUN |
|     | SOONER PROPERTY   |
|     | STORMWATER PARCEL   |

| REV | DATE |
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|     |      |
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**SOONER ROSE - PHASE III**  
MIDWEST CITY, OKLAHOMA  
**EXHIBIT A - AUTHORITY PROPERTY**

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**Exhibit A-1**

**Legal Description – Authority Property**

**TRACT 1:**

A tract of land lying in the Southwest Quarter of Section Four (4), Township Eleven (11) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma being more particularly described as follows:

COMMENCING at southeast corner of said Southwest Quarter;

THENCE South 89°24'49" West, along the south line of said Southwest Quarter, a distance of 296.00 feet;

THENCE North 01°23'57" West, parallel with the east line of said Southwest Quarter, a distance of 330.00 feet to the POINT OF BEGINNING;

THENCE South 89°24'49" West, parallel with the south line of said Southwest Quarter, a distance of 100.00 feet;

North 01°23'57" West, parallel with the east line of said Southwest Quarter, a distance of 440.00 feet;

THENCE North 89°24'49" East, parallel with the south line of said Southwest Quarter, a distance of 396.00 feet to a point on the east line of said Southwest Quarter;

THENCE South 01°23'57" East, along said east line, a distance of 440.00 feet;

THENCE South 89°24'49" West, parallel with the south line of said Southwest Quarter, a distance of 296.00 feet to the POINT OF BEGINNING.

**TRACT 2:**

A tract of land lying in the Southwest Quarter (SW/4) of Section Four (4), Township Eleven (11) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma being more particularly described as follows:

COMMENCING at the southeast corner of said Southwest Quarter;

THENCE North 01°23'57" West, along the east line of said Southwest Quarter, a distance of 1,045.00 feet to the POINT OF BEGINNING;

THENCE South 89°24'49" West, parallel with the south line of said Southwest Quarter, a distance of 316.80 feet;

THENCE North 01°23'57" West, parallel with the east line of said Southwest Quarter, a distance of 275.02 feet (275.00 feet per vesting deed) to a point on the centerline of Southeast 12th Street as shown on the plat of CROSBY RICHLAND HILL ADDITION, according to the plat thereof recorded in Book 31 of Plats, Page 94, Oklahoma County records;

THENCE North 89°24'49" East, along said centerline and parallel with the south line of said Southwest Quarter, a distance of 316.80 feet to a point on the East line of said Southwest Quarter;

THENCE South 01°23'57" East, along said east line, a distance of 275.02 feet (275.00 feet per vesting deed) to the POINT OF BEGINNING.

Said described Tract 1 contains a gross area of 174,222 square feet or 3.9996 acres and a net area, less streets rights of way, of 163,222 square feet or 3.7471 acres, more or less.

Said described Tract 2 contains a gross area of 87,118 square feet or 1.9999 acres and a net area, less streets rights of way, of 72,946 square feet or 1.6746 acres, more or less.

The basis of bearing for this description is the Oklahoma State Plane Coordinate System (South Zone) using South 89°24'49" West as the south line of the Southwest Quarter of Section 4, Township 11 North, Range 2 West of the Indian Meridian.

**Exhibit A-2**

**Legal Description – Entertainment Property**

A tract of land lying in the Southwest Quarter of Section Four (4), Township Eleven (11) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma being more particularly described as follows:

COMMENCING at southeast corner of said Southwest Quarter;

THENCE South 89°24'49" West, along the south line of said Southwest Quarter, a distance of 296.00 feet;

THENCE North 01°23'57" West, parallel with the east line of said Southwest Quarter, a distance of 330.00 feet to the POINT OF BEGINNING;

THENCE South 89°24'49" West, parallel with the south line of said Southwest Quarter, a distance of 41.59 feet;

THENCE North 00°35'11" West a distance of 214.94 feet;

THENCE North 89°24'49" East, parallel with the south line of said Southwest Quarter, a distance of 17.50 feet;

THENCE North 00°35'11" West a distance of 225.02 feet;

THENCE North 89°24'49" East, parallel with the south line of said Southwest Quarter, a distance of 313.84 feet to a point on the east line of said Southwest Quarter;

THENCE South 01°23'57" East, along said east line a distance of 440.00 feet;

THENCE South 89°24'49" West, parallel with the south line of said Southwest Quarter, a distance of 296.00 feet to the POINT OF BEGINNING.

Said described tract of land contains an area of 143,212 square feet or 3.2877 acres, more or less.

The basis of bearing for this description is the Oklahoma State Plane Coordinate System (South Zone) using South 89°24'49" West as the south line of the Southwest Quarter of Section 4, Township 11 North, Range 2 West of the Indian Meridian.

9-14-17-RM

### Exhibit A-3

#### Legal Description – Phase III Retail Property

A tract of land lying in the Southwest Quarter of Section Four (4), Township Eleven (11) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma being more particularly described as follows:

COMMENCING at southeast corner of said Southwest Quarter;

THENCE South 89°24'49" West, along the south line of said Southwest Quarter, a distance of 296.00 feet to the POINT OF BEGINNING;

THENCE continuing South 89°24'49" West, along said south line, a distance of 225.00 feet;

THENCE North 01°23'57" West, parallel with the east line of said Southwest Quarter, a distance of 330.00 feet;

THENCE South 89°24'49" West, parallel with the south line of said Southwest Quarter, a distance of 271.00 feet to a point on the centerline of Buena Vista Avenue as established by Easement for Right of Way recorded in Book 64, Page 69;

THENCE North 01°23'57" West, along said centerline, a distance of 440.00 feet;

THENCE North 89°24'49" East, parallel with the south line of said Southwest Quarter, a distance of 478.16 feet;

THENCE South 00°35'11" East a distance of 225.02 feet;

THENCE South 89°24'49" West, parallel with the south line of said Southwest Quarter, a distance of 17.50 feet;

THENCE South 00°35'11" East a distance of 214.94 feet;

THENCE North 89°24'49" East, parallel with the south line of said Southwest Quarter, a distance of 41.59 feet;

THENCE South 01°23'57" East, parallel with the east line of said Southwest Quarter, a distance of 330.00 feet to the POINT OF BEGINNING.

Said described tract of land contains an area of 279,475 square feet or 6.4159 acres, more or less.

The basis of bearing for this description is the Oklahoma State Plane Coordinate System (South Zone) using South 89°24'49" West as the south line of the Southwest Quarter of Section 4, Township 11 North, Range 2 West of the Indian Meridian.

9-14-17-RM



## Exhibit A-4

### Legal Description – Stormwater Parcel

A tract of land lying in the Southwest Quarter of Section Four (4), Township Eleven (11) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma being more particularly described as follows:

COMMENCING at the southeast corner of said Southwest Quarter;

THENCE North 01°23'57" West, along the east line of said Southwest Quarter, a distance of 1,045.00 feet to the POINT OF BEGINNING;

THENCE South 89°24'49" West, parallel with the south line of said Southwest Quarter, a distance of 316.80 feet;

THENCE North 01°23'57" West, parallel with the east line of said Southwest Quarter, a distance of 275.02 feet (275.00 feet per vesting deed) to a point on the centerline of Southeast 12th Street as shown on the plat of CROSBY RICHLAND HILL ADDITION, according to the plat thereof recorded in Book 31 of Plats, Page 94, Oklahoma County records;

THENCE North 89°24'49" East, along said centerline and parallel with the south line of said Southwest Quarter, a distance of 316.80 feet to a point on the east line of said Southwest Quarter;

THENCE South 01°23'57" East, along said east line, a distance of 275.02 feet (275.00 feet per vesting deed) to the POINT OF BEGINNING.

Said described tract contains a gross area of 87,118 square feet or 1.9999 acres and a net area, less streets rights of way, of 72,946 square feet or 1.6746 acres, more or less.

The basis of bearing for this description is the Oklahoma State Plane Coordinate System (South Zone) using South 89°24'49" West as the south line of the Southwest Quarter of Section 4, Township 11 North, Range 2 West of the Indian Meridian.

NOT A PART

STORMWATER  
EASEMENT

STORMWATER  
POND

STORMWATER  
EASEMENT

STORMWATER  
CONVEYANCE PIPE  
TO STORMWATER  
POND FROM SR3

NOT A PART

NOT A PART

PROPOSED  
ENERGIN GAS  
PIPELINE  
RELOCATION

+/- 453'

+/- 191'

+/- 90'

+/- 35'

+/- 125'

OP  
MONUMENT

SR3  
LOT 1  
±1.04 NET AC.

PHASE III RETAIL DEVELOPMENT

30' CROSS ACCESS  
EASEMENT

OP  
MONUMENT

+/- 160'

S/C  
PYLON

SR3  
LOT 2  
±1.01 NET AC.

+/- 275'

+/- 103'

SR3  
LOT 3  
±2.00 NET AC.

+/- 215'

200'

ENTERTAINMENT VENUE  
25,000 SF

PATIO

PHASE III ENTERTAINMENT DEVELOPMENT

+/- 19'

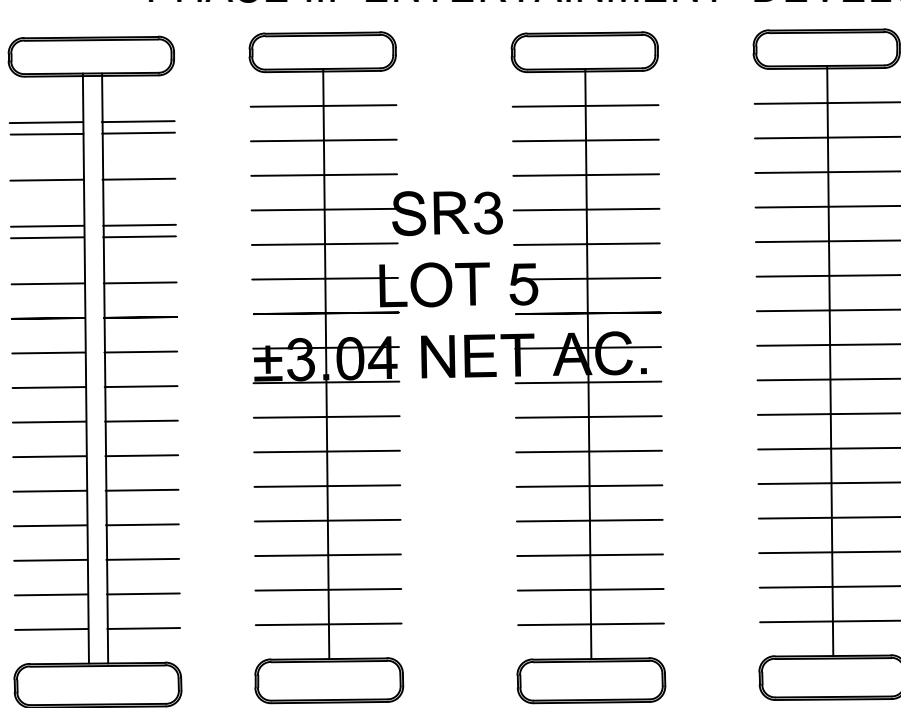
OP  
MONUMENT

+/- 223'

SR3

LOT 5

±3.04 NET AC.



155 ±

307 ±

BUENA VISTA AVE.

50' ROW

PARKING  
80 SP REQD  
97 SP SHOWN

RESTAURANT  
4,000 SF

NOT A PART

SR3  
LOT 4  
±1.53 NET AC.

280 ±

OP  
MONUMENT

30'

S/C  
PYLON

195 ±

PROPOSED  
ENERGIN GAS  
PIPELINE  
RELOCATION

15TH STREET

PROPOSED STREET  
FRONTAGE IMPROVEMENTS  
(REPLACE CURB AND  
SIDEWALKS)

PROPOSED SURFACE  
MILL AND OVERLAY

CROSBY BLVD.  
50' ROW

NOT A PART

NOT A PART

Collett

SOONER  
INVESTMENT

Commercial and Investment Real Estate  
320 West 1-4 Avenue N., Suite 100, Oklahoma City, OK 73102  
(405) 462-4424 Fax (405) 462-2424

architecture  
GOODD  
1111 Marginal Avenue, 700  
Cherokee, OK 73004  
Tel: (405) 276-7000  
gooddarchitecture.com

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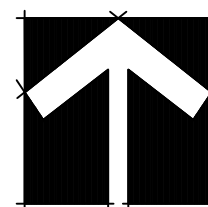
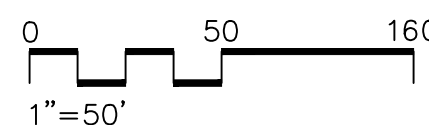
PHASE III

EXHIBIT B CONCEPTUAL SITE PLAN

SOONER ROSE  
MIDWEST CITY, OKLAHOMA

MARKETING SITE PLAN

SCALE: 1" = 80'-0"



## EXHIBIT C

### Public Utility Improvements

1. The term “Public Utility Improvements” shall mean:
  - 1.1. Construction of the stormwater management system on the Stormwater Parcel, designed and permitted to accommodate the stormwater demands of the Phase III Retail and Entertainment Developments, together with the stormwater transmission line connecting the Stormwater Parcel to the Phase III Retail and Entertainment Developments, together with stormwater inlets, pipes, and associated improvements on the Phase III Retail and Entertainment Properties, all as shown on the Preliminary Plat (defined below);
  - 1.2. Excavation of all soils from the Proposed Detention Pond (as shown on the Preliminary Plat), and disposal and compaction of all such soils on the Phase III Retail and Entertainment Properties pursuant to the grading plan approved for the Site Development thereof;
  - 1.3. Demolition of the existing sewer pipe located in the western right-of-way of Crosby Boulevard and installation of a new sewer pipe in such location concurrent with the installation of the storm pipe transmission line in such location;
  - 1.4. Construction and installation of potable water lines serving the Phase III Retail and Entertainment Properties.
2. The Public Utility Improvements shall be constructed generally consistent with the Preliminary Plat, dated August 30, 2017, revised September 13, 2017, prepared by SMC Consulting Engineers and approved by the City on November 28, 2017 (the “Preliminary Plat”); provided, however, the parties acknowledge that the Public Utility Improvements are subject to modifications necessary for design, engineering, construction, or market conditions may be necessary for the Phase III Retail and Entertainment Developments, which modifications shall be reflected on the final plat, subject to review and approval by the City pursuant to the Predevelopment Activities (the “Final Plat”) without need for further amendment to this Agreement provided such adjustments are approved by the City pursuant to the final plat process and are generally consistent with the PUD Agreement, Preliminary Plat and this Agreement.
3. All applicable inspections and testing of the “Public Utility Improvements” shall be conducted by the Authority pursuant to State and Federal regulations.



NEW BUSINESS/  
PUBLIC DISCUSSION





FURTHER INFORMATION







**Memorandum**

TO: Honorable Mayor and Council

FROM: Sara Hancock, City Clerk

DATE: April 18, 2018

SUBJECT: Discussion and consideration of approving an ordinance amending the Midwest City Municipal Code, Chapter 32, Peddlers and Solicitors, by amending Article III, Foodstuffs; Section 32-60, Food trucks, license required; and providing for repealer and severability.

Currently the Food truck license does not allow for a prorated rate. After discussion between multiple departments, staff is recommending amending the ordinance to allow for the purchase of a food truck license either annually or quarterly, as well as lowering the cost. This will be beneficial in promoting city held events.

Staff recommends approval.

Sara Hancock  
Sara Hancock, City Clerk



1 city clerk. Failure to do so shall be a violation of this section and shall  
2 constitute grounds for revocation of the license.

3 (2) *Health regulations.* All food truck operators shall comply with all city-county  
4 health regulations and other recognized health practices. The application of  
5 any person desiring a license to operate a food truck must include a copy of  
6 the applicant's food manager's certificate obtained in compliance with the  
7 city-county health laws. The city reserves the right to revoke any license  
8 issued under this section for noncompliance with such health regulations  
9 immediately and without notice.

10 (3) *City Health License fee.* A fee of ~~two hundred~~ fifty dollars (\$250.00) for an  
11 annual city health license to operate in the city limits shall be paid at the time  
12 the license is issued and shall not be prorated. ~~Food truck~~ City health licenses  
13 shall be effective for the period September 1 through August 31 each year.

14 (4) *Food Truck License fee.* In addition to the city health license fee, a fee of one  
15 hundred dollars (\$100.00) for an annual food truck license to operate in the  
16 city limits shall be paid at the time the license is issued. Food truck licenses  
17 shall be effective for the period of January 1 through December 31. Fee may  
18 be paid at a quarterly prorated rate and shall be effective for the quarterly  
19 period only, as follows:

20 a. \$25 fee for period of January 1 to March 31

21 b. \$25 fee for period of April 1 to June 30

22 c. \$25 fee for period of July 1 to September 30

23 d. \$25 fee for period of October 1 to December 31

24 (b) *Signs.* Any signage pertaining to or advertising a food truck and/or its menu shall be  
25 limited to and attached to the food truck.

26 (c) *Violations.* Every date a food truck operates in violation of this section shall  
27 constitute a separate offense. Penalties shall be as provided in section 1-8 of this  
28 Code.

29 (d) *License revocation.* Any license issued under this section may be revoked or any  
30 application for issuance of a license may be refused if the application submitted by  
the applicant contains any false, fraudulent or misleading statement. The city reserves  
the right to immediately and without notice revoke any license for noncompliance.

(e) *Other permits.* Should this section or any applicable statute or regulation require any  
other permit(s) in order to operate a food truck, such additional permits must be  
obtained prior to a food truck operating.

**SECTION 2. REPEALER.** All ordinances or parts of ordinances in conflict herewith are hereby  
repealed.

1 **SECTION 3. SEVERABILITY.** If any section, sentence, clause or portion of this ordinance is for  
2 any reason held to be invalid, such decision shall not affect the validity of the remaining portions of  
3 the ordinance.

4 PASSED AND APPROVED by the Mayor and Council of the City of Midwest City, Oklahoma, on  
5 the ~~28th~~ day of ~~June~~ May, 2012 ~~2018~~.

6 CITY OF MIDWEST CITY, OKLAHOMA

7 \_\_\_\_\_  
8 MATTHEW D. DUKES II, Mayor

9 ATTEST:

10 \_\_\_\_\_  
11 SARA HANCOCK, City Clerk

12 APPROVED as to form and legality this \_\_\_\_\_ day of May, 2018.

13 \_\_\_\_\_  
14 PHILIP W. ANDERSON, City Attorney





1 city clerk. Failure to do so shall be a violation of this section and shall  
2 constitute grounds for revocation of the license.

3 (2) *Health regulations.* All food truck operators shall comply with all city-county  
4 health regulations and other recognized health practices. The application of  
5 any person desiring a license to operate a food truck must include a copy of  
6 the applicant's food manager's certificate obtained in compliance with the  
7 city-county health laws. The city reserves the right to revoke any license  
8 issued under this section for noncompliance with such health regulations  
9 immediately and without notice.

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11 health license to operate in the city limits shall be paid at the time the license  
12 is issued and shall not be prorated. City health licenses shall be effective for  
13 the period September 1 through August 31 each year.

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19 period only, as follows:

- 20 a. \$25 fee for period of January 1 to March 31
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25 limited to and attached to the food truck.

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29 (d) *License revocation.* Any license issued under this section may be revoked or any  
30 application for issuance of a license may be refused if the application submitted by  
the applicant contains any false, fraudulent or misleading statement. The city reserves  
the right to immediately and without notice revoke any license for noncompliance.

(e) *Other permits.* Should this section or any applicable statute or regulation require any  
other permit(s) in order to operate a food truck, such additional permits must be  
obtained prior to a food truck operating.

**SECTION 2. REPEALER.** All ordinances or parts of ordinances in conflict herewith are hereby  
repealed.

1 **SECTION 3. SEVERABILITY.** If any section, sentence, clause or portion of this ordinance is for  
2 any reason held to be invalid, such decision shall not affect the validity of the remaining portions of  
3 the ordinance.

4 **SECTION 4. EFFECTIVE DATE.** This ordinance shall be effective thirty (30) days after passage.

5  
6 PASSED AND APPROVED by the Mayor and Council of the City of Midwest City, Oklahoma, on  
7 the \_\_\_\_ day of \_\_\_\_\_, 2018.

8 CITY OF MIDWEST CITY, OKLAHOMA

9 \_\_\_\_\_  
10 MATTHEW D. DUKES II, Mayor

11 ATTEST:

12 \_\_\_\_\_  
13 SARA HANCOCK, City Clerk

14 APPROVED as to form and legality this \_\_\_\_\_ day of May, 2018.

15  
16 \_\_\_\_\_  
17 PHILIP W. ANDERSON, City Attorney



**Public Works Administration**  
**Vaughn Sullivan, Director**  
[vsullivan@midwestcityok.org](mailto:vsullivan@midwestcityok.org)  
**R. Paul Streets, Assistant Director**  
[rstreets@midwestcityok.org](mailto:rstreets@midwestcityok.org)  
8730 S.E. 15<sup>th</sup> Street,  
Midwest City, Oklahoma 73110  
O: 405-739-1060 /Fax: 405-739-1090

## Memo

**To:** Honorable Chairman and Trustees  
Midwest City Municipal Authority

**From:** **R. Paul Streets, Assistant Public Works Director**

**Date:** April 24, 2018

**Subject:** Discussion and consideration of passing and approving an ordinance amending the Midwest City Municipal Code, Chapter 18, Garbage and Refuse, by amending Article II, Municipal Collection and Disposal Service, Section 18-25, Container Required; Duty to Use; Section 18-26 (c), Sanitation Containers at Commercial Establishments; Section 18-27(a), Residential Service Fees; Section 18-28, Business and Commercial Service Fees; Setting an effective Date; and providing for repealer and severability (This item is under further information on the April 24, 2018 agenda).

The proposed ordinance establishes new sanitation (solid waste) rates for residential, commercial and Mobile Home Park (MHP) accounts due to a new contract for recycling with Republic Services of Oklahoma City. The new rates reflect a 24% increase in residential and MHP recycling costs, additional commercial recycling rates and \$0.25 to cover residential and commercial recycling administrative overhead. The recycling administrative overhead includes things, such as, answering phone calls, responding to emails, handling complaints, sending reports, and picking up carts.

The current rate for recycling is \$2.87 per household and after this proposed rate change based on the new curbside recycling contract, the rate will be \$3.80. This includes the administrative overhead described above and the first year fixed or flat contract price option. All of the commercial rates proposed are new because we did not offer that option in the previous recycling contract. Each rate is based upon the size of the dumpster in total volume or cubic yards and is itemized in the attached ordinance. If you have any questions about the ordinance change, please do not hesitate to contact Vaughn Sullivan or myself.

Staff recommends approval.

R. Paul Streets  
Assistant Public Works Director  
Attached: Excerpt of Midwest City Municipal Code With Changes

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER 18, GARBAGE AND REFUSE, BY AMENDING ARTICLE II, MUNICIPAL COLLECTION AND DISPOSAL SERVICE, SECTION 18-25(b), CONTAINER REQUIRED, DUTY TO USE; SECTION 18-26(c) SANITATION CONTAINERS AT COMMERCIAL ESTABLISHMENTS; SECTION 18-27(a), RESIDENTIAL SERVICE FEES; SPECIAL PROVISIONS FOR MOBILE HOME PARKS; SECTION 18-28, BUSINESS AND COMMERCIAL SERVICE FEES; AND PROVIDING FOR REPEALER AND SEVERABILITY.**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDWEST CITY THAT:

**ORDINANCE**

**SECTION 1.** The Midwest City Municipal Code, Chapter 18, Garbage and Refuse, Article II, Municipal Collection and Disposal Service, Section 18-25(b), Container required; duty to use, is hereby amended to reads as follows:

(b) The city shall provide one (1) cart for each residence for garbage and refuse, and one (1) cart for each residence for materials that are to be recycled. Residents are allowed to have additional refuse carts per residence from the city. These carts will be emptied on a weekly basis when the primary cart is emptied with the monthly cost to the resident of the additional carts being five dollars and fifty cents (\$5.50) for each additional cart. Residential recycling carts will be emptied bi-weekly.

The resident may place normal household garbage and refuse, as defined in section 18-1 of this Code, in the refuse cart(s) for collection. Residents may place materials they wish to be recycled in the recycling cart. The resident shall be responsible for the safekeeping of the carts until such time as an inspection is made by the city and service is terminated. Should any person change residences, the person shall promptly notify the city. If any cart is lost or stolen, the resident shall promptly notify the police department of the loss or theft of the cart and obtain a case number. Lost or stolen carts will not be replaced without a case number from the police department. The city will empty the carts so long as the carts contain no more than two hundred (200) pounds of garbage and refuse in each cart during any given pickup. If a cart is damaged beyond normal wear and tear, including fire damage from improper disposal of fire ashes, the cost of replacement shall be charged to the resident at the current replacement cost of the cart. All carts shall remain the property of the city even though the resident may have paid for a replacement cart. All carts are to remain at the residence to which they are assigned. It shall be unlawful and an offense for a person to be in possession of a cart without the permission of the resident to which it is assigned. It is the responsibility of the resident to keep the cart clean. At the request of the resident, carts can be cleaned by the city. Such cleaning shall be performed for a twenty dollar (\$20.00) charge which shall be paid by the resident.

**SECTION 2.** The Midwest City Municipal Code, Chapter 18, Garbage and Refuse, Article II, Municipal Collection and Disposal Service, Section 18-26(c), Sanitation Containers at commercial establishments, is hereby amended to read as follows:

(c) All containers at business establishments shall be placed in a location approved by the environmental services director and easily accessible for collection under regulations issued by the city. Should the collector be unable to empty a commercial container because it contains inappropriate items or because access is blocked or prohibited, no unscheduled return trip will be made unless the special pickup fee is paid by the owner, manager or agent of the commercial business. Commercial account drivers are not allowed to exit the vehicle to open enclosure gates. Gates must be opened by 5:00 am on the day of collection. If the driver must return to a business because a gate is not opened, the return trip fee of fifty dollars (\$50.00) will be applied to the account.

**SECTION 3.** The Midwest City Municipal Code, Chapter 18, Garbage and Refuse, Article II, Municipal Collection and Disposal Service, Section 18-27(a), Residential service fees; special provisions for mobile home parks, is hereby amended to reads as follows:

(a) Residential service shall consist of the removal of garbage and household refuse which has been placed in either 65-gallon or 95-gallon carts, which size shall be the choice of the resident, in accordance with section 18-25 of this Code. This service is deemed to be necessary to protect the health, safety and welfare of the citizens of the city, and the fees for such service are deemed necessary to pay for the removal of such garbage and household refuse to protect the health of the occupant, owner, tenant or lessee and others in the near vicinity by such removal. The fees for this service shall be as follows:

1. Single-family residences, duplexes, single-family garage apartments, and apartment complexes of three units or less: ~~Fourteen dollars and forty five cents~~ **Fifteen dollars and thirty eight cents** (~~\$14.45~~ **\$15.38**) per month for a 95-gallon refuse container or ~~twelve dollars and nine cents~~ **thirteen dollars and two cents** (~~\$12.09~~ **\$13.02**) per month for a 65-gallon refuse container.
2. Apartments complexes in excess of three units: eleven dollars and forty-one cents (\$11.41) per month per apartment, whether vacant or occupied. For more than two (2) pickups per week, four dollars and twenty-five cents (\$4.25) additional, per apartment per pickup. Dumpsters shall be furnished for apartment complexes on the basis of a one-yard dumpster for each five (5) apartments. Any containers placed at any apartment complex in excess of three apartments that exceeds the calculated number of containers, as outlined above, will be charged at the regular commercial rate in section 18-28 of this Code for the emptying of those additional containers. Apartment complexes in excess of three apartments that utilize a commercial compactor for disposal of their garbage and refuse will be charged as indicated in section 18-22 of this Code.
3. Mobile home parks: ~~Fourteen dollars and forty five cents~~ **Fifteen dollars and thirty eight cents** (~~\$14.45~~ **\$15.38**) per month per mobile home space, based on the highest number of spaces that are occupied during the month.

**SECTION 4.** The Midwest City Municipal Code, Chapter 18, Garbage and Refuse, Article II, Municipal Collection and Disposal Service, Section 18-28, Business and commercial services fees, is hereby amended to reads as follows:

(a) The minimum charge for commercial sanitation dumpster shall be at the shared rate of a 4 yard dumpster serviced twice per month per business, unless the Director has allowed the business to be serviced by a residential cart in which case the minimum charge per month shall be twenty-eight dollars and fifty-three cents (\$28.53) without bi-weekly recycling or ~~thirty one dollars and fifty four cents~~ **thirty five dollars and seventy nine cents** (~~\$31.54~~ **\$35.79**) with bi-weekly recycling. Sharing of dumpsters by businesses will be allowed on a case by case basis, based on space limitation, fire lane location, etc. These must be approved by the Director and will be assessed the “shared fee” listed below regardless of how many businesses share the same dumpster.

(b) Where the city furnishes a four-, six-, or eight-yard dumpster, or a “roll-out” container such as a cart, the following fee schedule shall be charged per month:

| Container/Service                        | Fee                               | Shared             |
|--|-----------------------------------|--------------------|
| <b>Cart</b>                              |                                   |                    |
| 1-Pickup per Week per cart               | \$28.53                           | Not allowed        |
| 1-Pickup per Week w/ Bi-weekly Recycling | <del>\$31.54</del> <b>\$35.79</b> | <b>Not allowed</b> |

**4 - Yard Box**



|                              |          |          |
|------------------------------|----------|----------|
| 1-Pickup per Week            | \$78.84  | \$39.42  |
| 2-Pickups per Week           | \$120.34 | \$ 60.17 |
| 3-Pickups per Week           | \$164.95 | \$82.47  |
| 4-Pickups per Week           | \$209.56 | \$104.78 |
| 5-Pickups per Week           | \$253.13 | \$126.56 |
| 6-Pickups per Week           | \$303.96 | \$151.98 |
| 2-Pickups per Month          | \$58.61  | \$29.31  |
| Recycling 1-Pickup per Week  | \$45.53  | \$22.77  |
| Recycling 2-Pickup per Month | \$27.32  | \$13.66  |

**6 – Yard Box**

|                              |          |          |
|------------------------------|----------|----------|
| 1-Pickup per Week            | \$97.52  | \$48.76  |
| 2-Pickups per Week           | \$151.46 | \$75.73  |
| 3-Pickups per Week           | \$203.33 | \$101.67 |
| 4-Pickups per Week           | \$255.20 | \$127.60 |
| 5-Pickups per Week           | \$309.15 | \$154.57 |
| 6-Pickups per Week           | \$371.39 | \$185.70 |
| 2-Pickups per Month          | \$72.62  | \$36.31  |
| Recycling 1-Pickup per Week  | \$68.30  | \$34.15  |
| Recycling 2-Pickup per Month | \$40.98  | \$20.49  |

**8 – Yard Boxes**

|                              |          |          |
|------------------------------|----------|----------|
| 1-Pickup per Week            | \$117.75 | \$58.87  |
| 2-Pickups per Week           | \$181.55 | \$90.77  |
| 3-Pickups per Week           | \$254.16 | \$127.08 |
| 4-Pickups per Week           | \$316.41 | \$158.20 |
| 5-Pickups per Week           | \$378.65 | \$189.33 |
| 6-Pickups per Week           | \$451.27 | \$225.64 |
| 2-Pickups per Month          | \$93.37  | \$46.68  |
| Recycling 1-Pickup per Week  | \$91.07  | \$45.54  |
| Recycling 2-Pickup per Month | \$54.64  | \$27.32  |

(c) Where additional (special) pickups are requested, a minimum fee of fifty dollars (\$50.00) will be charged per emptied dumpster. The Director shall base additional charges on time required to perform the additional (special pickup) and on the basis of manpower and equipment available.

(d) Commercial accounts that utilize a solid waste compactor serviced by the city front loader vehicles will be charged based on the listed compaction rate for that compactor times the service frequency and size of container.

(e) Commercial accounts that utilize four (4), six (6), or eight (8) yard trash or recycling dumpster will be charged fifty dollars (\$50.00) for delivery or removal of the dumpster.

**SECTION 5. REPEALER.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 6. SEVERABILITY.** If any section, sentence, clause or portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance.

PASSED AND APPROVED by the Mayor and Council of the City of Midwest City,

Oklahoma, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

CITY OF MIDWEST CITY, OKLAHOMA

\_\_\_\_\_  
MATTHEW D. DUKES II, Mayor

ATTEST:

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

APPROVED as to form and legality this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
PHILIP ANDERSON, City Attorney

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER 18, GARBAGE AND REFUSE, BY AMENDING ARTICLE II, MUNICIPAL COLLECTION AND DISPOSAL SERVICE, SECTION 18-25(b), CONTAINER REQUIRED, DUTY TO USE; SECTION 18-26(c) SANITATION CONTAINERS AT COMMERCIAL ESTABLISHMENTS; SECTION 18-27(a), RESIDENTIAL SERVICE FEES; SPECIAL PROVISIONS FOR MOBILE HOME PARKS; SECTION 18-28, BUSINESS AND COMMERCIAL SERVICE FEES; AND PROVIDING FOR REPEALER AND SEVERABILITY.**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDWEST CITY THAT:

**ORDINANCE**

**SECTION 1.** The Midwest City Municipal Code, Chapter 18, Garbage and Refuse, Article II, Municipal Collection and Disposal Service, Section 18-25(b), Container required; duty to use, is hereby amended to reads as follows:

(b) The city shall provide one (1) cart for each residence for garbage and refuse, and one (1) cart for each residence for materials that are to be recycled. Residents are allowed to have additional refuse carts per residence from the city. These carts will be emptied on a weekly basis when the primary cart is emptied with the monthly cost to the resident of the additional carts being five dollars and fifty cents (\$5.50) for each additional cart. Residential recycling carts will be emptied bi-weekly.

The resident may place normal household garbage and refuse, as defined in section 18-1 of this Code, in the refuse cart(s) for collection. Residents may place materials they wish to be recycled in the recycling cart. The resident shall be responsible for the safekeeping of the carts until such time as an inspection is made by the city and service is terminated. Should any person change residences, the person shall promptly notify the city. If any cart is lost or stolen, the resident shall promptly notify the police department of the loss or theft of the cart and obtain a case number. Lost or stolen carts will not be replaced without a case number from the police department. The city will empty the carts so long as the carts contain no more than two hundred (200) pounds of garbage and refuse in each cart during any given pickup. If a cart is damaged beyond normal wear and tear, including fire damage from improper disposal of fire ashes, the cost of replacement shall be charged to the resident at the current replacement cost of the cart. All carts shall remain the property of the city even though the resident may have paid for a replacement cart. All carts are to remain at the residence to which they are assigned. It shall be unlawful and an offense for a person to be in possession of a cart without the permission of the resident to which it is assigned. It is the responsibility of the resident to keep the cart clean. At the request of the resident, carts can be cleaned by the city. Such cleaning shall be performed for a twenty dollar (\$20.00) charge which shall be paid by the resident.

**SECTION 2.** The Midwest City Municipal Code, Chapter 18, Garbage and Refuse, Article II, Municipal Collection and Disposal Service, Section 18-26(c), Sanitation Containers at commercial establishments, is hereby amended to read as follows:

(c) All containers at business establishments shall be placed in a location approved by the environmental services director and easily accessible for collection under regulations issued by the city. Should the collector be unable to empty a commercial container because it contains inappropriate items or because access is blocked or prohibited, no unscheduled return trip will be made unless the special pickup fee is paid by the owner, manager or agent of the commercial business. Commercial account drivers are not allowed to exit the vehicle to open enclosure gates. Gates must be opened by 5:00 am on the day of collection. If the driver must return to a business because a gate is not opened, the return trip fee of fifty dollars (\$50.00) will be applied to the account.

**SECTION 3.** The Midwest City Municipal Code, Chapter 18, Garbage and Refuse, Article II, Municipal Collection and Disposal Service, Section 18-27(a), Residential service fees; special provisions for mobile home parks, is hereby amended to reads as follows:

(a) Residential service shall consist of the removal of garbage and household refuse which has been placed in either 65-gallon or 95-gallon carts, which size shall be the choice of the resident, in accordance with section 18-25 of this Code. This service is deemed to be necessary to protect the health, safety and welfare of the citizens of the city, and the fees for such service are deemed necessary to pay for the removal of such garbage and household refuse to protect the health of the occupant, owner, tenant or lessee and others in the near vicinity by such removal. The fees for this service shall be as follows:

1. Single-family residences, duplexes, single-family garage apartments, and apartment complexes of three units or less: Fifteen dollars and thirty eight cents (\$15.38) per month for a 95-gallon refuse container or thirteen dollars and two cents (\$13.02) per month for a 65-gallon refuse container.
2. Apartments complexes in excess of three units: eleven dollars and forty-one cents (\$11.41) per month per apartment, whether vacant or occupied. For more than two (2) pickups per week, four dollars and twenty-five cents (\$4.25) additional, per apartment per pickup. Dumpsters shall be furnished for apartment complexes on the basis of a one-yard dumpster for each five (5) apartments. Any containers placed at any apartment complex in excess of three apartments that exceeds the calculated number of containers, as outlined above, will be charged at the regular commercial rate in section 18-28 of this Code for the emptying of those additional containers. Apartment complexes in excess of three apartments that utilize a commercial compactor for disposal of their garbage and refuse will be charged as indicated in section 18-22 of this Code.
3. Mobile home parks: Fifteen dollars and thirty eight cents (\$15.38) per month per mobile home space, based on the highest number of spaces that are occupied during the month.

**SECTION 4.** The Midwest City Municipal Code, Chapter 18, Garbage and Refuse, Article II, Municipal Collection and Disposal Service, Section 18-28, Business and commercial services fees, is hereby amended to reads as follows:

(a) The minimum charge for commercial sanitation dumpster shall be at the shared rate of a 4 yard dumpster serviced twice per month per business, unless the Director has allowed the business to be serviced by a residential cart in which case the minimum charge per month shall be twenty-eight dollars and fifty-three cents (\$28.53) without bi-weekly recycling or thirty five dollars and seventy nine cents (\$35.79) with bi-weekly recycling. Sharing of dumpsters by businesses will be allowed on a case by case basis, based on space limitation, fire lane location, etc. These must be approved by the Director and will be assessed the “shared fee” listed below regardless of how many businesses share the same dumpster.

(b) Where the city furnishes a four-, six-, or eight-yard dumpster, or a “roll-out” container such as a cart, the following fee schedule shall be charged per month:

| <b>Container/Service</b>                 | <b>Fee</b> | <b>Shared</b> |
|--|------------|---------------|
| <b>Cart</b>                              |            |               |
| 1-Pickup per Week per cart               | \$28.53    | Not allowed   |
| 1-Pickup per Week w/ Bi-weekly Recycling | \$35.79    | Not allowed   |
| <br><b>4 - Yard Box</b>                  |            |               |
| 1-Pickup per Week                        | \$78.84    | \$39.42       |
| 2-Pickups per Week                       | \$120.34   | \$60.17       |

|                              |          |          |
|------------------------------|----------|----------|
| 3-Pickups per Week           | \$164.95 | \$82.47  |
| 4-Pickups per Week           | \$209.56 | \$104.78 |
| 5-Pickups per Week           | \$253.13 | \$126.56 |
| 6-Pickups per Week           | \$303.96 | \$151.98 |
| 2-Pickups per Month          | \$58.61  | \$29.31  |
| Recycling 1-Pickup per Week  | \$45.53  | \$22.77  |
| Recycling 2-Pickup per Month | \$27.32  | \$13.66  |

**6 – Yard Box**

|                              |          |          |
|------------------------------|----------|----------|
| 1-Pickup per Week            | \$97.52  | \$48.76  |
| 2-Pickups per Week           | \$151.46 | \$75.73  |
| 3-Pickups per Week           | \$203.33 | \$101.67 |
| 4-Pickups per Week           | \$255.20 | \$127.60 |
| 5-Pickups per Week           | \$309.15 | \$154.57 |
| 6-Pickups per Week           | \$371.39 | \$185.70 |
| 2-Pickups per Month          | \$72.62  | \$36.31  |
| Recycling 1-Pickup per Week  | \$68.30  | \$34.15  |
| Recycling 2-Pickup per Month | \$40.98  | \$20.49  |

**8 – Yard Boxes**

|                              |          |          |
|------------------------------|----------|----------|
| 1-Pickup per Week            | \$117.75 | \$58.87  |
| 2-Pickups per Week           | \$181.55 | \$90.77  |
| 3-Pickups per Week           | \$254.16 | \$127.08 |
| 4-Pickups per Week           | \$316.41 | \$158.20 |
| 5-Pickups per Week           | \$378.65 | \$189.33 |
| 6-Pickups per Week           | \$451.27 | \$225.64 |
| 2-Pickups per Month          | \$93.37  | \$46.68  |
| Recycling 1-Pickup per Week  | \$91.07  | \$45.54  |
| Recycling 2-Pickup per Month | \$54.64  | \$27.32  |

(c) Where additional (special) pickups are requested, a minimum fee of fifty dollars (\$50.00) will be charged per emptied dumpster. The Director shall base additional charges on time required to perform the additional (special pickup) and on the basis of manpower and equipment available.

(d) Commercial accounts that utilize a solid waste compactor serviced by the city front loader vehicles will be charged based on the listed compaction rate for that compactor times the service frequency and size of container.

(e) Commercial accounts that utilize four (4), six (6), or eight (8) yard trash or recycling dumpsters will be charged fifty dollars (\$50.00) for delivery or removal of the dumpster.

**SECTION 5. REPEALER.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 6. SEVERABILITY.** If any section, sentence, clause or portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance.

PASSED AND APPROVED by the Mayor and Council of the City of Midwest City, Oklahoma, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.



CITY OF MIDWEST CITY, OKLAHOMA

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MATTHEW D. DUKES II, Mayor

ATTEST:

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SARA HANCOCK, City Clerk

APPROVED as to form and legality this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

---

PHILIP ANDERSON, City Attorney



**Public Works Administration**  
**Vaughn Sullivan, Director**  
[vsullivan@midwestcityok.org](mailto:vsullivan@midwestcityok.org)  
**R. Paul Streets, Assistant Director**  
[rstreets@midwestcityok.org](mailto:rstreets@midwestcityok.org)  
8730 S.E. 15<sup>th</sup> Street,  
Midwest City, Oklahoma 73110  
O: 405-739-1060 /Fax: 405-739-1090

## Memorandum

To: Honorable Mayor and Council

From: Vaughn K. Sullivan, Public Works Director

Date: April 24, 2018

Subject: Discussion and consideration of approving and passing an ordinance amending Chapter 30, Parks and Recreation, of the Midwest City Code, Article IV, In General, by amending Section 30-46(b), Golf course rates; establishing an effective date; and providing for repealer and severability (This item to be under Further Information on the April 24, 2018 agenda).

Traditionally membership rates have been based on 52 rounds per year, and we have not adjusted the amounts per round in this formula in a number of years. Staff is proposing that Council use today's rates for all membership calculations and increase the number of rounds used to calculate the rate to 60 rounds per year.

Proposed rate changes:

### **7 day a week Annual Memberships**

Adult Annual from \$1180.00 to \$1500.00 (Regular Fee \$25.00 X 60 = \$1,500.00)

With Cart from \$2000.00 to \$2340.00 (Regular Fee with half cart rentals \$39.00 X 60 = \$2,340.00)

### **Monday through Thursday Annual would now be Monday through Friday**

Monday through Friday Annual from \$700.00 to \$990.00 (Senior Fee \$16.50 X 60 = 990.00)

With Cart from \$1,200.00 to \$1,830.00 (Senior Fee with half cart rental \$30.50 X 60 = \$1,830.00)

**(There is no age restriction for purchase of this annual membership. Price is simply based on the senior rate to provide value because play is restricted to Monday through Friday.)**

### **Annual Trail Fees**

Monday through Friday from \$200.00 to \$420.00 (Senior Trail Fee \$7.00 X 60 = \$420.00)

Full Annual Trail Fee from \$400.00 to \$600.00 (Regular Trail Fee \$10.00 X 60 = \$600.00)

Even though several of these rate increases appear to be significant, most of our current members play considerably more than 60 rounds per year; consequently, this price structure remains a great value.

These rate changes will be effective July 7, 2018 and current members will not be subject to these new rates until their membership is up for renewal.

If we retain the same number of current members, this rate increase is expected to generate approximately \$32,000.00 in additional revenue annually.

Staff recommends approval.

A handwritten signature in black ink that reads "Vaughn K. Sullivan". The signature is written in a cursive style with a large initial 'V'.

Vaughn K. Sullivan, Public Works Director

Attachments: Redlined copy of the ordinance  
Clean copy of the ordinance



- (14) Annual green fee membership with half golf car rental shall be two thousand ~~thee hundred forty dollars (\$2,340.00)~~ dollars (\$2,000.00);
- (15) Annual Monday through ~~Friday Thursday~~ green fee memberships shall be ~~nine ninety dollars (\$990.00)~~ seven hundred dollars (\$700.00);
- (16) Annual Monday through ~~Friday Thursday~~ green fee memberships with half golf car rental shall be one thousand ~~eight hundred thirty dollars (\$1,830.00)~~ two hundred dollars (\$1,200.00);
- (17) Annual junior green fee memberships shall be three hundred sixty dollars (\$360);
- (18) Annual trail fee, with annual green fee membership, shall be ~~six hundred dollars (\$600.00)~~ four hundred dollars (\$400.00). Annual trail fee, with annual Monday through ~~Friday Thursday~~ membership shall be ~~four hundred twenty dollars (\$420.00)~~ two hundred dollars (\$200.00);
- (19) Regular green fees for each 18 holes played before 3:00 p.m. on Mondays year round and 1:00 to 3:00 Tuesday through Thursday shall be nine dollars (\$9.00). This fee shall not apply on federal holidays, or for tournaments or league play;

SECTION 2. EFFECTIVE DATE. This ordinance shall be in force and effect on and after July 7, 2018.

SECTION 3. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. SEVERABILITY. If any section, sentence, clause or portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance.

PASSED AND APPROVED by the Mayor and Council of the City of Midwest City, Oklahoma, on the \_\_\_\_\_ day of May 8, 2018.

THE CITY OF MIDWEST CITY, OKLAHOMA

\_\_\_\_\_

\_\_\_\_\_  
Mathew Dukes., Mayor

ATTEST: \_\_\_\_\_

\_\_\_\_\_  
Sara Hancock, City Clerk

APPROVED as to form and legality this \_\_\_\_\_ day of May, 2017.

\_\_\_\_\_  
Philip Anderson, City Attorney





## MEMORIAL HOSPITAL AUTHORITY AGENDA



The 7:00 PM meetings will be shown live on Channel 20.



The recorded video will be available on Youtube and the City's website within 48 hours at [www.youtube@midwestcityok.org](http://www.youtube@midwestcityok.org).



The meeting minutes and video can be found on the City's website in the Agenda Center: <https://midwestcityok.org/AgendaCenter>.



To make a special assistance request, call 739-1215 or email [pmenefee@midwestcityok.org](mailto:pmenefee@midwestcityok.org) no less than 24 hours prior to the start of a meeting. If special assistance is needed during a meeting, call 739-1388.



## **MIDWEST CITY MEMORIAL HOSPITAL AUTHORITY AGENDA**

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

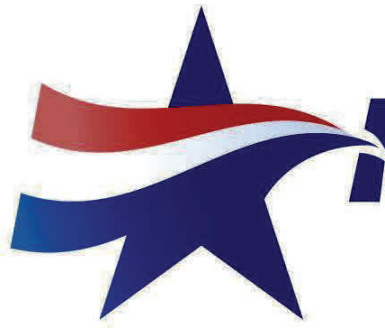
April 24, 2018 - 7:05 PM

- A. CALL TO ORDER.
- B. CONSENT AGENDA. These items are placed on the Consent Agenda so that the Trustees, by unanimous consent, can approve routine agenda items by one motion. If any item proposed does not meet with approval of all Trustees, or members of the audience wish to discuss an item, it will be removed and heard in regular order.
1. Discussion and consideration of approving the minutes of the staff briefing and regular meeting of April 10, 2018, as submitted. (Secretary - S. Hancock)
  2. Discussion and consideration of appointing the following nominees to the Board of Grantors: 1) Karen Blanton as the Ward 2 appointee replacing Charles McDade; 2) Edward Graham as the Ward 4 appointee replacing Marcia Conner; and 3) Stacy Willard as the Chamber appointee replacing Pam Dimski, all to serve four-year terms ending on April 26, 2022.
- C. DISCUSSION ITEMS.
1. Discussion and consideration of appointing a Ward 6 nominee to the Board of Grantors replacing Nancy Rice, who is terming out, for a four-year term ending on April 26, 2022.
  2. Discussion and consideration of action to reallocate assets, change fund managers or make changes in the Statement of Investment Policy, Guidelines and Objectives. (Secretary - S. Hancock)
  3. Discussion And Consideration Of A Resolution Authorizing The Issuance Of The Authority's "Tax Apportionment Refunding Bonds, Taxable Series 2018 (Sooner Rose Increment District Project)" (The "Bonds") And Waiving Competitive Bidding On The Sale Thereof; Authorizing And Approving Execution And Delivery Of The Bonds And All Documents Relating Thereto; Authorizing Officers To Approve, Execute And Deliver A Certificate Of Determination In Connection With The Bonds; Authorizing The Preparation, Filing And Distribution Of An Official Statement; Authorizing Officers To Execute And Deliver The Bonds; Authorizing Officers To Take Additional Actions Relating To The Bonds; Providing For An Effective Date; And Containing Other Provisions Relating Thereto. (Economic Development - R. Coleman)
  4. Discussion and consideration of 1) approving and entering into an Economic Development Agreement with Sooner Investment, Inc. and the City of Midwest City in the approximate amount of \$875,000 and other goods and valuable consideration, to establish the terms and conditions under which the parties will participate in the development of approximately 6.874 acres located between Buena Vista Avenue and Crosby Boulevard north of Southeast 15th Street; and 2) authorizing the chairman and/or the general manager/ administrator to enter into such other agreements and execute such other documents as may be necessary or appropriate to effect the provisions of the Agreement. (Economic Development - R. Coleman)

5. Discussion and consideration of 1) approving and entering into an Economic Development Agreement with Allison's Fun, Inc. and the City of Midwest City in the approximate amount of \$1,170,000 and other goods and valuable consideration, to establish the terms and conditions under which the parties will participate in the development of approximately 3.04 acres located between Buena Vista Avenue and Crosby Boulevard north of Southeast 15<sup>th</sup> Street; and 2) authorizing the chairman and/or the general manager/ administrator to enter into such other agreements and execute such other documents as may be necessary or appropriate to effect the provisions of the Agreement. (Economic Development - R. Coleman)
6. Discussion and consideration of supplemental budget adjustments to the Hospital Authority Fund for FY 2017-2018, increase: Hospital Authority Fund, revenue/Hospital Authority (90) \$148,410; expenses/Hospital Authority (90) \$546,400. (Finance - C. Baron)

D. NEW BUSINESS/PUBLIC DISCUSSION. The purpose of the "Public Discussion Section" of the Agenda is for members of the public to speak to the Authority on any Subject not scheduled on the Regular Agenda. The Authority shall make no decision or take any action, except to direct the City Manager to take action, or to schedule the matter for discussion at a later date. Pursuant to the Oklahoma Open Meeting Act, the Authority will not engage in any discussion on the matter until that matter has been placed on an agenda for discussion. **THOSE ADDRESSING THE AUTHORITY ARE REQUESTED TO STATE THEIR NAME AND ADDRESS PRIOR TO SPEAKING TO THE AUTHORITY.**

E. ADJOURNMENT.



**MIDWEST CITY**

*Where the Spirit Flies High*

CONSENT AGENDA



A notice for staff briefings of the Midwest City Memorial Hospital Authority was filed for the calendar year with the City Clerk of Midwest City. Public notice of this agenda was accessible at least 24 hours before this meeting at City Hall and on the Midwest City website ([www.midwestcityok.org](http://www.midwestcityok.org)).

**Midwest City Memorial Hospital Authority Staff Briefing Minutes**

April 10, 2018 – 6:00 PM

This regular meeting was scheduled to be held in the Midwest City Council Conference Room on the second floor of City Hall, 100 N. Midwest Boulevard, Midwest City, County of Oklahoma, State of Oklahoma.

Mayor Matt Dukes called the meeting to order at 6:58 PM with the following members present: Councilmembers Susan Eads, Pat Byrne, Española Bowen, Sean Reed, and Christine Allen; and City Clerk Sara Hancock. Absent: Jeff Moore.

**Discussion.**

**Clarification of agenda items, handouts, and presentation of new or additional information for items on the Hospital Authority agenda for April 10, 2018.**

Council had no questions or comments about the individual agenda items.

Mayor Dukes adjourned the meeting at 6:59 PM.

ATTEST:

\_\_\_\_\_  
MATTHEW D. DUKES, II, Chairman

\_\_\_\_\_  
SARA HANCOCK, Secretary



A notice for the regular Midwest City Memorial Hospital Authority was filed for the calendar year with the City Clerk of Midwest City. Public notice of this agenda was accessible at least 24 hours before this meeting at City Hall and on the Midwest City website ([www.midwestcityok.org](http://www.midwestcityok.org)).

### Midwest City Memorial Hospital Authority Minutes

April 10, 2018 – 7:15 pm

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

Chairman Matt Dukes called the meeting to order at 7:57 pm with the following members present: Trustees: Susan Eads, Pat Byrne, Española Bowen, Sean Reed, Christine Allen, and Jeff Moore; and Secretary Sara Hancock. Absent: none.

#### Consent Agenda.

Eads made a motion to approve the consent agenda, as submitted, seconded by Allen. Voting aye: Eads, Byrne, Bowen, Reed, Allen, Moore, and Chairman Dukes. Nay: none. Absent: none. Motion carried.

1. **Discussion and consideration of approving the minutes of the staff briefing and regular meeting of March 27, 2018, as submitted.**
2. **Discussion and consideration of approving the management representation letter to Grant Thornton LLP and accepting the associated Combined Financial Statement and Report of Certified Public Accountants of Sooner Town Center, LLC II and III for calendar years ending December 31, 2015 and 2016.**

#### Discussion Items.

1. **Discussion and consideration entering into an Economic Development Financing Assistance Agreement with Tomcat Aviation, L.L.C, not to exceed \$150,000 for the creation of primary jobs in Midwest City at 1720 National Boulevard.**

Eads made a motion to enter into the agreement, as submitted, seconded by Reed. Voting aye: Eads, Byrne, Bowen, Reed, Allen, Moore, and Chairman Dukes. Nay: none. Absent: none. Motion carried.

2. **Discussion and consideration of action to reallocate assets, change fund managers or make changes in the Statement of Investment Policy, Guidelines and Objectives.**

No action was taken.

#### New Business/Public Discussion.

There was no new business or public discussion.

Executive Session.

**Discussion and consideration of 1) entering into executive session, as allowed under 25 O.S. § 307(C)(10), to confer on matters pertaining to economic development, including the transfer of property, financing or the creation of a proposal to entice a business to remain or to locate within the City.**

Eads made a motion to enter into executive session, seconded by Allen. Voting aye: Eads, Byrne, Bowen, Reed, Allen, Moore, and Chairman Dukes. Nay: none. Absent: none. Motion carried. The Trustees went into executive session at 8:00pm.

Eads amended her motion to recess from the Hospital Authority and proceed to Economic Development Commission meeting, seconded by Reed. Voting aye: Eads, Byrne, Bowen, Reed, Allen, Moore, and Chairman Dukes. Nay: none. Absent: none. Motion carried. The Trustees recessed the Hospital Authority meeting at 8:01pm.

The Trustees returned to the Hospital Authority meeting at 8:04pm.

Allen made a motion to enter into executive session, seconded by Eads. Voting aye: Eads, Byrne, Bowen, Reed, Allen, Moore, and Chairman Dukes. Nay: none. Absent: none. Motion carried. The Trustees went into executive session at 8:04pm.

Reed made a motion to return to open session, seconded by Eads. Voting aye: Eads, Byrne, Bowen, Reed, Allen, Moore, and Chairman Dukes. Nay: none. Absent: none. Motion carried. The Trustees returned to open session at 9:00pm.

Reed made a motion to authorize the City Manager and staff to proceed as discussed in executive session, seconded by Eads. Voting aye: Eads, Byrne, Bowen, Reed, Allen, Moore, and Chairman Dukes. Nay: none. Absent: none. Motion carried.

Adjournment.

There being no further business, Chairman Dukes adjourned the meeting at 9:01 PM.

ATTEST:

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MATTHEW D. DUKES, II, Chairman

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SARA HANCOCK, Secretary



Midwest City Memorial Hospital Authority  
100 North Midwest Boulevard  
Midwest City, Oklahoma 73110  
Office (405) 739-1207/Fax (405) 739-1208  
[www.midwestcityok.org](http://www.midwestcityok.org)

## MEMORANDUM

To: Honorable Chairman and Trustees

From: Guy Henson, General Manager/Administrator

Date: April 24, 2018

Subject: Discussion and consideration of appointing the following nominees to the Board of Grantors:  
1) Karen Blanton as the Ward 2 appointee replacing Charles McDade; 2) Edward Graham as the Ward 4 appointee replacing Marcia Conner; and 3) Stacy Willard as the Chamber appointee replacing Pam Dimski, all to serve four-year terms ending on April 26, 2022.

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On May 13, 2018, the Ward 2 appointee Charles McDade, and the Chamber appointee Pam Dimski will have served two full terms and so neither are eligible to serve any longer; and the Ward 4 appointee, Marcia Conner will have finished her first term.

Ward 2 Councilmember Pat Byrne is nominating Karen Blanton, the Chamber of Commerce is nominating Stacy Willard as their representative, and Ward 4 Councilmember Sean Reed is nominating Edward Graham as his new appointee.

Action is at the Trustees discretion.

J. Guy Henson, City Manager



DISCUSSION ITEMS





Midwest City Memorial Hospital Authority  
100 North Midwest Boulevard  
Midwest City, Oklahoma 73110  
Office (405) 739-1207/Fax (405) 739-1208  
[www.midwestcityok.org](http://www.midwestcityok.org)

## MEMORANDUM

To: Honorable Chairman and Trustees

From: Guy Henson, General Manager/Administrator

Date: April 24, 2018

Subject: Discussion and consideration of appointing a Ward 6 nominee to the Board of Grantors replacing Nancy Rice, who is terming out on May 13, 2018, for a four-year term ending on April 26, 2022.

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On May 13, 2018, Ms. Nancy Rice, Ward 6 appointee, has served for two full terms and is no longer eligible to serve; therefore, a new Ward 6 appointee needs to be appointed.

Action is at the Trustees discretion.

J. Guy Henson, City Manager





Midwest City Memorial Hospital Authority  
100 North Midwest Boulevard  
Midwest City, Oklahoma 73110  
Office (405) 739-1207/Fax (405) 739-1208  
[www.midwestcityok.org](http://www.midwestcityok.org)

## MEMORANDUM

To: Honorable Chairman and Trustees

From: Sara Hancock, Secretary

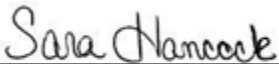
Date: April 24, 2018

Subject: Discussion and consideration of action to reallocate assets, change fund managers or make changes in the Statement of Investment Policy, Guidelines and Objectives.

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Jim Garrels, President, Fiduciary Capital Advisors, asked staff to put this item on each agenda in the event the Hospital Authority's investments need to be reallocated, an investment fund manager needs to be changed or changes need to be made to the Statement of Investment Policy on short notice.

Action is at the discretion of the Authority.

  
Sara Hancock, Secretary



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[www.midwestcityok.org](http://www.midwestcityok.org)

## MEMORANDUM

To: Honorable Chairman and Trustees

From: General Manager/Administrator Guy Henson

Date: April 24, 2018

Subject: Discussion And Consideration Of A Resolution Authorizing The Issuance Of The Authority's "Tax Apportionment Refunding Bonds, Taxable Series 2018 (Sooner Rose Increment District Project)" (The "Bonds") And Waiving Competitive Bidding On The Sale Thereof; Authorizing And Approving Execution And Delivery Of The Bonds And All Documents Relating Thereto; Authorizing Officers To Approve, Execute And Deliver A Certificate Of Determination In Connection With The Bonds; Authorizing The Preparation, Filing And Distribution Of An Official Statement; Authorizing Officers To Execute And Deliver The Bonds; Authorizing Officers To Take Additional Actions Relating To The Bonds; Providing For An Effective Date; And Containing Other Provisions Relating Thereto.

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The attached resolution was prepared by Dan McMahan of Riggs-Abney P.S, acting as Tax Increment Finance counsel for the City and the Midwest City Memorial Hospital Authority ("Authority"). Furthermore, it authorizes the sale of the Tax Apportionment Refunding Bonds necessary for financing improvements and other obligations associated with Increment District No. 2, the Sooner Rose Increment District. Furthermore, it authorizes the Authority's officers to sign the documents and to take the actions necessary to close the transaction on behalf of the Authority.

Staff recommends approval, which requires a minimum of six (6) votes in the affirmative.

J. Guy Henson, AICP  
General Manager/Administrator

## RESOLUTION

**RESOLUTION AUTHORIZING THE ISSUANCE OF THE AUTHORITY'S "TAX APPORTIONMENT REFUNDING BONDS, TAXABLE SERIES 2018 (SOONER ROSE INCREMENT DISTRICT PROJECT)" (THE "BONDS") AND WAIVING COMPETITIVE BIDDING ON THE SALE THEREOF; AUTHORIZING AND APPROVING EXECUTION AND DELIVERY OF THE BONDS AND ALL DOCUMENTS RELATING THERETO; AUTHORIZING OFFICERS TO APPROVE, EXECUTE AND DELIVER A CERTIFICATE OF DETERMINATION IN CONNECTION WITH THE BONDS; AUTHORIZING THE PREPARATION, FILING AND DISTRIBUTION OF AN OFFICIAL STATEMENT; AUTHORIZING OFFICERS TO EXECUTE AND DELIVER THE BONDS; AUTHORIZING OFFICERS TO TAKE ADDITIONAL ACTIONS RELATING TO THE BONDS; PROVIDING FOR AN EFFECTIVE DATE; AND CONTAINING OTHER PROVISIONS RELATING THERETO.**

**WHEREAS**, the Midwest City Memorial Hospital Authority (hereinafter, the "Authority") was created by that certain "Trust Indenture" dated as of the 1st day of July, 1961, as amended by that certain "Amended and Restated Trust Indenture", adopted April 7, 1998, which Amended and Restated Trust Indenture was further amended by that certain "First Amendment to Amended and Restated Trust Indenture of the Midwest City Memorial Hospital Authority", dated April 20, 2017 (the Trust Indenture and all amendments and restatements thereto are hereinafter referred to, collectively, as the "Trust Indenture"); and

**WHEREAS**, the City of Midwest City has accepted beneficial interest in and to the Trust Indenture, as amended and restated, for the use and benefit of the City of Midwest City (hereinafter, the "City") under authority of and pursuant to the provisions of Title 60, Sections 176 to 180.3, inclusive, of the Oklahoma Statutes, as amended and supplemented (hereinafter, the "Public Trust Act") and other applicable statutes of the State of Oklahoma, as a public trust and an agency of the State of Oklahoma for public purposes as therein provided; and

**WHEREAS**, the purposes of the Authority are, in part, to promote economic and community development, within and without the territorial limits of the City, and to promote additional employment which will benefit and strengthen the economy of the City and the State of Oklahoma; and

**WHEREAS**, in order to accomplish its designated purposes, the Authority is empowered to provide funds for the costs of acquiring, constructing, rehabilitating, equipping, securing, maintaining and developing real and personal property within and near the City, and to enter into, make and perform contracts for the sale of its bonds, notes or other evidence of indebtedness to finance the costs thereof; and

**WHEREAS**, on March 28, 2017, the City adopted and approved that certain “Project Plan Relating to Increment District Number Two, City of Midwest City, Oklahoma” (hereinafter, the “Project Plan”) and has created, within the boundaries set forth in the Project Plan, “Increment District Number Two, City of Midwest City, Oklahoma” (hereinafter, the “Sooner Rose Increment District”) by Ordinance No. 3291 (hereinafter, the “Ordinance”), pursuant to the Oklahoma Local Development Act, Title 62, Section 851, et seq. of the Oklahoma Statutes, as amended; and

**WHEREAS**, the Project Plan and the Ordinance envision the generation of substantial capital investment and creation of significant new employment within the boundaries of the Sooner Rose Increment District by: (i) the development and construction of a 112,000 square foot expansion to the existing Sooner Rose Shopping Center; and (ii) the development and construction of a 50,000 square foot movie theater facility (hereinafter, collectively, the “Project Facilities”); and

**WHEREAS**, implementation of the Project Plan will expand employment in the area, attract major investment, enhance the tax base, and make possible investment, development and economic growth which would otherwise be difficult or impossible without the apportionment of ad valorem taxes, municipal sales taxes and other forms of public assistance to the Projects; and

**WHEREAS**, the developers of the Project Facilities have requested that the Authority provide development financing assistance to defray the extraordinary acquisition and building development costs required to develop and construct the Project Facilities; and

**WHEREAS**, the developers of the Project Facilities have also requested that the Authority provide development financing assistance to defray the costs of certain stormwater drainage, street, utility and other public infrastructure improvements within or near to the Sooner Rose Increment District; and

**WHEREAS**, the City and the Authority have determined such development financing assistance to be in furtherance of the purposes of the Public Trust Act, the Oklahoma Local Development Act, Title 62, Sections 850 et seq. of the Oklahoma Statutes, as amended (hereinafter, the “Local Development Act”) and the Trust Indenture pursuant to which the Authority was created; and

**WHEREAS**, the Authority has previously issued its “Bond Anticipation Notes, Series 2017 (Taxable) (Sooner Rose Increment District Project)” in the principal amount of \$16,475,000.00 (hereinafter, the “Series 2017 Notes”), to pay project costs described in the Project Plan, and to pay costs of issuance relating thereto; and

**WHEREAS**, the Authority intends to issue its “Tax Apportionment Refunding Bonds, Taxable Series 2018 (Sooner Rose Increment District Project)” (hereinafter, the “Bonds”), and use the net proceeds therefrom to refund all outstanding principal and interest due on the Series 2017 Note prior to their final maturity, and to pay other project costs as described in the Project Plan.

**NOW, THEREFORE, BE IT RESOLVED BY THE TRUSTEES OF THE MIDWEST CITY MEMORIAL HOSPITAL AUTHORITY:**

**SECTION 1. Authorizing the Issuance and Sale of the Authority's "Tax Apportionment Refunding Bonds, Taxable Series 2018 (Sooner Rose Increment District)" and Waiving Competitive Bidding on the Sale Thereof.** There is hereby authorized the issuance and sale of the Authority's "Tax Apportionment Refunding Bonds, Taxable Series 2018 (Sooner Rose Increment District)", in a principal amount not to exceed Nineteen Million Five Hundred Thousand and 00/100 Dollars (\$19,500,000.00) (hereinafter, the "Bonds"). Competitive bidding on the sale of the Bonds is hereby waived and the Bonds are authorized to be sold on a negotiated basis to Wells, Nelson & Associates, LLC and D.A. Davidson & Co., Inc. (collectively, the "Underwriters") at an average interest rate not to exceed Six and One-half percent (6.50%) per annum, and at a price of not less than ninety-eight and three-quarters percent (98.75%) of par, both as set in the Certificate of Determination described in Section 3 below. The Bonds shall be issued in the form and manner as provided in, and shall be delivered in accordance with, the terms and provisions of a General Bond Indenture, and a Supplemental Indenture (collectively, hereinafter, the "Indenture"), both by and between the Authority and the Trustee Bank. The Bonds shall not constitute an obligation of the City of Midwest City, Oklahoma, the State of Oklahoma or any political subdivision or agency thereof, other than the Authority, or personal obligations of the trustees of the Authority, but shall be special, limited obligations of the Authority payable solely from and secured by the Trust Estate established therefore under the Indenture.

**SECTION 2. Authorizing and Approving Execution and Delivery of the Bonds and All Documents Relating Thereto.** Subject to review and approval by counsel for the Authority, as evidenced by notation of such approval on the instruments, the following instruments underlying the issuance of the Bonds are hereby approved in substantially the same form as presented at this meeting with such additions, omissions and changes as may be approved by the persons executing the same, their execution being conclusive evidence of their approval of any such additions, omission and changes, and the Chairman or Vice Chairman and Secretary or any Assistant Secretary of the Authority are authorized and directed on behalf of the Authority to execute, attest, seal and deliver or approve the same prior to or simultaneously with the delivery of the Bonds:

- (a) that certain "General Bond Indenture", dated as of June 1, 2018, by and between the Authority and the Trustee Bank;
- (b) that certain "Series 2018 Supplemental Bond Indenture", dated as of June 1, 2018, by and between the Authority and the Trustee Bank;
- (c) that certain "First Amended Security Agreement", dated as of June 1, 2018, by and between the Authority and the City;
- (d) that certain "Bond Purchase Agreement", dated as of its date of execution, by and between the Authority and the Underwriters.



(e) that certain “Second Amendment to Project Plan Relating to Tax Increment District Number Two, City of Midwest City, Oklahoma” dated as of June 1, 2018; and

(f) that certain “Continuing Disclosure Agreement”, dated as of June 1, 2018, by and between the Authority and the Trustee Bank.

**SECTION 3. Authorizing Officers to Approve, Execute and Deliver a Certificate of Determination in Connection with the Bonds.** The Chairman or Vice-Chairman is authorized to approve, execute and deliver a Certificate of Determination setting out the principal amount of the Bonds, final maturities, sale price and interest rates, for and on behalf of the Authority, such execution and delivery by the Chairman or Vice Chairman to be binding upon the Authority.

**SECTION 4. Authorizing the Preparation, Distribution and Filing of an Official Statement.** The staff and counsel for the Authority are hereby authorized to prepare, distribute and file a preliminary and final “Official Statement” relating to the Bonds.

**SECTION 5. Authorizing Officers to Deliver the Bonds.** The Bonds shall be delivered to or upon the order of the purchasers thereof, as shall be required in writing by the Chairman or Vice-Chairman and Secretary or Assistant Secretary of the Authority, which officers are hereby authorized to execute and deliver the Bonds upon satisfaction of the conditions precedent to the delivery of the Bonds. The Bonds shall be executed in definitive or temporary forms and shall be executed in accordance with the provisions of the General Bond Indenture, the Series 2018 Supplemental Bond Indenture, and the Bond Purchase Agreement.

**SECTION 6. Designating and Appointing Authority Officers To Act in Connection With the Sale and Delivery of the Bonds.** The Chairman, Vice-Chairman, Secretary and Assistant Secretary of the Authority, are hereby designated and appointed to serve separately as an authorized Authority officer with respect to the Bonds, and in addition, are each specifically authorized to execute and deliver any and all documents or certificates in relation thereto.

**SECTION 7. Authorizing Officers to Take Additional Actions Relating to the Bonds.** The Chairman, Vice-Chairman, Secretary and Assistant Secretary of the Authority are hereby further authorized and directed on behalf of the Authority to accept, receive, transfer assign, execute, seal, attest, and deliver all such other documents, instruments, certificates and other materials as are necessary or convenient in connection with the authorization, issuance, sale and delivery of the Bonds or by any security documents and the offering materials.

**SECTION 8. Providing for an Effective Date.** This Resolution shall be in effect from and after its adoption and approval by the Trustees of the Authority.

ADOPTED AND APPROVED by the Trustees of the Midwest City Memorial Hospital Authority this \_\_\_\_\_ day of April, 2018.

AUTHORITY MIDWEST CITY MEMORIAL HOSPITAL

\_\_\_\_\_  
MATTHEW D. DUKES, II, Chairman

(SEAL)  
ATTEST:

\_\_\_\_\_  
SARA HANCOCK, Secretary

APPROVED as to form and legality this \_\_\_\_ day of April, 2018:

\_\_\_\_\_  
PHILIP W. ANDERSON, City Attorney



Midwest City Memorial Hospital Authority  
100 North Midwest Boulevard  
Midwest City, Oklahoma 73110  
Office (405) 739-1207/Fax (405) 739-1208  
[www.midwestcityok.org](http://www.midwestcityok.org)

## MEMORANDUM

To: Honorable Chairman and Trustees

From: General Manager/Administrator Guy Henson

Date: April 24, 2018

Subject: Discussion and consideration of 1) approving and entering into an Economic Development Agreement with Sooner Investment, Inc. and the City of Midwest City in the approximate amount of \$875,000 and other goods and valuable consideration, to establish the terms and conditions under which the parties will participate in the development of approximately 6.874 acres located between Buena Vista Avenue and Crosby Boulevard north of Southeast 15th Street; and 2) authorizing the chairman and/or the general manager/ administrator to enter into such other agreements and execute such other documents as may be necessary or appropriate to effect the provisions of the Agreement.

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This agreement will establish the monetary amount the Midwest City Memorial Hospital Authority (“Authority”) will contribute and other terms that will govern the duties and responsibilities of Sooner Investment, Inc. (“Sooner”), the City of Midwest City (“City”) and the Authority in the development of property located between Buena Vista Avenue and Crosby Boulevard north of SE 15th Street.

About .96 acres of the future Sooner development site was acquired last year when the Authority purchased 6 acres from the Vloedman family in the vicinity where the third phase of the Sooner Rose Shopping Center (SR3) was proposed. Sooner has requested this property for redevelopment, which is valued at ± \$371,000. Sooner is also requesting the Authority to take responsibility for negotiating with Enerfin Gathering for the purpose of terminating a petroleum line, reimbursing \$9900 in engineering fees and contribute 66% of the remaining public improvement costs, which are estimated at \$394,000.

The Authority, also agrees to grant Sooner access 2 acres of its property for development of the detention pond, which the Authority also agrees to maintain into perpetuity. The value of the property for use as the detention pond and the perpetual maintenance required are not included in this document.

The end result is the creation of four (4) new commercial lots that Sooner will make available for restaurant or retail development.

Staff recommends approval.

J. Guy Henson, AICP  
General Manager/Administrator

J. Guy Henson, General Manager/Administrator  
Trustees: Matthew D. Dukes II, Susan Eads, Pat Byrne, Española Bowen, Sean Reed, Christine Allen, and Jeff Moore



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## MEMORANDUM

To: Honorable Chairman and Trustees

From: General Manager/Administrator Guy Henson

Date: April 24, 2018

Subject: Discussion and consideration of 1) approving and entering into an Economic Development Agreement with Allison's Fun, Inc. and the City of Midwest City in the approximate amount of \$1,170,000 and other goods and valuable consideration, to establish the terms and conditions under which the parties will participate in the development of approximately 3.04 acres located between Buena Vista Avenue and Crosby Boulevard north of Southeast 15<sup>th</sup> Street; and 2) authorizing the chairman and/or the general manager/ administrator to enter into such other agreements and execute such other documents as may be necessary or appropriate to effect the provisions of the Agreement.

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This agreement establishes the monetary amount the Midwest City Memorial Hospital Authority ("Authority") will contribute and other terms that will govern the duties and responsibilities of Allison's Fun, Inc. ("Allison's"), the City of Midwest City ("City") and the Authority in the development of property located between Buena Vista Avenue and Crosby Boulevard north of SE 15th Street.

The future Allison's site was acquired last year when the Authority purchased 6 acres from the Vloedman family in the vicinity where the third phase of the Sooner Rose Shopping Center (SR3) was planned. Allison's has requested a contribution of 3.04 acres for development, which is valued at  $\pm$  \$1,175,600.

The Authority will oversee construction of public improvements, but Allison's is responsible for reimbursing the Authority for 34% (approximately \$194,605) of the actual cost of this work. In addition, the Authority, also agrees to grant Allison's and Sooner access to 2 acres of its property for development of the detention pond, which the Authority also agrees to maintain into perpetuity. The value of the property for use as the detention pond and the perpetual maintenance required are not included in this document.

Staff recommends approval.

J. Guy Henson, AICP  
General Manager/Administrator

Attachments: Proposed agreement between the MCMHA, the City and Allison's.

**STATE OF OKLAHOMA**

**SOONER ROSE PHASE III – ENTERTAINMENT  
DEVELOPMENT FINANCING ASSISTANCE AGREEMENT**

**COUNTY OF OKLAHOMA**

**THIS SOONER ROSE PHASE III – ENTERTAINMENT DEVELOPMENT FINANCING ASSISTANCE AGREEMENT** (this “Agreement”) is entered into as of the 24<sup>th</sup> day of April, 2018 (the “Effective Date”), by and between the Midwest City Memorial Hospital Authority, an Oklahoma public trust (the “Authority”) and Allison’s Fun, Inc., an Oklahoma corporation (“Allison’s”), and the City of Midwest City, Oklahoma (the “City”), a municipal corporation of the State of Oklahoma.

**RECITALS**

**WHEREAS**, the Authority was created by that certain Original Trust Indenture, dated as of the 1st day of July, 1961, with subsequent amendments in 1998 and in 2017, as a public trust for the use and benefit of the City pursuant to the provisions of Title 60, Sections 176, et seq., of the Oklahoma Statutes, as amended and supplemented (hereinafter, the “Public Trust Act”) and other applicable statutes of the State of Oklahoma; and

**WHEREAS**, the City, as the beneficiary thereof, acting through its City Council, has adopted a resolution accepting beneficial interest therein on behalf of said City; and

**WHEREAS**, the purposes of the Authority are, in part, to promote economic and community development, within and without the territorial limits of the City, and to promote additional employment which will benefit and strengthen the economy of the City and the State of Oklahoma; and

**WHEREAS**, in order to accomplish its designated purposes, the Authority is empowered to provide funds for the costs of acquiring, constructing, rehabilitating, equipping, securing, maintaining and developing real and personal property within and near the City, and to enter into, make and perform contracts for the sale of its bonds, notes or other evidence of indebtedness to finance the costs thereof; and

**WHEREAS**, Allison’s has proposed to redevelop and construct a retail and entertainment development within the boundaries of the City as more particularly described in Section 2 and, in connection therewith, has requested development financing assistance from the Authority in acquiring land and in defraying the costs of certain building, site, and infrastructure improvements; and

**WHEREAS**, Allison’s has the professional ability and expertise to undertake the development described in Section 2 in a manner that will enhance and improve economic growth and development of commerce in the city; and

**WHEREAS**, both the Authority and Allison’s have a significant interest in encouraging and improving commerce and economic development in the City and agree that the two entities working together will have a greater, more positive impact on commerce and economic development in the City than each would have separately; and

**WHEREAS**, the Authority is the owner of that certain property located immediately adjacent to the west of Crosby Boulevard and the east of Buena Vista Avenue along SE 15<sup>th</sup> Street, more particularly described on Exhibit A-1 (the “Authority Property”); and



**WHEREAS**, the Authority and Sooner Investment Group, Inc. (“Sooner”) have been working with Allison’s to redevelop a portion of the Authority Property, shown on Exhibit A as the “Phase III Entertainment Development” and more particularly described on Exhibit A-2 (the “Entertainment Property”), for entertainment uses, including but not limited to, bowling, arcades and midway games, restaurants, and ancillary retail uses as more particularly shown on Exhibit B and described in Section 3;

**WHEREAS**, Sooner Investment Group, Inc. (“Sooner”) intends to concurrently redevelop the property immediately adjacent to the west of the Entertainment Property, described in Exhibit A-3 (the “Phase III Retail Property”) for retail and commercial uses complimentary to the Entertainment Development (defined below);

**WHEREAS**, the Authority and Sooner intend to enter into a separate Development Financing Assistance Agreement associated with the Phase III Retail Development concurrent with the Authority entering into this Agreement with Allison’s;

**WHEREAS**, the Authority intends to dedicate a nonexclusive easement agreement over a portion of the Authority Property more particularly described in Exhibit A-4 (the “Stormwater Parcel”) in favor of the Phase III Retail and Entertainment Developments for use for stormwater detention;

**WHEREAS**, the Authority and the City have concluded their independent assessment of the plan of development proposed by Sooner and has determined that the redevelopment of the Entertainment Property as proposed by Allison’s is feasible;

**WHEREAS**, the City has adopted and approved that certain “Project Plan Relating to Tax Increment District No. Two, City of Midwest City, Oklahoma (Sooner Rose Increment District Project)” (the “Project Plan”) and has created, within the boundaries set forth in the Project Plan, Increment District Number Two, City of Midwest City, Oklahoma (the “Sooner Rose Increment District”) by Ordinance No. 3291 on March 28, 2017 (the “Ordinance”), pursuant to the Oklahoma Local Development Act, Title 62, Section 851, et seq., of the Oklahoma Statutes, as amended; and

**WHEREAS**, the parties wish to set forth the manner in which the Project is to be undertaken by Sooner and the Authority, and the assistance in development financing which the Authority has agreed to provide.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which being hereby acknowledged, the parties to this Agreement agree as follows:

1. **Recitals.** The forgoing recitals are true and correct and are hereby incorporated in this Agreement.
2. **Exhibits.** The following Exhibits are true and correct and are hereby incorporated in this Agreement by this reference:

Exhibit A – Sooner Rose III Property Plan;

Exhibit A-1 – Legal Description - Authority Property;

Exhibit A-2 – Legal Description - Entertainment Property;

Exhibit A-3 – Legal Description – Phase III Retail Property;

Exhibit A-4 – Legal Description – Stormwater Parcel;

Exhibit B – Conceptual Site Plan; and

Exhibit C – Stormwater Improvements.

3. **Entertainment Development Program.** Allison’s shall redevelop the Entertainment Property for an entertainment venue which shall include bowling, arcades and midway games, indoor laser tag and bumper cars, restaurants, and ancillary retail uses, together with associated improvements (the “Entertainment Uses”), all as more particularly shown on Exhibit B and consistent with the Sooner Rose Phase III – Entertainment Planned Unit Development Agreement pursuant to Ordinance 3325, approved by the City on October 25, 2017 (the “PUD Agreement”) (collectively, the “Entertainment Development”). The Entertainment Development shall consist of a first-class building, parking, drive aisles, signage, and ancillary improvements consistent with the quality of the existing Sooner Rose shopping center located to the west of the Entertainment Property on SE 15<sup>th</sup> Street.
  - 3.1. The parties acknowledge that the Phase III Retail and Entertainment Developments shall be a unified, cohesive development program and the PUD Agreement and the PUD zoning for the Entertainment Development shall each require mutual cooperation and coordination between Sooner and Allison’s for the respective developments.
  - 3.2. The parties further acknowledge that Exhibit B and the Entertainment Development description provided in this Section represent a conceptual development program that has not been fully engineered, and that certain adjustments necessary for design, engineering, construction, or market conditions may be necessary for the Entertainment Development to proceed, which adjustments shall be incorporated into the Entertainment Development without need for further amendment to this Agreement provided such adjustments are approved by the City pursuant to the City’s permitting authority and the PUD Agreement (including any amendment thereto).
4. **Site Development Agreement.** Allison’s has entered into a Site Development Agreement or similar instrument by and between Allison’s and Sooner for the Predevelopment Activities (defined below) and Site Development (defined below) pertaining to the Entertainment Property (the “Site Development Agreement”). The parties hereto intend that Sooner shall undertake the Predevelopment Activities and Site Development of the Entertainment Property on behalf of Allison’s pursuant to the Site Development Agreement and in furtherance of Allison’s and the Authority’s mutual goals in developing the Entertainment Development as contemplated in this Agreement. The Site Development Agreement shall provide for Allison’s posting a letter of credit or other surety guarantying payment for any of Allison’s financial obligations pursuant to such agreement, including but not limited to bonding of any improvements associated with the Entertainment Development required to be bonded by City ordinances.
5. **Allison’s Obligations.** In consideration of the Authority’s obligations set forth in Section 6, Allison’s shall undertake the obligations set forth in this Section. Except as otherwise expressly provided in this Agreement, Allison’s shall undertake the obligations set forth in this Section at its sole cost and expense.
  - 5.1. From and after the Effective Date:
    - 5.1.1. Allison’s shall conduct all reasonable and necessary due diligence associated with the Entertainment Property, including but not limited to title, survey and environmental assessments as customary in acquiring land for commercial retail development, and shall provide copies of such materials to the Authority.
    - 5.1.2. Allison’s shall join in all applications and other instruments prepared by Sooner as part of the Predevelopment Activities and relating to the Entertainment Property consistent with the terms of this Agreement.
  - 5.2. Prior to the Allison’s-Authority Closing Date (defined below), Allison’s shall deliver to the Authority information concerning Allison’s financial ability to develop the Entertainment

Development to the Authority's reasonable satisfaction, which information shall include, but not be limited to:

- 5.2.1. Copies of all approvals necessary to commence construction of the Entertainment Development;
  - 5.2.2. A pro forma of the Entertainment Development with construction estimates;
  - 5.2.3. An executed contract for construction of the Entertainment Development (other than the Site Development);
  - 5.2.4. Allison's shall represent and warrant that it has entered into a Site Development Agreement with Sooner as provided in Section 4, Allison's is not in default of the Site Development Agreement, and the Site Development Agreement is in full force and effect; and
  - 5.2.5. A loan commitment or other documentation establishing that Allison's has sufficient financing or other resources to undertake and complete the construction of the Entertainment Development, including, but not limited to, Allison's payment of the Public Utility Improvements Contribution (defined in Section 5.4.2).
- 5.3. On the Allison's-Authority Closing Date, Allison's shall accept title to Entertainment Property.
- 5.4. Following the Allison's -Authority Closing Date:
- 5.4.1. Allison's, through Sooner pursuant to the Site Development Agreement, shall undertake the Site Development.
  - 5.4.2. Allison's shall pay to the Authority the Public Utility Improvements Contribution pursuant to the terms set forth in this Section.
    - 5.4.2.1. Allison's shall be obligated to pay thirty-four percent (34.0%) of the costs associated with construction of the Public Utility Improvements (as more particularly defined in Exhibit C). Not more than twice per month, the Authority shall submit written invoices for costs associated with Public Utility Improvements to Allison's (each, a "Contribution Request") identifying the activities associated with the Public Utility Improvements and the costs incurred associated therewith.
    - 5.4.2.2. Allison's shall pay the costs actually incurred associated with the Public Utility Improvements as set forth in the Contribution Request to the Authority in the amount set forth in the Contribution Request, within fourteen (14) days of receipt of the Contribution Request.
    - 5.4.2.3. The parties hereto acknowledge that the estimates provided in Exhibit C, Section 4, are estimates only. In the event the actual costs of the Public Utility Improvements shall be less than the estimates provided in Exhibit C, Section 4, Allison's obligation to pay such costs for the Public Utility Improvements shall be only the Public Utility Improvements costs actually incurred pursuant to this Agreement. In the event the actual costs of the Public Utility Improvements exceed the estimates provided in Exhibit C, Section 4, Allison's shall nevertheless be obligated to pay for the actual costs of the Public Utility Improvements incurred regardless of the estimates provided above.
  - 5.4.3. Allison's shall construct the Entertainment Development pursuant to the terms of this Agreement. Allison's shall be solely responsible for all costs associated with the Entertainment Development except as otherwise expressly provided for herein. Allison's will, in its best judgment and discretion, develop, plan and execute the redevelopment of the Entertainment Property by designing the Entertainment Development and obtaining permits from local, state and federal agencies, rezoning the Entertainment Property (as necessary), replatting the Entertainment Property (including imposition of any declaration of covenants and easements necessary for the operation of the Entertainment Property), constructing the Entertainment Development, and performing such other duties and

assuming such other responsibilities as any other developer would undertake to complete a Class A commercial real estate development of the size of the Entertainment Property. Allison's will also take whatever other actions and perform all such other duties that, in the best professional judgment of Allison's, will lead to the successful redevelopment of the Entertainment Property, which will enhance and improve commerce and economic development in Midwest City, Oklahoma.

5.4.4. Allison's shall use reasonable efforts to include in all contracts it executes with its Entertainment Development contractors that, to the extent reasonably practicable, such contractors shall cause construction purchases to be delivered to the Entertainment Property and shall use the appropriate Midwest City, OK street address for such purchases, and that Oklahoma state and Midwest City sales/use taxes, as applicable, shall apply to such purchases of building items and construction materials. Allison's will use reasonable efforts to provide the City lists of purchase prices and copies of invoices Allison's receives from such contractors for purchases to which this provision applies.

5.4.5. Allison's shall open for business to the general public fully stocked and staffed as a prototypical Allison's Fun on or before twelve (12) months following Commencement of Construction per Section 7.4.2 (the "Entertainment Development Opening").

5.4.6. Other than the Entertainment Development, Allison's shall not develop, own or operate another development similar to the Entertainment Development, greater than twenty thousand (20,000) square feet of air-conditioned space, located within eight (8) miles of the Entertainment Property boundary for a period of ten (10) years from the Entertainment Development Opening; provided, however, a development containing a single Entertainment Use shall not constitute an "Entertainment Development" for purposes of this Section.

6. **Authority's Obligations.** In consideration of Allison's obligations set forth in Section 4, the Authority shall undertake the obligations set forth in this Section. Except as otherwise expressly provided in this Agreement, the Authority shall undertake the obligations set forth in this Section at its sole cost and expense.

6.1. Following the Effective Date:

6.1.1. As the Authority Property owner, the Authority shall join in all applications prepared by Sooner as part of the Predevelopment Activities consistent with the terms of this Agreement.

6.1.2. The Authority shall enter into an agreement with Sooner that shall provide, *inter alia*, for the Authority's construction of the Public Utility Improvements (defined below).

6.1.3. The Authority shall grant Sooner all easements and similar interests reasonably necessary for Sooner's undertaking the Site Development on the Entertainment Property prior to the Allison's-Authority Closing Date.

6.2. On the Allison's-Authority Closing Date, the Authority shall convey to Allison's the Entertainment Property pursuant to the terms of Section 7.

6.3. Following the Allison's-Authority Closing Date, the Authority shall:

6.3.1. Convey a nonexclusive stormwater easement in favor of the Phase III Retail and Entertainment Properties for perpetual use of the stormwater management system to be constructed on the Stormwater Parcel, and providing for the Authority's (or its successors or assigns) operation and maintenance of the stormwater management system to the nonexclusive benefit of the Phase III Retail and Entertainment Properties at no cost to the Phase III Retail and Entertainment Properties; and

6.3.2. Construct the Public Utility Improvements as provided in Exhibit C.

6.4. The Authority shall not provide economic/development funding or other consideration to an entertainment development similar to the Entertainment Development located within eight (8) miles of the Entertainment Property for a period of ten (10) years following the Entertainment Development Opening; provided, however, a development containing a single Entertainment Use shall not constitute an "Entertainment Development" for purposes of this Section.

**7. Entertainment Property Conveyance.**

7.1. The date on which the Authority shall convey the Entertainment Property to Allison's shall be the "Allison's-Authority Closing Date." The Allison's-Authority Closing Date shall occur upon mutual agreement by Allison's and the Authority.

7.2. Allison's shall obtain, at Allison's sole cost, an owner's title insurance policy from a title company of Allison's choice agreeing to insure title to the Entertainment Property in an amount that Allison's estimates is equal to the value of the Entertainment Property and subject to no exceptions other than those matters herein permitted, those which will be discharged prior to or at the Allison's-Authority Closing, and the standard printed exceptions and exclusions from coverage customarily contained in an owner's title policy (the "Commitment"). Allison's shall provide the Authority a copy of the Commitment upon receipt. If the Commitment discloses unpermitted exceptions or matters that render the title unmarketable, the Authority, at its option, may cure such defects to Allison's reasonable satisfaction. If the Authority fails to have the Commitment exceptions removed or the defects cured prior to the Allison's-Authority Closing Date, Allison's may terminate this Agreement or Allison's may elect, in its discretion, to take title as it then is notwithstanding such exceptions or title defects. In the event that new exceptions or matters arise by or through the Authority, the Authority shall exercise reasonable diligence in the curing of any such defects or exceptions, including payment and discharge of any liens or encumbrances affecting title of the Entertainment Property, and the Closing and other deadlines associated with development of the Entertainment Property shall be tolled until the Authority shall have cured such exceptions or defects. At the Allison's-Authority Closing, Allison's shall obtain an owner's title policy showing good and marketable title in Allison's through the Closing and subject only to the permitted exceptions and any matters accepted by Allison's.

7.3. As part of the development financing assistance the Authority is providing hereunder, and in exchange for the consideration provided by Allison's under this Agreement, the Authority shall, at the Allison's – Authority Closing, convey title to the Entertainment Property to Allison's by special warranty deed. Except as otherwise provided herein, Allison's shall pay all costs associated with the acquisition of the Entertainment Property; provided, however, the Authority shall be responsible for its own legal fees associated with this Agreement and the Closing.

7.4. The Authority shall convey the Entertainment Property to Allison's subject to easement rights conveyed to Sooner for the Site Development activities, a Temporary Use Restriction (defined below), and the Reversionary Interest (defined below).

7.4.1. The term "Temporary Use Restriction" shall mean a use restriction contained in the deed of conveyance from the Authority to Allison's, which shall restrict the use of the Entertainment Property to only the Entertainment Uses. The Temporary Use Restriction shall terminate automatically and immediately on Entertainment Development Opening. Following the Entertainment Development Opening, the parties hereto agree to cooperate in good faith with each other and Allison's lender to promptly execute and record in the real estate records such document as may be required by such lender or Allison's to terminate the Temporary Use Restriction.

7.4.2. The term "Reversionary Interest" shall mean a reversionary interest retained by the Authority as set forth in the deed of conveyance from the Authority to Allison's, which shall provide that, in the event Allison's does not Commence Construction of the Entertainment



Development within forty-five (45) days of the latter of (i) the Allison's-Authority Closing , (ii) Sooner's completion of the Site Development, and (iii) the Authority's completion of the Public Utility Improvements, fee simple title to the Entertainment Property shall vest in the Authority. The specific provision of the Reversionary Interest shall be satisfactory to Allison's and the Authority. Provided, however, that the Reversionary Interest shall terminate automatically and be of no further force or effect immediately upon the date Allison's shall commence construction of the Entertainment Development. The parties hereto agree to cooperate in good faith with each other and Allison's lender at the time Allison's shall commence construction to execute such document as may be required by such lender or Allison's to terminate the Reversionary Interest. The term "Commence Construction" shall mean the pouring of footers for the "Entertainment Venue" on the Entertainment Property as shown on Exhibit B.

7.5. Except as otherwise provided in this Agreement, neither the City nor the Authority is making, and each hereby specifically disclaims, any representations or warranties of any kind, express or implied, with respect to the Entertainment Property. Allison's agrees that Allison's has not relied upon and will not rely upon, either directly or indirectly, any representation of the City or the Authority (except as otherwise set forth in this Agreement) or any agent of the City or the Authority. EXCEPT AS OTHERWISE PROVIDED HEREIN, ALLISON'S ACKNOWLEDGES AND AGREES THAT UPON THE ALLISON'S-AUTHORITY CLOSING DATE THE AUTHORITY SHALL CONVEY TO ALLISON'S, AND ALLISON'S SHALL ACCEPT, THE ENTERTAINMENT PROPERTY "AS IS, WHERE IS" WITH ALL FAULTS, AND THERE ARE NO ORAL AGREEMENTS, WARRANTIES, OR REPRESENTATIONS (EXCEPT AS OTHERWISE PROVIDED HEREIN), COLLATERAL TO OR AFFECTING THE ENTERTAINMENT PROPERTY BY THE AUTHORITY, ANY AGENT OF THE CITY OR THE AUTHORITY OR ANY THIRD PARTY ACTING FOR ON BEHALF OF THE CITY OR THE AUTHORITY. The terms of this Section shall expressly survive termination of this Agreement.

**8. Predevelopment Activities.**

8.1. The term "Predevelopment Activities," shall mean:

8.1.1. Preparation of the PUD and preliminary plats, including all exhibits associated with such agreements and the plat, and the Development Financing Assistance Agreements, all for the Phase III Retail and Entertainment Developments, including but not limited to, managing the review and approval processes for all such documents through the City and Authority hearings; and

8.1.2. Planning, design and permitting of the Site Development for the Phase III Retail and Entertainment Developments with all applicable government agencies.

8.2. All Predevelopment Activities shall be generally consistent with Exhibit B, to facilitate development of the Phase III Retail and Entertainment Developments to form a cohesive retail and entertainment center comparable with first-class retail centers in the Oklahoma County, Oklahoma market.

9. **Site Development.** The term "Site Development" shall include all actions reasonably related to: clearing and grading the Phase III Retail and Entertainment Developments, all as more particularly shown on Exhibit B, and as more particularly detailed on the engineered development plans and preliminary plat prepared as part of the Predevelopment Activities and duly approved by the City of Midwest City pursuant to its ordinances. The Site Development shall be undertaken by Sooner pursuant to the Site Development Agreement. Site Development shall not include any building pad preparation or other above-ground improvements.

10. **Assignment.** Allison's rights and obligations pursuant to this Agreement may be assigned by Allison's only as set forth in this Section. Any assignment other than as provided in this Section shall be null

and void except as approved by a prior written amendment to this Agreement, executed by the parties hereto.

- 10.1. The parties hereto acknowledge that Allison's may undertake acquisition of the Property and development of the Entertainment Development via an affiliate entity owned or controlled by Allison's. Therefore, Allison's rights and obligations pursuant to this Agreement may be assigned without the prior consent of the Authority to any entity owned or controlled by Allison's, on or before the Closing Date without the need for amendment to this Agreement.
- 10.2. The parties hereto acknowledge that Allison's may undertake acquisition of the Entertainment Property and development of the Entertainment Development pursuant to an acquisition and development loan from a lender. Therefore, Allison's rights and obligations pursuant to this Agreement may be assigned, pledged and hypothecated to a lender associated with the acquisition of the Entertainment Property and construction of the Entertainment Development and without the prior consent of the Authority without the need for amendment to this Agreement.
- 10.3. Upon assignment pursuant to this Section, all the terms and conditions of this Agreement shall inure to the benefit of and bind the assignee.
11. **Tax Matters.** The contribution of the Entertainment Property and other consideration provided by the Authority pursuant to Section 6 are intended to be as permitted by Section 118 of the Internal Revenue Code, provided, however, that the City and the Authority make no representations or warranties regarding the characterization or treatment of such development financing assistance for federal or state income tax purposes.
12. **No Partnership.** Nothing contained in this Agreement shall be construed in any way as creating a joint venture, partnership, or similar business relationship between or among, the City, the Authority and Allison's. Consistent with the terms of this Agreement, Allison's shall develop, operate, maintain, lease, sell, hypothecate, and otherwise convey the Entertainment Property or portions thereof in its sole and absolute discretion.
13. **Default.** Except as otherwise expressly provided in this Agreement, in the event either party hereto shall default of any its obligations as provided in this Agreement, following thirty (30) days' prior written notice from the non-defaulting party to the defaulting party with the defaulting party's opportunity to cure such default, the non-defaulting party may terminate this Agreement or seek specific performance of the defaulting party's obligations pursuant to the terms of this Agreement; provided, however, if the default is of a nature that cannot be reasonably cured within such 30-day period, then the defaulting party shall be allowed a reasonable period of time to cure such default provided that it diligently commences the cure within the 30-day period and thereafter undertakes and continuously pursues such cure.
14. **Force Majeure.** Notwithstanding anything in this Agreement to the contrary, no party hereto shall be deemed in default with respect to the performance of any of the terms, covenants, and conditions of this Agreement to be performed by it if any failure of its performance shall be due to any strike, lockout, civil commotion, war, warlike operation, invasion, rebellion, hostilities, military or usurped power, sabotage, governmental regulations or controls, inability to obtain any material or service, Act of God, weather, or any other cause whatsoever beyond the reasonable control of obligated party, and the time for performance by such obligated party shall be extended by the period of delay resulting from or due to any of said causes; provided, nothing in this section shall excuse or extend a party's obligation to pay any sum due under this Agreement.
15. **Termination.** Upon the completion of Allison's obligations set forth in Section 4 and completion of the Authority's obligations as set forth in Section 6 and 7, this Agreement shall terminate and shall be of no further force or effect except as to terms and conditions that expressly survive termination.

16. **Representations.** Each of the parties hereto represent and warrant to each of the other parties that it is a duly constituted entity; has the full right and authority to execute and perform its respective obligations under this Agreement; and the Agreement is in full force and effect and constitutes a valid and legal binding obligation, enforceable in accordance with its terms as provide in this Agreement.
17. **Miscellaneous.** Nothing in this Agreement shall serve to affect or otherwise limit the City's and Authority's police powers, zoning authority or other governmental action of the City or Authority. This Agreement shall represent the entire understanding between the parties with respect to the subject matter hereof, and supersede all other negotiations and agreements made by the parties concerning the matters set forth herein. Any provision of this Agreement held by a court of competent jurisdiction to be invalid, illegal or unenforceable, shall be severable and shall not be construed to render the remainder of the Agreement to be invalid, illegal, or unenforceable. This Agreement may not be amended, unless evidenced in writing and executed by the parties hereto. This Agreement shall be governed by and constructed in accordance with the laws of the State of Oklahoma, and any legal action pertaining hereto must be brought in Oklahoma County District Court and/or the Western District of Oklahoma. This Agreement may be executed in counterparts, each of which when so executed shall be deemed an original, and all of which shall together constitute one and the same instrument. Each party acknowledges that all parties to this Agreement participated in the preparation thereof, and that it was negotiated at arm's length. Accordingly, no court construing this Agreement shall construe it more strongly against one party than the other.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the Effective Date.

Approved and agreed to by the City on the Effective Date.

**ATTEST:**

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

**CITY OF MIDWEST CITY, OKLAHOMA**, a municipal corporation

\_\_\_\_\_  
\_\_\_\_\_, Mayor

Approved as to form and legality on the Effective Date.

\_\_\_\_\_  
\_\_\_\_\_,  
City Attorney

Approved and agreed to by the Authority on the Effective Date.

**ATTEST:**

\_\_\_\_\_  
\_\_\_\_\_, Secretary

**MIDWEST CITY MEMORIAL HOSPITAL AUTHORITY**, a public trust

\_\_\_\_\_  
\_\_\_\_\_, Chairman

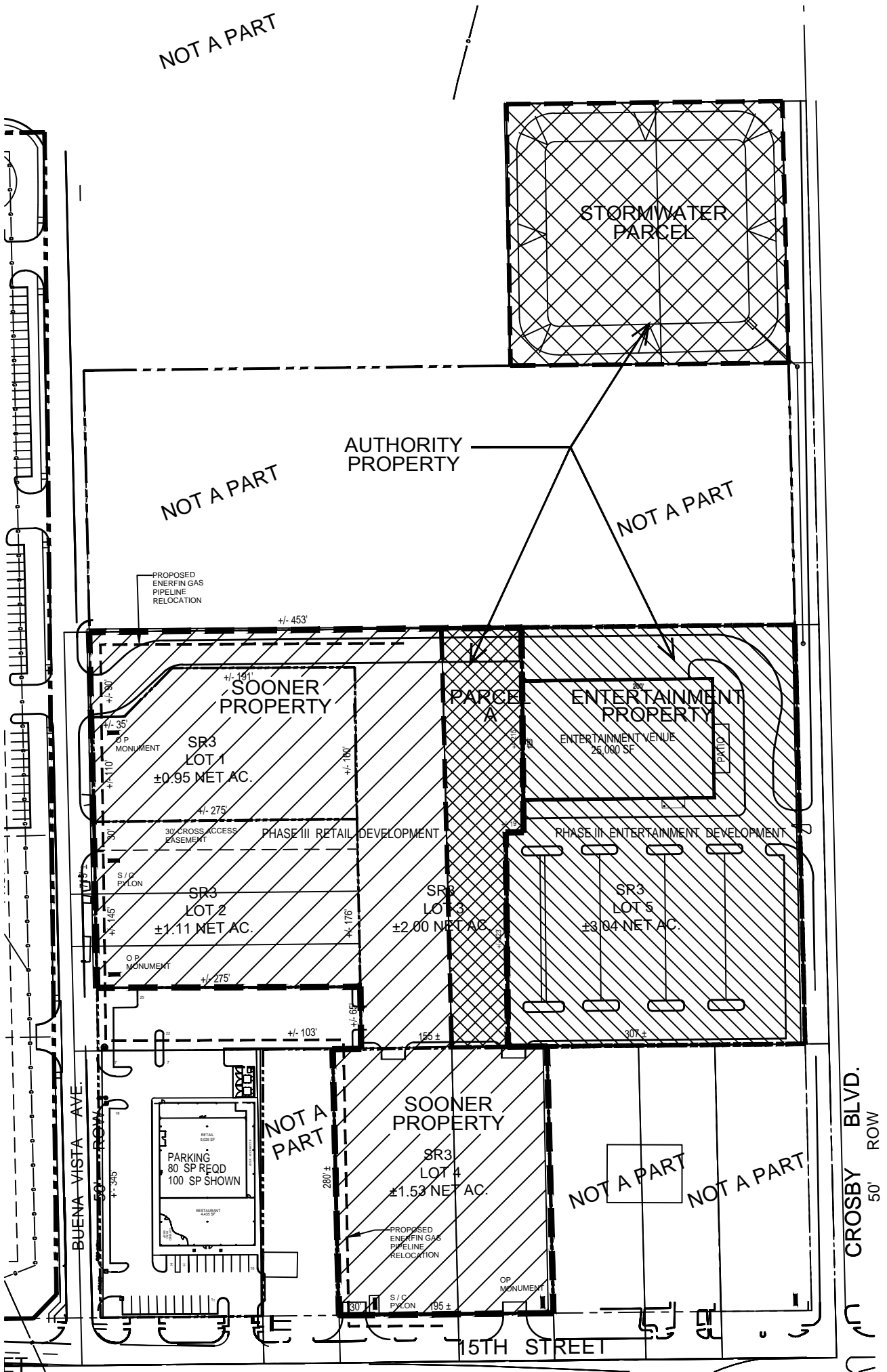
Approved as to form and legality on the Effective Date.

\_\_\_\_\_  
\_\_\_\_\_, Attorney for  
the Authority

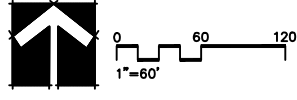
Approved and agreed to by Allison's on the Effective Date.

**ALLISON'S FUN, INC.**, an Oklahoma corporation

\_\_\_\_\_  
\_\_\_\_\_



1 **AUTHORITY PROPERTY PLAN**  
SCALE: 1" = 60'-0"



| KEY |   |
|-----|---|
|     | AUTHORITY PROPERTY  |
|     | PARCEL A<br>AUTHORITY PROPERTY<br>CONVEYED TO SOONER                      |
|     | ENTERTAINMENT PROPERTY<br>AUTHORITY PROPERTY<br>CONVEYED TO ALLISON'S FUN |
|     | SOONER PROPERTY   |
|     | STORMWATER PARCEL   |

| REV | DATE |
|-----|------|
|     |      |

**SOONER ROSE - PHASE III**  
MIDWEST CITY, OKLAHOMA  
**EXHIBIT A - AUTHORITY PROPERTY**

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Charlotte, NC 28204  
704.334.2787  
gorpooodarchitecture.com

**Collett**

SOONER INVESTMENT  
Commercial and Investment Real Estate  
2201 West I-44 Service B. Suite 100 Oklahoma City, OK 73112  
(405)842-0406 Fax (405)840-2386

**Exhibit A-1**

**Legal Description – Authority Property**

**TRACT 1:**

A tract of land lying in the Southwest Quarter of Section Four (4), Township Eleven (11) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma being more particularly described as follows:

COMMENCING at southeast corner of said Southwest Quarter;

THENCE South 89°24'49" West, along the south line of said Southwest Quarter, a distance of 296.00 feet;

THENCE North 01°23'57" West, parallel with the east line of said Southwest Quarter, a distance of 330.00 feet to the POINT OF BEGINNING;

THENCE South 89°24'49" West, parallel with the south line of said Southwest Quarter, a distance of 100.00 feet;

North 01°23'57" West, parallel with the east line of said Southwest Quarter, a distance of 440.00 feet;

THENCE North 89°24'49" East, parallel with the south line of said Southwest Quarter, a distance of 396.00 feet to a point on the east line of said Southwest Quarter;

THENCE South 01°23'57" East, along said east line, a distance of 440.00 feet;

THENCE South 89°24'49" West, parallel with the south line of said Southwest Quarter, a distance of 296.00 feet to the POINT OF BEGINNING.

**TRACT 2:**

A tract of land lying in the Southwest Quarter (SW/4) of Section Four (4), Township Eleven (11) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma being more particularly described as follows:

COMMENCING at the southeast corner of said Southwest Quarter;

THENCE North 01°23'57" West, along the east line of said Southwest Quarter, a distance of 1,045.00 feet to the POINT OF BEGINNING;

THENCE South 89°24'49" West, parallel with the south line of said Southwest Quarter, a distance of 316.80 feet;

THENCE North 01°23'57" West, parallel with the east line of said Southwest Quarter, a distance of 275.02 feet (275.00 feet per vesting deed) to a point on the centerline of Southeast 12th Street as shown on the plat of CROSBY RICHLAND HILL ADDITION, according to the plat thereof recorded in Book 31 of Plats, Page 94, Oklahoma County records;



THENCE North 89°24'49" East, along said centerline and parallel with the south line of said Southwest Quarter, a distance of 316.80 feet to a point on the East line of said Southwest Quarter;

THENCE South 01°23'57" East, along said east line, a distance of 275.02 feet (275.00 feet per vesting deed) to the POINT OF BEGINNING.

Said described Tract 1 contains a gross area of 174,222 square feet or 3.9996 acres and a net area, less streets rights of way, of 163,222 square feet or 3.7471 acres, more or less.

Said described Tract 2 contains a gross area of 87,118 square feet or 1.9999 acres and a net area, less streets rights of way, of 72,946 square feet or 1.6746 acres, more or less.

The basis of bearing for this description is the Oklahoma State Plane Coordinate System (South Zone) using South 89°24'49" West as the south line of the Southwest Quarter of Section 4, Township 11 North, Range 2 West of the Indian Meridian.

**Exhibit A-2**

**Legal Description – Entertainment Property**

A tract of land lying in the Southwest Quarter of Section Four (4), Township Eleven (11) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma being more particularly described as follows:

COMMENCING at southeast corner of said Southwest Quarter;

THENCE South 89°24'49" West, along the south line of said Southwest Quarter, a distance of 296.00 feet;

THENCE North 01°23'57" West, parallel with the east line of said Southwest Quarter, a distance of 330.00 feet to the POINT OF BEGINNING;

THENCE South 89°24'49" West, parallel with the south line of said Southwest Quarter, a distance of 41.59 feet;

THENCE North 00°35'11" West a distance of 214.94 feet;

THENCE North 89°24'49" East, parallel with the south line of said Southwest Quarter, a distance of 17.50 feet;

THENCE North 00°35'11" West a distance of 225.02 feet;

THENCE North 89°24'49" East, parallel with the south line of said Southwest Quarter, a distance of 313.84 feet to a point on the east line of said Southwest Quarter;

THENCE South 01°23'57" East, along said east line a distance of 440.00 feet;

THENCE South 89°24'49" West, parallel with the south line of said Southwest Quarter, a distance of 296.00 feet to the POINT OF BEGINNING.

Said described tract of land contains an area of 143,212 square feet or 3.2877 acres, more or less.

The basis of bearing for this description is the Oklahoma State Plane Coordinate System (South Zone) using South 89°24'49" West as the south line of the Southwest Quarter of Section 4, Township 11 North, Range 2 West of the Indian Meridian.

9-14-17-RM

### Exhibit A-3

#### Legal Description – Phase III Retail Property

A tract of land lying in the Southwest Quarter of Section Four (4), Township Eleven (11) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma being more particularly described as follows:

COMMENCING at southeast corner of said Southwest Quarter;

THENCE South 89°24'49" West, along the south line of said Southwest Quarter, a distance of 296.00 feet to the POINT OF BEGINNING;

THENCE continuing South 89°24'49" West, along said south line, a distance of 225.00 feet;

THENCE North 01°23'57" West, parallel with the east line of said Southwest Quarter, a distance of 330.00 feet;

THENCE South 89°24'49" West, parallel with the south line of said Southwest Quarter, a distance of 271.00 feet to a point on the centerline of Buena Vista Avenue as established by Easement for Right of Way recorded in Book 64, Page 69;

THENCE North 01°23'57" West, along said centerline, a distance of 440.00 feet;

THENCE North 89°24'49" East, parallel with the south line of said Southwest Quarter, a distance of 478.16 feet;

THENCE South 00°35'11" East a distance of 225.02 feet;

THENCE South 89°24'49" West, parallel with the south line of said Southwest Quarter, a distance of 17.50 feet;

THENCE South 00°35'11" East a distance of 214.94 feet;

THENCE North 89°24'49" East, parallel with the south line of said Southwest Quarter, a distance of 41.59 feet;

THENCE South 01°23'57" East, parallel with the east line of said Southwest Quarter, a distance of 330.00 feet to the POINT OF BEGINNING.

Said described tract of land contains an area of 279,475 square feet or 6.4159 acres, more or less.

The basis of bearing for this description is the Oklahoma State Plane Coordinate System (South Zone) using South 89°24'49" West as the south line of the Southwest Quarter of Section 4, Township 11 North, Range 2 West of the Indian Meridian.

9-14-17-RM

## Exhibit A-4

### Legal Description – Stormwater Parcel

A tract of land lying in the Southwest Quarter of Section Four (4), Township Eleven (11) North, Range Two (2) West of the Indian Meridian, Oklahoma County, Oklahoma being more particularly described as follows:

COMMENCING at the southeast corner of said Southwest Quarter;

THENCE North  $01^{\circ}23'57''$  West, along the east line of said Southwest Quarter, a distance of 1,045.00 feet to the POINT OF BEGINNING;

THENCE South  $89^{\circ}24'49''$  West, parallel with the south line of said Southwest Quarter, a distance of 316.80 feet;

THENCE North  $01^{\circ}23'57''$  West, parallel with the east line of said Southwest Quarter, a distance of 275.02 feet (275.00 feet per vesting deed) to a point on the centerline of Southeast 12th Street as shown on the plat of CROSBY RICHLAND HILL ADDITION, according to the plat thereof recorded in Book 31 of Plats, Page 94, Oklahoma County records;

THENCE North  $89^{\circ}24'49''$  East, along said centerline and parallel with the south line of said Southwest Quarter, a distance of 316.80 feet to a point on the east line of said Southwest Quarter;

THENCE South  $01^{\circ}23'57''$  East, along said east line, a distance of 275.02 feet (275.00 feet per vesting deed) to the POINT OF BEGINNING.

Said described tract contains a gross area of 87,118 square feet or 1.9999 acres and a net area, less streets rights of way, of 72,946 square feet or 1.6746 acres, more or less.

The basis of bearing for this description is the Oklahoma State Plane Coordinate System (South Zone) using South  $89^{\circ}24'49''$  West as the south line of the Southwest Quarter of Section 4, Township 11 North, Range 2 West of the Indian Meridian.

NOT A PART

STORMWATER EASEMENT

STORMWATER POND

STORMWATER EASEMENT

STORMWATER CONVEYANCE PIPE TO STORMWATER POND FROM SR3

NOT A PART

NOT A PART

PROPOSED ENERFIN GAS PIPELINE RELOCATION

+/- 453'

SR3 LOT 1  
±1.04 NET AC.

ENTERTAINMENT VENUE  
25,000 SF

PHASE III RETAIL DEVELOPMENT

PHASE III ENTERTAINMENT DEVELOPMENT

SR3 LOT 2  
±1.01 NET AC.

SR3 LOT 3  
±2.00 NET AC.

SR3 LOT 5  
±3.04 NET AC.

PARKING  
80 SP REQD  
97 SP SHOWN

NOT A PART

SR3 LOT 4  
±1.53 NET AC.

NOT A PART

NOT A PART

PROPOSED ENERFIN GAS PIPELINE RELOCATION

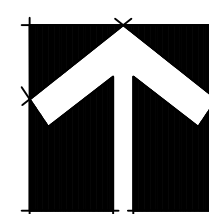
OP MONUMENT

15TH STREET

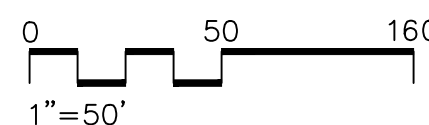
CROSBY BLVD.  
50' ROW

PROPOSED STREET FRONTAGE IMPROVEMENTS  
(REPLACE CURB AND SIDEWALKS)

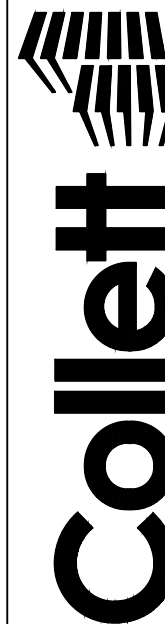
PROPOSED SURFACE MILL AND OVERLAY



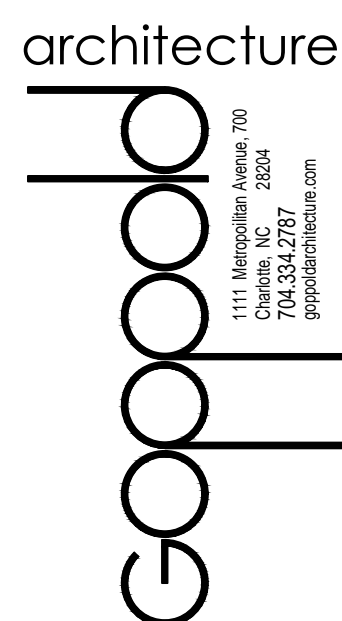
MARKETING SITE PLAN  
SCALE: 1" = 80'-0"



| REV                   | DATE      |
|-----------------------|-----------|
|                       |           |
| PROJECT NO. 16.001.00 |           |
| DATE                  | 3-26-2018 |
| SHEET                 | EX-B      |



SOONER INVESTMENT  
Commercial and Investment Real Estate  
230 West 1-4 Avenue, Suite 100, Oklahoma City, OK 73102  
(405) 442-4424 Fax: (405) 442-4424



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# PHASE III

## EXHIBIT B CONCEPTUAL SITE PLAN

# SOONER ROSE

MIDWEST CITY, OKLAHOMA

## EXHIBIT C

### Public Utility Improvements

1. The term “Public Utility Improvements” shall mean:
  - 1.1. Construction of the stormwater management system on the Stormwater Parcel, designed and permitted to accommodate the stormwater demands of the Phase III Retail and Entertainment Developments, together with the stormwater transmission line connecting the Stormwater Parcel to the Phase III Retail and Entertainment Developments, together with stormwater inlets, pipes, and associated improvements on the Phase III Retail and Entertainment Properties, all as shown on the Preliminary Plat (defined below);
  - 1.2. Excavation of all soils from the Proposed Detention Pond (as shown on the Preliminary Plat), and disposal and compaction of all such soils on the Phase III Retail and Entertainment Properties pursuant to the grading plan approved for the Site Development thereof;
  - 1.3. Demolition of the existing sewer pipe located in the western right-of-way of Crosby Boulevard and installation of a new sewer pipe in such location concurrent with the installation of the storm pipe transmission line in such location;
  - 1.4. Construction and installation of potable water lines serving the Phase III Retail and Entertainment Properties.
2. The Public Utility Improvements shall be constructed generally consistent with the Preliminary Plat, dated August 30, 2017, revised September 13, 2017, prepared by SMC Consulting Engineers and approved by the City on November 28, 2017 (the “Preliminary Plat”); provided, however, the parties acknowledge that the Public Utility Improvements are subject to modifications necessary for design, engineering, construction, or market conditions may be necessary for the Phase III Retail and Entertainment Developments, which modifications shall be reflected on the final plat, subject to review and approval by the City pursuant to the Predevelopment Activities (the “Final Plat”) without need for further amendment to this Agreement provided such adjustments are approved by the City pursuant to the final plat process and are generally consistent with the PUD Agreement, Preliminary Plat and this Agreement.
3. All applicable inspections and testing of the “Public Utility Improvements” shall be conducted by the Authority pursuant to State and Federal regulations.





## ***Midwest City Memorial Hospital Authority***

100 North Midwest Boulevard  
Midwest City, Oklahoma 73110  
(405) 739-1207 Fax (405) 739-1208 TDD (405) 739-1359  
E-mail: ghenson@midwestcityok.org

J. Guy Henson  
*General Manager/  
Administrator*

*Trustees*

Matthew D. Dukes II  
Daniel McClure Jr.  
Pat Byrne  
Rick Dawkins  
M. Sean Reed  
Christine Allen  
Jeff Moore

*Board of Grantors*

Sherry Beaird  
John Cauffiel  
Marcia Conner  
Pam Dimski  
Dara McGlamery  
Joyce Jackson  
Charles McDade  
Nancy Rice  
Sheila Rose

### **MEMORANDUM**

TO: Honorable Chairman and Trustees

FROM: Christy Barron, Treasurer/Finance Director

DATE: April 24, 2018

SUBJECT: Discussion and consideration of supplemental budget adjustments to the Hospital Authority Fund for FY 2017-2018, increase: Hospital Authority Fund, revenue/Hospital Authority (90) \$148,410; expenses/Hospital Authority (90) \$546,400.

The supplement is needed to budget public improvements for Sooner Rose 3.

---

Christy Barron  
Finance Director

# SUPPLEMENTS

**April 24, 2018**

| Fund<br>HOSPITAL AUTHORITY (425)  |                        | BUDGET AMENDMENT FORM<br>Fiscal Year 2017-2018 |                 |                       |                 |
|---|------------------------|--|-----------------|-----------------------|-----------------|
|   |                        | Estimated Revenue                              |                 | Budget Appropriations |                 |
| <u>Dept Number</u>  | <u>Department Name</u> | <u>Increase</u>                                | <u>Decrease</u> | <u>Increase</u>       | <u>Decrease</u> |
| 90  | Miscellaneous          | 148,410  |                 |                       |                 |
| 90  | Hospital Authority     |  |                 | 546,400               |                 |
|   |                        | 148,410  | 0               | 546,400               | 0               |
| <b>Explanation:</b>   |                        |  |                 |                       |                 |
| To budget public improvements for Sooner Rose 3. Funding to come from reimbursement of expenses (\$148,410) and fund balance. |                        |  |                 |                       |                 |



NEW BUSINESS/  
PUBLIC DISCUSSION





## MUNICIPAL AUTHORITY AGENDA



|| The 7:00 PM meetings will be shown live on Channel 20.



|| The recorded video will be available on Youtube and the City's website within 48 hours at [www.youtube@midwestcityok.org](http://www.youtube@midwestcityok.org).



|| The meeting minutes and video can be found on the City's website in the Agenda Center: <https://midwestcityok.org/AgendaCenter>.



|| To make a special assistance request, call 739-1215 or email [pmenefee@midwestcityok.org](mailto:pmenefee@midwestcityok.org) no less than 24 hours prior to the start of a meeting. If special assistance is needed during a meeting, call 739-1388.



**MIDWEST CITY MUNICIPAL AUTHORITY AGENDA**  
City Hall - Midwest City Council Chambers, 100 N. Midwest Boulevard

April 24, 2018 - 7:05 PM

- A. CALL TO ORDER.
- B. CONSENT AGENDA. These items are placed on the Consent Agenda so that Trustees, by unanimous consent, can approve routine agenda items by one motion. If any item proposed does not meet with approval of all Trustees, or members of the audience wish to discuss an item, it will be removed and heard in regular order.
1. Discussion and consideration of approving the minutes of the staff briefing and regular meeting of March 27, 2018, as submitted. (Secretary - S. Hancock)
  2. Discussion and consideration of approving the minutes of the staff briefing and regular meeting of April 10, 2018, as submitted. (Secretary - S. Hancock)
  3. Discussion and consideration of supplemental budget adjustments to the following fund for FY 2017-2018, increase: Capital Sewer Improvements Fund, expenses/Sewer Improvements (44) \$16,025. Capital Water Improvements Fund, revenue/Capital Water Improvements (49) \$46,194; expenses/Capital Water Improvements (49) \$135,865. (Finance - C. Baron)
  4. Discussion and consideration of accepting the report on the current financial condition of the Sheraton Midwest City Hotel at the Reed Center for the period ending March 31, 2018 (City Manager - T. Lyon).
  5. Discussion and consideration of awarding the bid for Regional Park Temporary Concessions to Tasty Snow LLC., in the amount of \$1,020.00 per month from April 1st to October 1st each year for a total of \$6,120.00 annually. (Public Works - V. Sullivan)
- C. DISCUSSION ITEM.
1. Discussion and consideration of awarding the bid to and entering into a contract for curbside single-stream recycling with Republic Services of Oklahoma City. (Public Work - R. P. Streets)
- D. NEW BUSINESS/PUBLIC DISCUSSION. The purpose of the "Public Discussion Section" of the Agenda is for members of the public to speak to the Authority on any Subject not scheduled on the Regular Agenda. The Authority shall make no decision or take any action, except to direct the City Manager to take action, or to schedule the matter for discussion at a later date. Pursuant to the Oklahoma Open Meeting Act, the Authority will not engage in any discussion on the matter until that matter has been placed on an agenda for discussion. **THOSE ADDRESSING THE AUTHORITY ARE REQUESTED TO STATE THEIR NAME AND ADDRESS PRIOR TO SPEAKING TO THE AUTHORITY.**
- E. FURTHER INFORMATION.
1. Discussion and consideration of passing and approving an ordinance amending the Midwest City Municipal Code, Chapter 18, Garbage and Refuse, by amending Article II, Municipal Collection and Disposal Service, Section 18-25, Container Required; Duty to Use; Section 18-26 (c), Sanitation Containers at Commercial Establishments; Section 18-27(a), Residential Service Fees; Section 18-28, Business and Commercial Service Fees; Setting an effective Date; and providing for repealer and severability (This item is under further information on the April 24, 2018 agenda). (Public Works - R.P.Streets)
- F. ADJOURNMENT.



CONSENT AGENDA





A notice for staff briefings of the Midwest City Municipal Authority was filed for the calendar year with the City Clerk of Midwest City. Public notice of this agenda was accessible at least 24 hours before this meeting at City Hall and on the Midwest City website ([www.midwestcityok.org](http://www.midwestcityok.org)).

**Midwest City Municipal Authority Staff Briefing Minutes**

March 27, 2018 – 6:00 PM

This staff briefing was scheduled to be held in the Midwest City Council Conference Room on the second floor of City Hall, 100 N. Midwest Boulevard, Midwest City, County of Oklahoma, State of Oklahoma.

Due to time constraints, no meeting was held.

**Discussion.**

**Clarification of agenda items, handouts, and presentation of new or additional information for items on the Municipal Authority agenda for March 27, 2018.**

ATTEST:

\_\_\_\_\_  
MATTHEW D. DUKES, II, Chairman

\_\_\_\_\_  
SARA HANCOCK, Secretary

A notice for the regular Midwest City Municipal Authority was filed for the calendar year with the City Clerk of Midwest City. Public notice of this agenda was accessible at least 24 hours before this meeting at City Hall and on the Midwest City website ([www.midwestcityok.org](http://www.midwestcityok.org)).

## **Midwest City Municipal Authority Minutes**

March 27, 2018 – 7:01 PM

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

Chairman Matt Dukes called the meeting to order at 9:16 PM with the following members present: Trustees Susan Eads, Pat Byrne, Rick Dawkins, Sean Reed, Christine Allen, and Jeff Moore; and Secretary Sara Hancock. Absent: none.

**Consent Agenda.** Dawkins made a motion to approve the Consent Agenda, as submitted, seconded by Allen. Voting aye: Eads, Byrne, Dawkins, Reed, Allen, Moore, and Mayor Dukes. Nay: none. Absent: none. Motion carried.

1. Discussion and consideration of approving the minutes of the staff briefing and regular meeting of February 27, 2018, and the canceled meeting of March 13, 2018, as submitted.
2. Discussion and consideration of accepting the report on the current financial condition of the Sheraton Midwest City Hotel at the Reed Center for the period ending February 28, 2018.
3. Discussion and consideration of approving credit card processing fee agreement for the hotel.
4. Discussion and consideration of approving and entering into an agreement allowing the Midwest City YMCA to offer swim lesson at the Reno Swim and Slide for the 2018 swim season in exchange for a commission fee paid to the Municipal Authority in the amount of \$5.00 per participant per class.

**New Business/Public Discussion.** There was no new business or public discussion.

**Adjournment.** There being no further business, Chairman Dukes adjourned the meeting at 9:16 PM.

ATTEST:

\_\_\_\_\_  
MATTHEW D. DUKES, II, Chairman

\_\_\_\_\_  
SARA HANCOCK, Secretary

A notice for staff briefings of the Midwest City Municipal Authority was filed for the calendar year with the City Clerk of Midwest City. Public notice of this agenda was accessible at least 24 hours before this meeting at City Hall and on the Midwest City website ([www.midwestcityok.org](http://www.midwestcityok.org)).

**Midwest City Municipal Authority Staff Briefing Minutes**

April 10, 2018 – 6:00 PM

This staff briefing was scheduled to be held in the Midwest City Council Conference Room on the second floor of City Hall, 100 N. Midwest Boulevard, Midwest City, County of Oklahoma, State of Oklahoma.

No agenda was made as this regularly scheduled meeting was canceled.

ATTEST:

\_\_\_\_\_  
MATTHEW D. DUKES, II, Chairman

\_\_\_\_\_  
SARA HANCOCK, Secretary

A notice for the regular Midwest City Municipal Authority was filed for the calendar year with the City Clerk of Midwest City. Public notice of this agenda was accessible at least 24 hours before this meeting at City Hall and on the Midwest City website ([www.midwestcityok.org](http://www.midwestcityok.org)).

## **Midwest City Municipal Authority Minutes**

April 10, 2018 – 7:01 PM

This meeting was scheduled to be held in the Midwest City Council Conference Room on the second floor of City Hall, 100 N. Midwest Boulevard, Midwest City, County of Oklahoma, State of Oklahoma.

No agenda was made as this regularly scheduled meeting was canceled.

ATTEST:

\_\_\_\_\_  
MATTHEW D. DUKES, II, Chairman

\_\_\_\_\_  
SARA HANCOCK, Secretary



# The City of MIDWEST CITY

---

100 N. MIDWEST BLVD \* MIDWEST CITY, OKLAHOMA 73110  
(405) 739-1240 \* FAX (405) 739-1247 \* TDD (405) 739-1359

## Memorandum

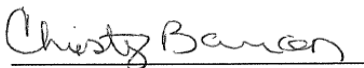
**TO:** Honorable Chairman and Trustees  
Midwest City Municipal Authority

**FROM:** Christy Barron, Finance Director

**DATE:** April 24, 2018

**Subject:** Discussion and consideration of supplemental budget adjustments to the following fund for FY 2017-2018, increase: Capital Sewer Improvements Fund, expenses/Sewer Improvements (44) \$16,025. Capital Water Improvements Fund, revenue/Capital Water Improvements (49) \$46,194; expenses/Capital Water Improvements (49) \$135,865.

The supplements are needed to budget public improvements for Sooner Rose 3.



Christy Barron  
Finance Director

## SUPPLEMENTS

**April 24, 2018**

| Fund<br>CAPITAL SEWER IMPROVEMENTS (188) |                        | BUDGET AMENDMENT FORM<br>Fiscal Year 2017-2018 |                 |                       |                 |
|--|------------------------|--|-----------------|-----------------------|-----------------|
|  |                        | Estimated Revenue                              |                 | Budget Appropriations |                 |
| <u>Dept Number</u>                       | <u>Department Name</u> | <u>Increase</u>                                | <u>Decrease</u> | <u>Increase</u>       | <u>Decrease</u> |
| 44                                       | Sewer Improvements     |  |                 | 16,025                |                 |
|  |                        | <u>0</u>                                       | <u>0</u>        | <u>16,025</u>         | <u>0</u>        |

**Explanation:**  
To budget public improvements for Sooner Rose 3. Funding to come from fund balance.

| Fund<br>CAPITAL WATER IMPROVEMENTS (172) |                        | BUDGET AMENDMENT FORM<br>Fiscal Year 2017-2018 |                 |                       |                 |
|--|------------------------|--|-----------------|-----------------------|-----------------|
|  |                        | Estimated Revenue                              |                 | Budget Appropriations |                 |
| <u>Dept Number</u>                       | <u>Department Name</u> | <u>Increase</u>                                | <u>Decrease</u> | <u>Increase</u>       | <u>Decrease</u> |
| 49                                       | Miscellaneous          | 46,194   |                 |                       |                 |
| 49                                       | Capital Water Imps.    |  |                 | 135,865               |                 |
|  |                        | <u>46,194</u>                                  | <u>0</u>        | <u>135,865</u>        | <u>0</u>        |

**Explanation:**  
To budget public improvements for Sooner Rose 3. Funding to come from reimbursement of expenses (\$46,194) and fund balance.





THE CITY OF  
**MIDWEST CITY**

**MEMORANDUM**

TO: Honorable Chairman and Trustees  
Midwest City Municipal Authority

FROM: Tim Lyon, Assistant City Manager

DATE: April 24, 2018

RE: Discussion and consideration of accepting the report on the current financial condition of the Sheraton Midwest City Hotel at the Reed Center for the period ending March 31, 2018.

---

This item is on the agenda at the request of the Authority. Attached to this memorandum is information concerning the status of the Sheraton Midwest City Hotel at the Reed Center.

Any time you have a question concerning the conference center and hotel, please feel free to contact me at 739-1201.

*Tim L. Lyon*

---

Tim Lyon  
Assistant City Manager

Attachment (1)

**SHERATON MIDWEST CITY HOTEL AT THE REED CENTER**

| <b>Fiscal Year 2017-2018</b> | Jul-17   | Aug-17   | Sep-17    | Oct-17    | Nov-17    | Dec-17    | Jan-18    | Feb-18    | Mar-18           | Apr-18 | May-18 | Jun-18 |
|------------------------------|----------|----------|-----------|-----------|-----------|-----------|-----------|-----------|------------------|--------|--------|--------|
| <b>Revenue</b>               |          |          |           |           |           |           |           |           |                  |        |        |        |
| Budgeted (MTD)               | 345,872  | 508,778  | 430,804   | 639,312   | 424,595   | 308,205   | 303,680   | 379,330   | <b>547,825</b>   |        |        |        |
| Actual (MTD)                 | 324,600  | 469,661  | 409,957   | 620,373   | 440,973   | 298,992   | 237,909   | 395,947   | <b>529,803</b>   |        |        |        |
| Budgeted (YTD)               | 372,126  | 854,650  | 1,285,454 | 1,924,766 | 2,349,361 | 2,657,566 | 2,961,246 | 3,340,576 | <b>3,888,401</b> |        |        |        |
| Actual (YTD)                 | 324,600  | 794,261  | 1,204,218 | 1,824,592 | 2,265,564 | 2,564,556 | 2,802,465 | 3,198,412 | <b>3,728,215</b> |        |        |        |
| <b>Expenses</b>              |          |          |           |           |           |           |           |           |                  |        |        |        |
| Budgeted (MTD)               | 345,872  | 474,833  | 419,305   | 526,754   | 414,341   | 383,878   | 389,188   | 392,180   | <b>494,172</b>   |        |        |        |
| Actual (MTD)                 | 398,222  | 466,528  | 391,915   | 410,925   | 430,597   | 434,233   | 326,576   | 366,587   | <b>482,215</b>   |        |        |        |
| Budgeted (YTD)               | 345,126  | 846,959  | 1,266,264 | 1,793,018 | 2,207,359 | 2,591,237 | 2,980,425 | 3,372,605 | <b>3,866,777</b> |        |        |        |
| Actual (YTD)                 | 398,222  | 864,750  | 1,256,665 | 1,667,591 | 2,098,188 | 2,532,421 | 2,858,997 | 3,225,584 | <b>3,707,800</b> |        |        |        |
| <b>Revenue vs. Expenses</b>  |          |          |           |           |           |           |           |           |                  |        |        |        |
| Budgeted (MTD)               | (26,254) | 33,945   | 11,499    | 112,558   | 10,254    | (75,373)  | (85,508)  | (12,850)  | <b>53,653</b>    |        |        |        |
| Actual (MTD)                 | (73,622) | 3,133    | 18,042    | 209,448   | 10,375    | (135,242) | (88,666)  | 29,360    | <b>47,587</b>    |        |        |        |
| Budgeted (YTD)               | (26,254) | 7,691    | 19,190    | 131,748   | 142,002   | 66,329    | (19,179)  | (32,029)  | <b>21,624</b>    |        |        |        |
| Actual (YTD)                 | (73,622) | (70,489) | (52,447)  | 157,001   | 167,376   | 32,134    | (56,532)  | (27,172)  | <b>20,415</b>    |        |        |        |

| <b>Key Indicators</b>    |         |         |         |         |         |         |         |         |                |  |  |  |
|--------------------------|---------|---------|---------|---------|---------|---------|---------|---------|----------------|--|--|--|
| Hotel Room Revenue       | 221,752 | 230,732 | 200,140 | 288,298 | 226,644 | 113,437 | 115,526 | 176,088 | <b>252,280</b> |  |  |  |
| Food and Banquet Revenue | 92,293  | 208,368 | 176,594 | 273,393 | 152,717 | 159,911 | 119,416 | 189,070 | <b>238,866</b> |  |  |  |

| <b>Fiscal Year 2016-2017</b> | Jul-17  | Aug-17   | Sep-17    | Oct-17    | Nov-17    | Dec-17    | Jan-18    | Feb-18    | Mar-18    | Apr-18    | May-18    | Jun-18        |
|------------------------------|---------|----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|---------------|
| <b>Revenue</b>               |         |          |           |           |           |           |           |           |           |           |           |               |
| Budgeted (MTD)               | 456,340 | 456,340  | 456,340   | 456,340   | 456,340   | 456,340   | 456,340   | 456,340   | 456,340   | 456,340   | 456,340   | 456,621       |
| Actual (MTD)                 | 430,970 | 420,241  | 481,316   | 571,284   | 465,481   | 270,078   | 289,607   | 438,034   | 529,524   | 489,852   | 461,692   | 463,169       |
| Budgeted (YTD)               | 456,340 | 912,680  | 1,369,020 | 1,825,360 | 2,281,700 | 2,738,040 | 3,194,380 | 3,650,720 | 4,107,060 | 4,563,400 | 5,019,740 | 5,476,361     |
| Actual (YTD)                 | 430,970 | 851,211  | 1,332,527 | 1,903,811 | 2,369,292 | 2,639,370 | 2,928,977 | 3,367,011 | 3,896,535 | 4,386,387 | 4,848,080 | 5,311,249     |
| <b>Expenses</b>              |         |          |           |           |           |           |           |           |           |           |           |               |
| Budgeted (MTD)               | 452,385 | 454,833  | 452,880   | 458,476   | 453,217   | 449,274   | 448,194   | 452,407   | 475,392   | 458,533   | 452,933   | 449,312       |
| Actual (MTD)                 | 422,001 | 445,980  | 446,293   | 514,505   | 467,175   | 374,710   | 372,928   | 411,386   | 449,017   | 447,813   | 465,261   | 470,813       |
| Budgeted (YTD)               | 452,385 | 907,218  | 1,360,098 | 1,818,574 | 2,271,791 | 2,721,065 | 3,169,259 | 3,621,666 | 4,097,058 | 4,555,591 | 4,992,539 | 5,441,851     |
| Actual (YTD)                 | 422,001 | 867,982  | 1,314,275 | 1,828,780 | 2,295,955 | 2,670,665 | 3,043,593 | 3,454,978 | 3,903,996 | 4,351,809 | 4,817,070 | 5,287,882     |
| <b>Revenue vs. Expenses</b>  |         |          |           |           |           |           |           |           |           |           |           |               |
| Budgeted (MTD)               | 3,955   | 1,507    | 3,460     | (2,136)   | 3,123     | 7,066     | 8,146     | 3,933     | (19,052)  | (2,193)   | 3,407     | 7,309         |
| Actual (MTD)                 | 8,969   | (25,740) | 35,022    | 56,779    | (1,694)   | (104,632) | (83,320)  | 26,648    | 80,507    | 42,038    | (3,568)   | (7,644)       |
| Budgeted (YTD)               | 3,955   | 5,462    | 8,922     | 6,786     | 9,909     | 16,975    | 26,121    | 29,054    | 10,002    | 7,809     | 27,201    | 34,510        |
| Actual (YTD)                 | 8,969   | (16,771) | 18,252    | 75,031    | 73,337    | (31,295)  | (114,615) | (87,967)  | (7,460)   | 34,578    | 31,010    | <b>23,366</b> |



**Public Works Administration**  
**Vaughn Sullivan, Director**  
[vsullivan@midwestcityok.org](mailto:vsullivan@midwestcityok.org)  
**R. Paul Streets, Assistant Director**  
[rstreets@midwestcityok.org](mailto:rstreets@midwestcityok.org)  
8730 S.E. 15<sup>th</sup> Street,  
Midwest City, Oklahoma 73110  
O: 405-739-1066 /Fax: 405-739-1090

## Memorandum

To: Honorable Chairman and Trustees

From: Vaughn K. Sullivan, Public Works Director

Date: April 24, 2018

Subject: Discussion and consideration of awarding the bid for Regional Park Temporary Concessions to Tasty Snow LLC., in the amount of \$1,020.00 per month from April 1<sup>st</sup> to October 1<sup>st</sup> each year for a total of \$6,120.00 annually.

On Tuesday, April 10<sup>th</sup>, 2018 at 2:00 p.m. the Midwest City Municipal Authority opened bids for Regional Park Temporary Concessions, Tasty Snow LLC submitted the only bid, in the amount of \$1,020.00 per month from April 1<sup>st</sup> to October 1<sup>st</sup> each year for a total of \$6,120.00 annually.

Tasty Snow LLC has been our vendor for Regional Park Temporary Concessions for many years and has provided outstanding service.

This agreement will expire on October 1<sup>st</sup>, 2018, but may be extended by the mutual consent of both parties for a period not to exceed four (4) years expiring October 1<sup>st</sup>, 2022.

Staff recommends approval.

Vaughn K. Sullivan  
Public Works Director

Attachment: Bid Tabulation Sheet

**Turn-key operation of temporary concessions during spring and summer months at:**

**Regional Park near the Rotary Pavilion.**



**Matthew Dukes, Chairman**

**Midwest City Municipal Authority Trustees**

**Ward I – Susan Eads**

**Ward IV– Sean Reed**

**Ward II – Pat Byrne**

**Ward V–Christine C. Price Allen**

**Ward III – Rick Dawkins**

**Ward VI– Jeff Moore**

**J. Guy Henson  
City Manager**

**Tim Lyon  
Assistant City Manager**

**Sara Hancock  
Secretary**

**Philip Anderson  
City Attorney**

**Midwest City Public Works Administration  
8730 S.E. 15<sup>th</sup> Street, Midwest City, Oklahoma 73110**

**April 10, 2018**

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Noncollusion Affidavit.....NA-1

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## NOTICE TO BIDDERS

Notice is given that the Midwest City Municipal Authority, a public trust, will receive sealed bids in the office of its Secretary, Midwest City Municipal Center, 100 N. Midwest Boulevard, Midwest City, Oklahoma, until 2:00p.m., Tuesday the 10th day of April, 2018, for:

**Turn-key operation of temporary concessions during spring and summer months at:  
Regional Park off Reno Ave.**

Any bids received after 2:00 p.m. on the above date will be returned unopened. Bids shall be made in accordance with the bid documents, all of which are on file and available for public examination in the office of the secretary in the Midwest City Municipal Center. Complete sets of bid documents may be obtained from the City of Midwest City, Public Works Administration, 8730 SE 15<sup>th</sup>, Midwest City, Oklahoma 73110.

Bids filed with the secretary shall be opened publicly and read aloud in the City Council Chambers at the time stated above or later. All bids shall be considered by the Chairman and Trustees of the Municipal Authority prior to the contract being awarded. The Municipal Authority shall consider award of the bid at or after 7:00 pm on April 24<sup>th</sup>, 2018, to the lowest and best bidder meeting specifications. The Municipal Authority may lay the same over to a subsequent meeting for comparison and computation.

**The bidder shall use the Municipal Authority bid documents only** and all forms must be signed and notarized/attested. The bidder shall file his/her bid in a sealed envelope. Each envelope shall bear a legible notation thereon that it is a bid upon the item proposed. The bid shall be filed with the secretary in the City Clerk's office. All bids shall be typewritten or in ink.

The specifications are complete as written. No oral representations made by any agent or employee of the Municipal Authority or its affiliate agencies shall be of any force or effect unless reduced to writing and submitted to all prospective bidders at least 24 hours in advance of the bid opening.

Any protest of the award of this proposed contract shall be in writing, shall specify the grounds for the protest in specific terms and shall be received by the City Council within three (3) business days after the award of the contract by the governing body. The governing body reserves the right to review all bids and make the award to the lowest and best bidder. All other provisions of the specifications shall also apply.

Additional information may be obtained from the City of Midwest City, Public Works Department, **Vaughn Sullivan, Public Works Director, 8730 SE 15th, Midwest City, Oklahoma 73110 (405) 739-1061.**

The Chairman and Trustees of the Midwest City Municipal Authority reserves the right to reject any or all bids.



\_\_\_\_\_  
Sara Hancock, Secretary  
Midwest City Municipal Authority



## MIDWEST CITY PARKS AND RECREATION CONCESSION REQUIREMENTS

1. Approved park site is Joe B. Barnes Regional Park, 8700 E. Reno.
2. Bidders submitting bid must be capable of operating an efficient concession stand.
3. Approximate dates and hours of operation must be specified.
4. Concessionaire will furnish the concession facility with all utilities, except water, which shall include **daily trash pick-up in the playground area**, without cost to the Midwest City Municipal Authority.
5. Concessionaire will maintain the highest requirements of sanitation and meet or exceed Oklahoma Health Department standards and codes.
6. Concessionaire will be responsible for pumping of the sewer holding tank(s) contents and proper disposal of all contents shall conform to all City, State, and Federal Regulations. The Midwest City Municipal Authority will not pump or allow contents to be disposed of in the Midwest City collection system after being pumped. All tank(s) are required to be pumped empty upon the closure of the seasonal business or the end of the contract agreement, which ever comes first.
7. Bids must include a list of the items to be sold. The list shall stipulate the sizes and prices of items.
8. NO ALCOHOLIC beverages, including 3.2 beer, shall be served or sold at the concession stand. No glass containers can be utilized.
9. Concessionaire shall furnish all supplies, equipment, labor and any other items as deemed necessary for the operation of the concession stand.
10. The Agreement will expire on the date reflected in the bid, but may be extended by the mutual consent of both parties for a period not to exceed four (4) years.
11. Concessionaire will pay Midwest City Municipal Authority for electric bill in addition to a monthly fee as bid. Electric will be based on an average monthly bill for Regional - \$70.
12. Concessionaire will be required to pay for electric hookup.
13. Concessionaire will be required to participate in the normal selection process, if concessionaire wants to operate during any special events held in the park.

CONCESSION PROPOSAL

Dates of Operation: April 1st - October 1st

Hours of Operation: 10 am - 10 pm daily

Product/Prices (if more space is needed, attach additional sheet):

| Product                              | Price                              |
|--------------------------------------|------------------------------------|
| <u>snow cones</u>                    | <u>\$1.50 - 5.50 various sizes</u> |
| <u>prepackaged snacks</u>            | <u>\$1.00 - 3.00</u>               |
| <u>prepackaged candy</u>             | <u>\$0.50 - 2.00</u>               |
| <u>bottled water</u>                 | <u>\$1.00</u>                      |
| <u>canned drinks (coke products)</u> | <u>\$1.00</u>                      |
| <u>energy drink products</u>         | <u>\$1.50 - 4.00</u>               |

Monthly Payment Amount: \$ 950.00

Utility Needs:

1. Water (no charge, if needed) yes, park water
2. Electric (proof of average bill will be requested and costs for electricity will be in addition to monthly payment) \$ 70.00

Name: David Massey - Tasty Snow LLC

Address: 531 E. Indian Dr.

City/State/Zip: Midwest City, OK 73110

Phone: (home) 405-406-8753 (work) same

**BID**

Bid of Tasty Snow LLC (hereinafter called "BIDDER"), organized and existing under the laws of the State of Oklahoma doing business as Tasty snow LLC \*

To the **MIDWEST CITY MUNICIPAL AUTHORITY** (hereinafter called "MCMA").

In compliance with your Notice to Bidders, BIDDER hereby proposes to perform all work associated with the following project.

**Turn-key operation of temporary concessions during spring and summer months at:  
Regional Park off Reno Ave.**

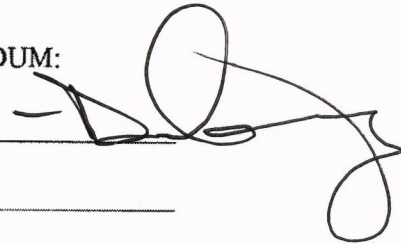
in strict accordance with the contract, within the time set forth therein, and at the prices stated below.

By submission of this BID, each BIDDER certifies, and in the case of joint BID each party thereto certifies as to his own organization, that this BID has been arrived at independently, without consultation, communication or agreement as to any matter relating to this BID with any other BIDDER or with any competitor.

BIDDER hereby agrees to commence work under the contract on or before a date to be specified in the NOTICE TO PROCEED

BIDDER acknowledges receipt of the following ADDENDUM:

I am in receipt of addendum.

A handwritten signature in black ink, appearing to be 'D. G.', written over a horizontal line.

\*Insert "a corporation," "a partnership," or "an individual" as applicable.

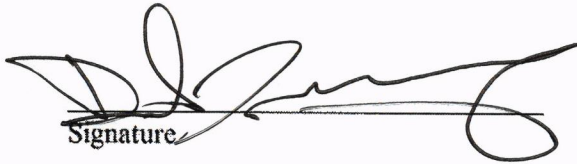


BIDDER agrees to perform all the work described in the specifications and plans for the lump sum price as indicated below.

TOTAL MONTHLY LEASE PAYMENT

\$ 1020.00

Respectfully submitted:



Signature

Address 531 E. Indian Dr. MWC OK  
73110

owner  
Title

April 8, 2018  
Date

\_\_\_\_\_  
License Number (if applicable)

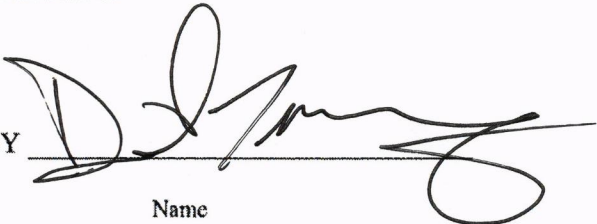
**(SEAL - If Bid is by a Corporation)**

ATTEST: \_\_\_\_\_

**CERTIFICATION OF PRE-BID SITE INSPECTION**

I, David Massey, representing  
Tasty Snow LLC, certify that on the 4th day of  
April, 2018, I inspected the project site located in Midwest City. I am thoroughly  
familiar and aware of all conditions at the site and problems that may be encountered during  
performance of the referenced project:

**Turn-key operation of temporary concessions during spring  
and summer months at:  
Regional Park off Reno Ave.**

BY   
Name

TITLE owner

**BUSINESS RELATIONSHIPS AFFIDAVIT  
THIS AFFIDAVIT MUST ACCOMPANY THE BID**

STATE OF Oklahoma )  
COUNTY OF Oklahoma )SS

David Massey, of lawful age, being first duly sworn, on oath says that (s)he is the agent authorized by the bidder to submit the attached bid. Affiant further states that the nature of any partnership, joint venture or other business relationship presently in affect or which existed within one (1) year prior to the date of this statement with the architect, engineer or other party to the project is as follows:

N/A  
\_\_\_\_\_  
\_\_\_\_\_

Affiant further states that any such business relationship presently in affect or which existed within one (1) year prior to the date of this statement between any officer or director of the bidding company and any officer or director of the architectural or engineering firm or other party to the project is as follows:

N/A  
\_\_\_\_\_  
\_\_\_\_\_

Affiant further states that the names of all persons having any such business relationships and the positions they hold with their respective companies or firms are as follows:

N/A  
\_\_\_\_\_  
\_\_\_\_\_

(If none of the business relationships hereinabove mentioned exist, affiant should so state.)

Subscribed and sworn to before me this 8 day of April, 2018.

Patricia A. Martin  
Notary Public

My Commission Expires:

May 20, 2019

Comm # 03008104







**NONCOLLUSION AFFIDAVIT  
THIS AFFIDAVIT MUST ACCOMPANY THE BID**

The City of Midwest City  
Midwest City, Oklahoma

I, David Massey  
Owner, Partner, Officer of Firm

Tasty Snow LLC Midwest City Oklahoma  
Company Name, City and State

being first duly sworn upon oath, state: I, the Company, its officers or employees, have not been party to any agreement or collusion among bidders, prospective bidders, architects or any other persons, or any other companies, in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding or otherwise on this project for:

**Turn-key operation of temporary concessions during spring and summer  
months at:  
Reginal Park off Reno Ave.**

for the Midwest City Municipal Authority.

Tasty Snow LLC  
Firm Name

[Signature]  
Signature and Title Owner

Subscribed and sworn to before me this 8 day of April, 2018.

[Signature]  
Notary Public



My Commission Expires:

4 May 20, 2019

Comm # 03008104

Concession Agreement

AGREEMENT

This Agreement is entered into by the MIDWEST CITY MUNICIPAL AUTHORITY (MCMA), a Public Trust and Tasty Snow LLC (hereinafter referred to as Concessionaire) whereby, for and in consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

1. MCMA shall provide one (1) site for the operation of a retail concession facility to be located in Regional Park Midwest City, Oklahoma. Concessionaire shall furnish the building and all other improvements required all of which must be approved by the MCMA.
2. Concessionaire shall operate the concession facility for the term of this agreement, provided Concessionaire faithfully complies with all terms hereof.
3. Concessionaire accepts the location in "as is" condition and containing whatever appurtenances that may be contained therein or thereon. MCMA makes no warranty of any kind as to fitness for intended use of the location or appurtenances.
4. Concessionaire shall operate the concession facility in Regional Park during the dates specified in concessionaire's bid or as otherwise modified by agreement of both parties.
5. Concessionaire agrees to have the concession facility operational and ready for retail business. Any variance from this requirement shall be effected only after approval thereof by MCMA.
6. Concessionaire shall maintain the highest practicable standards of sanitation and shall meet or exceed all applicable federal, state, and local standards governing food handlers. All necessary permits and/or licenses to engage in the concession business shall be acquired and maintained by Concessionaire at all times during the term of this Agreement.
7. Concessionaire is responsible for the cleanliness and sanitation of all surrounding areas adjacent to the concession facility.
8. Concessionaire is solely responsible for the purchase and maintenance of a sufficient inventory of products to serve the patrons of Regional Park Midwest City, OK.
9. Prices for all products to be sold by Concessionaire shall be no higher than those stipulated in Concessionaire's bid, which shall be considered part of this Agreement. No increase in prices shall be affected by Concessionaire without express prior written approval from MCMA. MCMA reserves the unqualified right to disapprove any such increase and Concessionaire agrees to be bound by such decision. Additional products may be added to Concessionaire's inventory with the prior written approval of MCMA as to item and price.
10. MCMA shall have the right to inspect Concessionaire's facilities and operation at any time and as often as is necessary in the MCMA's judgment. If, as the result of such inspection, any



## Concession Agreement

unacceptable conditions, not involving life safety issues, are found, the MCMA shall give Concessionaire thirty-six (36) hours notification in writing, within which time it shall be Concessionaire's duty to make the required corrections. Upon Concessionaire's failure to make such corrections, MCMA shall have the option, at its discretion, of either (a) making the corrections itself with reimbursement to be made by Concessionaire or (b) immediately terminating this Agreement.

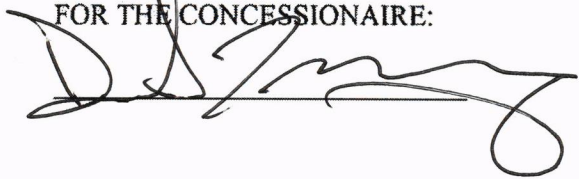
11. Concessionaire shall neither stock nor sell any alcoholic beverages of any description, to include 3.2 beer. No alcoholic beverages, including 3.2 beer, shall be permitted on the premises by Concessionaire, regardless of the means by which it reached said premises. No glass containers can be utilized.
12. Concessionaire shall be wholly and solely responsible for Concessionaire's agents, servants, and employees, and shall furnish such Workers Compensation, Unemployment and other insurance coverage as may be required by applicable law. Concessionaire hereby expressly agrees to indemnify and hold MCMA harmless against any claims of any nature whatsoever which may arise out of Concessionaire's operation or management of the concession facility or the conduct of Concessionaire or his agents, servants, and employees. This Agreement shall have no force or effect until such time as Concessionaire shall furnish to MCMA certificates of insurance in no less than the statutory amounts. MCMA shall be shown as an additional insured on the certificates.
13. Concessionaire shall furnish whatever uniforms, tools or equipment that may be required by Concessionaire or Concessionaire's agents, servants or employees.
14. Concessionaire shall have full and complete control over the operation of the concession facility, subject only to the obligations of this Agreement and applicable law.
15. On the first of each month by 4:00 p.m. Concessionaire shall pay over and deliver to the MCMA \$\$1020.00 (dollars). Failure of Concessionaire to so compensate MCMA shall result in immediate termination of this Agreement without discharging Concessionaire's liability for the unpaid monies.
16. Concessionaire shall procure and maintain a good and sufficient liability insurance policy in an amount not less than \$100,000.00 per claim and \$500,000.00 per occurrence covering any losses or injuries that may occur as the result of acts or omissions by Concessionaire or Concessionaire's agents, servants, or employees while operating the concession facility. Such insurance shall include, but not be limited to, losses or injuries resulting from the preparation, handling, storage, supply or delivery of products designed for human consumption. This Agreement shall not be deemed to be in force and effect until such time as a certificate of insurance showing the coverage required hereunder has been received and approved by City, notwithstanding anything else herein to the contrary. MCMA shall be shown as an additional insured on such certificate.
17. Non-compliance with the terms of this Agreement by Concessionaire shall be deemed to immediately terminate this Agreement and all rights hereunder. MCMA may thereafter contract with anyone else for operation of the concession facility for the balance of the term.

Concession Agreement

18. This Agreement may be renewable annually with the mutual consent of both parties for a period not to exceed four (4) years. However, this Agreement may otherwise be terminated by either party upon thirty (30) days written notice of intent to terminate.
19. All insurance coverage required by this Agreement will be with insurance companies licensed to do business in the State of Oklahoma and in good standing with the State Insurance Commissioner's office on the effective date of this Agreement.
20. Concessionaire will be responsible for all applicable federal, state, and local taxes for all products sold, as well as, any federal and state taxes for himself and any employees he might employ.
21. Concessionaire will maintain the highest requirements of sanitation and meet or exceed Oklahoma Health Department standards and codes.
22. The concession facility must be removed within 30 days after the last day of operation.
23. Concessionaire will be responsible for pumping of the sewer holding tank(s) contents and proper disposal of all contents shall conform with all City, State, and Federal regulations. The Midwest City Municipal Authority will not pump or allow contents to be disposed of in the Midwest City collection system after being pumped. All tank(s) are required to be pumped empty upon the closure of the seasonal business or the end of the contract agreement, whichever comes first.

Dated this 8<sup>th</sup> day of April, 2018.

FOR THE CONCESSIONAIRE:



FOR THE CITY:

\_\_\_\_\_  
Matthew Dukes, Chairman  
Midwest City Municipal Authority

ATTEST:

\_\_\_\_\_  
Secretary

Approved as to form on this \_\_\_\_\_ day of \_\_\_\_\_, 2018

\_\_\_\_\_  
City Attorney  
Midwest City Municipal Authority



REGIONAL PARK CONCESSION  
BID TAB

| <u>VENDOR</u>   | <u>BID AMOUNT</u> |
|---|-------------------|
| Huey's Shave Ice<br>3625 NW 23 <sup>rd</sup> Street, Oklahoma City, OK 73107<br>Phone: 405-250-0234<br>Attn: Jamie & Lauren Wheat<br><a href="mailto:hueysokc@gmail.com">hueysokc@gmail.com</a> | <hr/>             |
| Trailer Trash Treatz<br>Nicoma Park, Choctaw & Harrah<br>Office: 405-226-1173<br>Attn:<br><a href="http://Trailertrashtreatz.com">Trailertrashtreatz.com</a>                                    | <hr/>             |
| Cool Penguin<br>Oklahoma City<br>405-923-0404<br><a href="http://www.coolpenguinshavedice.com">www.coolpenguinshavedice.com</a>   | <hr/>             |
| Kona Ice<br>Midwest City<br>405-893-0370<br><a href="mailto:RHarris@kona-ice.com">RHarris@kona-ice.com</a>  | <hr/>             |
| UpBeat Treats, LLC<br>Midwest City<br>405-763-2078<br><a href="mailto:Rbean24@cox.net">Rbean24@cox.net</a>  | <hr/>             |
| Tasty Snow <i>LLC</i><br>531 E. Indian Dr., Midwest City, OK 73099<br>405-406-8753<br>Attn: David Massey<br><a href="mailto:Tastysnowok@gmail.com">Tastysnowok@gmail.com</a>                    | <u>\$ 1020.00</u> |
| Aaron Lewis<br>2333 Rd Elm Ct., Edmond, OK 73013<br><a href="http://mrlewisaaaron.com">mrlewisaaaron.com</a>  | <hr/>             |



OFFICE OF THE SECRETARY OF STATE



**CERTIFICATE  
OF  
REINSTATEMENT**

*WHEREAS, the Application for Reinstatement of*

**TASTY SNOW, LLC**

*has been filed in the office of the Secretary of State as provided by the laws of the State of Oklahoma.*

*NOW THEREFORE, I, the undersigned, Secretary of State of the State of Oklahoma, by virtue of the powers vested in me by law, do hereby issue this certificate evidencing such reinstatement.*

*IN TESTIMONY WHEREOF, I hereunto set my hand and cause to be affixed the Great Seal of the State of Oklahoma.*



*Filed in the city of Oklahoma City this  
6th day of March, 2018.*

A handwritten signature in cursive script, appearing to read "David Lopez", is written over a horizontal line.

*Secretary of State*

REGIONAL PARK CONCESSION

BID TAB

\*\*\*Only 1 bid received\*\*\*

VENDOR

BID AMOUNT

Huey's Shave Ice  
3625 NW 23<sup>rd</sup> Street  
Oklahoma City, OK 73107  
Phone: 405-250-0234  
Attn: Jamie & Lauren Wheat  
[hueysokc@gmail.com](mailto:hueysokc@gmail.com)

\_\_\_\_\_

Kona Ice  
Midwest City  
405-893-0370  
[RHarris@kona-ice.com](mailto:RHarris@kona-ice.com)

\_\_\_\_\_

Cool Penguin  
Oklahoma City  
405-923-0404  
[www.coolpenquinshavedice.com](http://www.coolpenquinshavedice.com)

\_\_\_\_\_

UpBeat Treats, LLC  
Midwest City  
405-763-2078  
[Rbean24@cox.net](mailto:Rbean24@cox.net)

\_\_\_\_\_

Tasty Snow  
531 E. Indian Dr.  
Midwest City, OK 73099  
405-406-8753  
Attn: David Massey  
[Tastysnowok@gmail.com](mailto:Tastysnowok@gmail.com)

\$1,020 total monthly lease payment  
\*See Concession proposal for product prices

Aaron Lewis  
2333 Rd Elm Ct., Edmond, OK 73099  
Mrlewisaaaron.com

\_\_\_\_\_

Castle Solutions, LLC  
Shana Castle  
David Fletcher  
405-982-9203  
[Shana.Castle@gmail.com](mailto:Shana.Castle@gmail.com)  
[Dfletch87405@gmail.com](mailto:Dfletch87405@gmail.com)

\_\_\_\_\_



DISCUSSION ITEM





**Public Works Administration**  
**Vaughn Sullivan, Director**  
[vsullivan@midwestcityok.org](mailto:vsullivan@midwestcityok.org)  
**R. Paul Streets, Assistant Director**  
[rstreets@midwestcityok.org](mailto:rstreets@midwestcityok.org)  
8730 S.E. 15<sup>th</sup> Street,  
Midwest City, Oklahoma 73110  
O: 405-739-1060 /Fax: 405-739-1090

## Memo

To: Honorable Chairman and Trustees  
Midwest City Municipal Authority

From: R. Paul Streets, Assistant Public Works Director

Date: April 24, 2018

Subject: Discussion and consideration of awarding the bid and entering into a contract for curbside single-stream recycling with Republic Services of Oklahoma City.

On Tuesday April 10<sup>th</sup> 2018 at 2:00 PM, bids were opened for residential curbside and commercial single-stream recycling in Midwest City. Three vendors responded to our RFP, but only two submitted bids for consideration. The two were Waste Management and Republic Services.

The request for proposals (RFP) that generated these bids was drafted to continue and improve the quality of solid waste services as requested by our citizenry. To that end, we included three options that we hoped would provide optimal pricing for services described in the proposal.

1. Option one (1) included all combinations of plastic types (#1 - #7), all types of paper, all types of glass, cardboard, and all metal cans.
2. Option two (2) was all recyclable items currently accepted by the MRF used to provide pricing for the proposal.
3. Option three (3) requested “a-la-carte” pricing for each type of plastic (#1 - #7), all types of paper (magazines, newspaper, office paper, phone books, etc), glass (all colors), cardboard, and cans (aluminum, steel and tin).

In essence, both Republic Services and Waste Management chose not to bid any of the three a-la-carte options shown above by offering only one price for curbside recycling services. Additionally, neither bidder will accept ANY plastic bags, Styrofoam, or Household Hazardous Waste (HHW). I think it’s important to point out that the decision to voluntarily remove plastic bags from the range of acceptable recyclables late in 2017 was instrumental in reducing our average contamination rates from an estimated 26% to 22% in less than 6 months. Had we not made the tough choice to address this issue last year, we likely would have received higher pricing in our proposals and would have had to start the process of educating the public now for the new contract requirements.

The bid prices from Waste Management were flat rates for all five (5) years of their contract. In contrast, Republic Services rates will increase by 3% annually and the residential rate for future years of the contract would be as follows:

1. First year = \$3.55 (base rate)
2. Second year = \$3.65
3. Third year = \$3.76
4. Fourth year = \$3.88
5. Fifth and final year = \$3.99

Even with the built-in escalator for Republic Services, pricing for both commercial and residential services is well below the proposed prices submitted by Waste Management. As such, staff recommends selecting the lowest and best bid submitted by Republic Services of Oklahoma City. Specifically, this would be the flat rate for every other week (EOW) residential curbside and all commercial single-stream recycling services.

As a matter of information, the current rate for recycling is \$2.87 per household, and after the forthcoming ordinance proposed rate changes based on the new curbside recycling contract proposed herein, the rate will be \$3.80, which includes the proposed \$0.25 administrative overhead (See the "Further Information" item regarding the Sanitation Rates).

The RFP is available for review upon request: [rstreets@midwestcityok.org](mailto:rstreets@midwestcityok.org). If there are any additional questions about the proposals themselves, or the technical details taken into consideration for this award, please do not hesitate to contact me.

Estimated monthly value of the first year of the contract will be \$70,424.90 or an annual value of \$845,098.80.

Staff recommends approval.



R. Paul Streets  
Assistant Public Works Director

Attached: Bid Tabulation for Recycling Contract



## CURBSIDE RECYCLING BID TAB

| <u>VENDOR</u>                     | <u>BID</u>                                    | <u>AMOUNT</u>             |
|-----------------------------------|---|---------------------------|
| Waste Management<br>/ Residential | Option 1,2 and 3 - once a week                | \$6.10 per home/ Monthly  |
|                                   | Option 1,2 and 3 - every other week           | \$4.31 per home/ Monthly  |
|                                   | Recycle bank ( optional )                     | \$ 0.60 per home/ Monthly |
| Waste Management<br>/Commercial   | Option 1,2 and 3 - once a week polycarts      | \$6.10 per home/ Monthly  |
|                                   | Option 1,2 and 3 - every other week polycarts | \$4.31 per home/ Monthly  |
|                                   | 4,6,and 8 yard containers once a week         | \$75.00                   |
|                                   | 4,6,and 8 yard containers twice a week        | \$150.00                  |

| <u>VENDOR</u>                      | <u>BID</u>                         | <u>AMOUNT</u>            |
|------------------------------------|------------------------------------|--------------------------|
| Republic Services /<br>Residential | Requested Rate - Flat Rate         | \$3.55 per home/ Monthly |
|                                    | Alternate 1 - Shared Rewards       | \$3.05 per home/ Monthly |
|                                    | Alternate 2 - Extended Partnership | \$3.35 per home/ Monthly |
| Republic Services /<br>Commercial  | 4 yard container Weekly            | \$45.53                  |
|                                    | 6 yard container Weekly            | \$68.30                  |
|                                    | 8 yard container Weekly            | \$91.07                  |
|                                    | 4 yard container every other week  | \$27.32                  |
|                                    | 6 yard container every other week  | \$40.98                  |
|                                    | 8 yard container every other week  | \$54.64                  |

| <u>VENDOR</u>     | <u>BID</u>                            | <u>AMOUNT</u> |
|-------------------|---------------------------------------|---------------|
| Waste Connections | Abstained from submitting a proposal. |               |





NEW BUSINESS/  
PUBLIC DISCUSSION





FURTHER INFORMATION





**Public Works Administration**  
**Vaughn Sullivan, Director**  
[vsullivan@midwestcityok.org](mailto:vsullivan@midwestcityok.org)  
**R. Paul Streets, Assistant Director**  
[rstreets@midwestcityok.org](mailto:rstreets@midwestcityok.org)  
8730 S.E. 15<sup>th</sup> Street,  
Midwest City, Oklahoma 73110  
O: 405-739-1060 /Fax: 405-739-1090

## Memo

**To:** Honorable Chairman and Trustees  
Midwest City Municipal Authority

**From:** **R. Paul Streets, Assistant Public Works Director**

**Date:** April 24, 2018

**Subject:** Discussion and consideration of passing and approving an ordinance amending the Midwest City Municipal Code, Chapter 18, Garbage and Refuse, by amending Article II, Municipal Collection and Disposal Service, Section 18-25, Container Required; Duty to Use; Section 18-26 (c), Sanitation Containers at Commercial Establishments; Section 18-27(a), Residential Service Fees; Section 18-28, Business and Commercial Service Fees; Setting an effective Date; and providing for repealer and severability (This item is under further information on the April 24, 2018 agenda).

The proposed ordinance establishes new sanitation (solid waste) rates for residential, commercial and Mobile Home Park (MHP) accounts due to a new contract for recycling with Republic Services of Oklahoma City. The new rates reflect a 24% increase in residential and MHP recycling costs, additional commercial recycling rates and \$0.25 to cover residential and commercial recycling administrative overhead. The recycling administrative overhead includes things, such as, answering phone calls, responding to emails, handling complaints, sending reports, and picking up carts.

The current rate for recycling is \$2.87 per household and after this proposed rate change based on the new curbside recycling contract, the rate will be \$3.80. This includes the administrative overhead described above and the first year fixed or flat contract price option. All of the commercial rates proposed are new because we did not offer that option in the previous recycling contract. Each rate is based upon the size of the dumpster in total volume or cubic yards and is itemized in the attached ordinance. If you have any questions about the ordinance change, please do not hesitate to contact Vaughn Sullivan or myself.

Staff recommends approval.

R. Paul Streets  
Assistant Public Works Director  
Attached: Excerpt of Midwest City Municipal Code With Changes

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER 18, GARBAGE AND REFUSE, BY AMENDING ARTICLE II, MUNICIPAL COLLECTION AND DISPOSAL SERVICE, SECTION 18-25(b), CONTAINER REQUIRED, DUTY TO USE; SECTION 18-26(c) SANITATION CONTAINERS AT COMMERCIAL ESTABLISHMENTS; SECTION 18-27(a), RESIDENTIAL SERVICE FEES; SPECIAL PROVISIONS FOR MOBILE HOME PARKS; SECTION 18-28, BUSINESS AND COMMERCIAL SERVICE FEES; AND PROVIDING FOR REPEALER AND SEVERABILITY.**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDWEST CITY THAT:

**ORDINANCE**

**SECTION 1.** The Midwest City Municipal Code, Chapter 18, Garbage and Refuse, Article II, Municipal Collection and Disposal Service, Section 18-25(b), Container required; duty to use, is hereby amended to reads as follows:

(b) The city shall provide one (1) cart for each residence for garbage and refuse, and one (1) cart for each residence for materials that are to be recycled. Residents are allowed to have additional refuse carts per residence from the city. These carts will be emptied on a weekly basis when the primary cart is emptied with the monthly cost to the resident of the additional carts being five dollars and fifty cents (\$5.50) for each additional cart. Residential recycling carts will be emptied bi-weekly.

The resident may place normal household garbage and refuse, as defined in section 18-1 of this Code, in the refuse cart(s) for collection. Residents may place materials they wish to be recycled in the recycling cart. The resident shall be responsible for the safekeeping of the carts until such time as an inspection is made by the city and service is terminated. Should any person change residences, the person shall promptly notify the city. If any cart is lost or stolen, the resident shall promptly notify the police department of the loss or theft of the cart and obtain a case number. Lost or stolen carts will not be replaced without a case number from the police department. The city will empty the carts so long as the carts contain no more than two hundred (200) pounds of garbage and refuse in each cart during any given pickup. If a cart is damaged beyond normal wear and tear, including fire damage from improper disposal of fire ashes, the cost of replacement shall be charged to the resident at the current replacement cost of the cart. All carts shall remain the property of the city even though the resident may have paid for a replacement cart. All carts are to remain at the residence to which they are assigned. It shall be unlawful and an offense for a person to be in possession of a cart without the permission of the resident to which it is assigned. It is the responsibility of the resident to keep the cart clean. At the request of the resident, carts can be cleaned by the city. Such cleaning shall be performed for a twenty dollar (\$20.00) charge which shall be paid by the resident.

**SECTION 2.** The Midwest City Municipal Code, Chapter 18, Garbage and Refuse, Article II, Municipal Collection and Disposal Service, Section 18-26(c), Sanitation Containers at commercial establishments, is hereby amended to read as follows:

(c) All containers at business establishments shall be placed in a location approved by the environmental services director and easily accessible for collection under regulations issued by the city. Should the collector be unable to empty a commercial container because it contains inappropriate items or because access is blocked or prohibited, no unscheduled return trip will be made unless the special pickup fee is paid by the owner, manager or agent of the commercial business. Commercial account drivers are not allowed to exit the vehicle to open enclosure gates. Gates must be opened by 5:00 am on the day of collection. If the driver must return to a business because a gate is not opened, the return trip fee of fifty dollars (\$50.00) will be applied to the account.

**SECTION 3.** The Midwest City Municipal Code, Chapter 18, Garbage and Refuse, Article II, Municipal Collection and Disposal Service, Section 18-27(a), Residential service fees; special provisions for mobile home parks, is hereby amended to reads as follows:

(a) Residential service shall consist of the removal of garbage and household refuse which has been placed in either 65-gallon or 95-gallon carts, which size shall be the choice of the resident, in accordance with section 18-25 of this Code. This service is deemed to be necessary to protect the health, safety and welfare of the citizens of the city, and the fees for such service are deemed necessary to pay for the removal of such garbage and household refuse to protect the health of the occupant, owner, tenant or lessee and others in the near vicinity by such removal. The fees for this service shall be as follows:

1. Single-family residences, duplexes, single-family garage apartments, and apartment complexes of three units or less: ~~Fourteen dollars and forty five cents~~ **Fifteen dollars and thirty eight cents** (~~\$14.45~~ **\$15.38**) per month for a 95-gallon refuse container or ~~twelve dollars and nine cents~~ **thirteen dollars and two cents** (~~\$12.09~~ **\$13.02**) per month for a 65-gallon refuse container.
2. Apartments complexes in excess of three units: eleven dollars and forty-one cents (\$11.41) per month per apartment, whether vacant or occupied. For more than two (2) pickups per week, four dollars and twenty-five cents (\$4.25) additional, per apartment per pickup. Dumpsters shall be furnished for apartment complexes on the basis of a one-yard dumpster for each five (5) apartments. Any containers placed at any apartment complex in excess of three apartments that exceeds the calculated number of containers, as outlined above, will be charged at the regular commercial rate in section 18-28 of this Code for the emptying of those additional containers. Apartment complexes in excess of three apartments that utilize a commercial compactor for disposal of their garbage and refuse will be charged as indicated in section 18-22 of this Code.
3. Mobile home parks: ~~Fourteen dollars and forty five cents~~ **Fifteen dollars and thirty eight cents** (~~\$14.45~~ **\$15.38**) per month per mobile home space, based on the highest number of spaces that are occupied during the month.

**SECTION 4.** The Midwest City Municipal Code, Chapter 18, Garbage and Refuse, Article II, Municipal Collection and Disposal Service, Section 18-28, Business and commercial services fees, is hereby amended to reads as follows:

(a) The minimum charge for commercial sanitation dumpster shall be at the shared rate of a 4 yard dumpster serviced twice per month per business, unless the Director has allowed the business to be serviced by a residential cart in which case the minimum charge per month shall be twenty-eight dollars and fifty-three cents (\$28.53) without bi-weekly recycling or ~~thirty one dollars and fifty four cents~~ **thirty five dollars and seventy nine cents** (~~\$31.54~~ **\$35.79**) with bi-weekly recycling. Sharing of dumpsters by businesses will be allowed on a case by case basis, based on space limitation, fire lane location, etc. These must be approved by the Director and will be assessed the “shared fee” listed below regardless of how many businesses share the same dumpster.

(b) Where the city furnishes a four-, six-, or eight-yard dumpster, or a “roll-out” container such as a cart, the following fee schedule shall be charged per month:

| Container/Service                        | Fee                               | Shared             |
|--|-----------------------------------|--------------------|
| <b>Cart</b>                              |                                   |                    |
| 1-Pickup per Week per cart               | \$28.53                           | Not allowed        |
| 1-Pickup per Week w/ Bi-weekly Recycling | <del>\$31.54</del> <b>\$35.79</b> | <b>Not allowed</b> |

**4 - Yard Box**

|                              |          |          |
|------------------------------|----------|----------|
| 1-Pickup per Week            | \$78.84  | \$39.42  |
| 2-Pickups per Week           | \$120.34 | \$ 60.17 |
| 3-Pickups per Week           | \$164.95 | \$82.47  |
| 4-Pickups per Week           | \$209.56 | \$104.78 |
| 5-Pickups per Week           | \$253.13 | \$126.56 |
| 6-Pickups per Week           | \$303.96 | \$151.98 |
| 2-Pickups per Month          | \$58.61  | \$29.31  |
| Recycling 1-Pickup per Week  | \$45.53  | \$22.77  |
| Recycling 2-Pickup per Month | \$27.32  | \$13.66  |

**6 – Yard Box**

|                              |          |          |
|------------------------------|----------|----------|
| 1-Pickup per Week            | \$97.52  | \$48.76  |
| 2-Pickups per Week           | \$151.46 | \$75.73  |
| 3-Pickups per Week           | \$203.33 | \$101.67 |
| 4-Pickups per Week           | \$255.20 | \$127.60 |
| 5-Pickups per Week           | \$309.15 | \$154.57 |
| 6-Pickups per Week           | \$371.39 | \$185.70 |
| 2-Pickups per Month          | \$72.62  | \$36.31  |
| Recycling 1-Pickup per Week  | \$68.30  | \$34.15  |
| Recycling 2-Pickup per Month | \$40.98  | \$20.49  |

**8 – Yard Boxes**

|                              |          |          |
|------------------------------|----------|----------|
| 1-Pickup per Week            | \$117.75 | \$58.87  |
| 2-Pickups per Week           | \$181.55 | \$90.77  |
| 3-Pickups per Week           | \$254.16 | \$127.08 |
| 4-Pickups per Week           | \$316.41 | \$158.20 |
| 5-Pickups per Week           | \$378.65 | \$189.33 |
| 6-Pickups per Week           | \$451.27 | \$225.64 |
| 2-Pickups per Month          | \$93.37  | \$46.68  |
| Recycling 1-Pickup per Week  | \$91.07  | \$45.54  |
| Recycling 2-Pickup per Month | \$54.64  | \$27.32  |

(c) Where additional (special) pickups are requested, a minimum fee of fifty dollars (\$50.00) will be charged per emptied dumpster. The Director shall base additional charges on time required to perform the additional (special pickup) and on the basis of manpower and equipment available.

(d) Commercial accounts that utilize a solid waste compactor serviced by the city front loader vehicles will be charged based on the listed compaction rate for that compactor times the service frequency and size of container.

(e) Commercial accounts that utilize four (4), six (6), or eight (8) yard trash or recycling dumpster will be charged fifty dollars (\$50.00) for delivery or removal of the dumpster.

**SECTION 5. REPEALER.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 6. SEVERABILITY.** If any section, sentence, clause or portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance.

PASSED AND APPROVED by the Mayor and Council of the City of Midwest City,



Oklahoma, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

CITY OF MIDWEST CITY, OKLAHOMA

\_\_\_\_\_  
MATTHEW D. DUKES II, Mayor

ATTEST:

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

APPROVED as to form and legality this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
PHILIP ANDERSON, City Attorney

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER 18, GARBAGE AND REFUSE, BY AMENDING ARTICLE II, MUNICIPAL COLLECTION AND DISPOSAL SERVICE, SECTION 18-25(b), CONTAINER REQUIRED, DUTY TO USE; SECTION 18-26(c) SANITATION CONTAINERS AT COMMERCIAL ESTABLISHMENTS; SECTION 18-27(a), RESIDENTIAL SERVICE FEES; SPECIAL PROVISIONS FOR MOBILE HOME PARKS; SECTION 18-28, BUSINESS AND COMMERCIAL SERVICE FEES; AND PROVIDING FOR REPEALER AND SEVERABILITY.**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDWEST CITY THAT:

**ORDINANCE**

**SECTION 1.** The Midwest City Municipal Code, Chapter 18, Garbage and Refuse, Article II, Municipal Collection and Disposal Service, Section 18-25(b), Container required; duty to use, is hereby amended to reads as follows:

(b) The city shall provide one (1) cart for each residence for garbage and refuse, and one (1) cart for each residence for materials that are to be recycled. Residents are allowed to have additional refuse carts per residence from the city. These carts will be emptied on a weekly basis when the primary cart is emptied with the monthly cost to the resident of the additional carts being five dollars and fifty cents (\$5.50) for each additional cart. Residential recycling carts will be emptied bi-weekly.

The resident may place normal household garbage and refuse, as defined in section 18-1 of this Code, in the refuse cart(s) for collection. Residents may place materials they wish to be recycled in the recycling cart. The resident shall be responsible for the safekeeping of the carts until such time as an inspection is made by the city and service is terminated. Should any person change residences, the person shall promptly notify the city. If any cart is lost or stolen, the resident shall promptly notify the police department of the loss or theft of the cart and obtain a case number. Lost or stolen carts will not be replaced without a case number from the police department. The city will empty the carts so long as the carts contain no more than two hundred (200) pounds of garbage and refuse in each cart during any given pickup. If a cart is damaged beyond normal wear and tear, including fire damage from improper disposal of fire ashes, the cost of replacement shall be charged to the resident at the current replacement cost of the cart. All carts shall remain the property of the city even though the resident may have paid for a replacement cart. All carts are to remain at the residence to which they are assigned. It shall be unlawful and an offense for a person to be in possession of a cart without the permission of the resident to which it is assigned. It is the responsibility of the resident to keep the cart clean. At the request of the resident, carts can be cleaned by the city. Such cleaning shall be performed for a twenty dollar (\$20.00) charge which shall be paid by the resident.

**SECTION 2.** The Midwest City Municipal Code, Chapter 18, Garbage and Refuse, Article II, Municipal Collection and Disposal Service, Section 18-26(c), Sanitation Containers at commercial establishments, is hereby amended to read as follows:

(c) All containers at business establishments shall be placed in a location approved by the environmental services director and easily accessible for collection under regulations issued by the city. Should the collector be unable to empty a commercial container because it contains inappropriate items or because access is blocked or prohibited, no unscheduled return trip will be made unless the special pickup fee is paid by the owner, manager or agent of the commercial business. Commercial account drivers are not allowed to exit the vehicle to open enclosure gates. Gates must be opened by 5:00 am on the day of collection. If the driver must return to a business because a gate is not opened, the return trip fee of fifty dollars (\$50.00) will be applied to the account.

**SECTION 3.** The Midwest City Municipal Code, Chapter 18, Garbage and Refuse, Article II, Municipal Collection and Disposal Service, Section 18-27(a), Residential service fees; special provisions for mobile home parks, is hereby amended to reads as follows:

(a) Residential service shall consist of the removal of garbage and household refuse which has been placed in either 65-gallon or 95-gallon carts, which size shall be the choice of the resident, in accordance with section 18-25 of this Code. This service is deemed to be necessary to protect the health, safety and welfare of the citizens of the city, and the fees for such service are deemed necessary to pay for the removal of such garbage and household refuse to protect the health of the occupant, owner, tenant or lessee and others in the near vicinity by such removal. The fees for this service shall be as follows:

1. Single-family residences, duplexes, single-family garage apartments, and apartment complexes of three units or less: Fifteen dollars and thirty eight cents (\$15.38) per month for a 95-gallon refuse container or thirteen dollars and two cents (\$13.02) per month for a 65-gallon refuse container.
2. Apartments complexes in excess of three units: eleven dollars and forty-one cents (\$11.41) per month per apartment, whether vacant or occupied. For more than two (2) pickups per week, four dollars and twenty-five cents (\$4.25) additional, per apartment per pickup. Dumpsters shall be furnished for apartment complexes on the basis of a one-yard dumpster for each five (5) apartments. Any containers placed at any apartment complex in excess of three apartments that exceeds the calculated number of containers, as outlined above, will be charged at the regular commercial rate in section 18-28 of this Code for the emptying of those additional containers. Apartment complexes in excess of three apartments that utilize a commercial compactor for disposal of their garbage and refuse will be charged as indicated in section 18-22 of this Code.
3. Mobile home parks: Fifteen dollars and thirty eight cents (\$15.38) per month per mobile home space, based on the highest number of spaces that are occupied during the month.

**SECTION 4.** The Midwest City Municipal Code, Chapter 18, Garbage and Refuse, Article II, Municipal Collection and Disposal Service, Section 18-28, Business and commercial services fees, is hereby amended to reads as follows:

(a) The minimum charge for commercial sanitation dumpster shall be at the shared rate of a 4 yard dumpster serviced twice per month per business, unless the Director has allowed the business to be serviced by a residential cart in which case the minimum charge per month shall be twenty-eight dollars and fifty-three cents (\$28.53) without bi-weekly recycling or thirty five dollars and seventy nine cents (\$35.79) with bi-weekly recycling. Sharing of dumpsters by businesses will be allowed on a case by case basis, based on space limitation, fire lane location, etc. These must be approved by the Director and will be assessed the “shared fee” listed below regardless of how many businesses share the same dumpster.

(b) Where the city furnishes a four-, six-, or eight-yard dumpster, or a “roll-out” container such as a cart, the following fee schedule shall be charged per month:

| <b>Container/Service</b>                 | <b>Fee</b> | <b>Shared</b> |
|--|------------|---------------|
| <b>Cart</b>                              |            |               |
| 1-Pickup per Week per cart               | \$28.53    | Not allowed   |
| 1-Pickup per Week w/ Bi-weekly Recycling | \$35.79    | Not allowed   |
| <br><b>4 - Yard Box</b>                  |            |               |
| 1-Pickup per Week                        | \$78.84    | \$39.42       |
| 2-Pickups per Week                       | \$120.34   | \$60.17       |

|                              |          |          |
|------------------------------|----------|----------|
| 3-Pickups per Week           | \$164.95 | \$82.47  |
| 4-Pickups per Week           | \$209.56 | \$104.78 |
| 5-Pickups per Week           | \$253.13 | \$126.56 |
| 6-Pickups per Week           | \$303.96 | \$151.98 |
| 2-Pickups per Month          | \$58.61  | \$29.31  |
| Recycling 1-Pickup per Week  | \$45.53  | \$22.77  |
| Recycling 2-Pickup per Month | \$27.32  | \$13.66  |

**6 – Yard Box**

|                              |          |          |
|------------------------------|----------|----------|
| 1-Pickup per Week            | \$97.52  | \$48.76  |
| 2-Pickups per Week           | \$151.46 | \$75.73  |
| 3-Pickups per Week           | \$203.33 | \$101.67 |
| 4-Pickups per Week           | \$255.20 | \$127.60 |
| 5-Pickups per Week           | \$309.15 | \$154.57 |
| 6-Pickups per Week           | \$371.39 | \$185.70 |
| 2-Pickups per Month          | \$72.62  | \$36.31  |
| Recycling 1-Pickup per Week  | \$68.30  | \$34.15  |
| Recycling 2-Pickup per Month | \$40.98  | \$20.49  |

**8 – Yard Boxes**

|                              |          |          |
|------------------------------|----------|----------|
| 1-Pickup per Week            | \$117.75 | \$58.87  |
| 2-Pickups per Week           | \$181.55 | \$90.77  |
| 3-Pickups per Week           | \$254.16 | \$127.08 |
| 4-Pickups per Week           | \$316.41 | \$158.20 |
| 5-Pickups per Week           | \$378.65 | \$189.33 |
| 6-Pickups per Week           | \$451.27 | \$225.64 |
| 2-Pickups per Month          | \$93.37  | \$46.68  |
| Recycling 1-Pickup per Week  | \$91.07  | \$45.54  |
| Recycling 2-Pickup per Month | \$54.64  | \$27.32  |

(c) Where additional (special) pickups are requested, a minimum fee of fifty dollars (\$50.00) will be charged per emptied dumpster. The Director shall base additional charges on time required to perform the additional (special pickup) and on the basis of manpower and equipment available.

(d) Commercial accounts that utilize a solid waste compactor serviced by the city front loader vehicles will be charged based on the listed compaction rate for that compactor times the service frequency and size of container.

(e) Commercial accounts that utilize four (4), six (6), or eight (8) yard trash or recycling dumpsters will be charged fifty dollars (\$50.00) for delivery or removal of the dumpster.

**SECTION 5. REPEALER.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 6. SEVERABILITY.** If any section, sentence, clause or portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance.

PASSED AND APPROVED by the Mayor and Council of the City of Midwest City, Oklahoma, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

CITY OF MIDWEST CITY, OKLAHOMA

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MATTHEW D. DUKES II, Mayor

ATTEST:

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SARA HANCOCK, City Clerk

APPROVED as to form and legality this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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PHILIP ANDERSON, City Attorney



## UTILITIES AUTHORITY AGENDA



The 7:00 PM meetings will be shown live on Channel 20.



The recorded video will be available on Youtube and the City's website within 48 hours at [www.youtube@midwestcityok.org](http://www.youtube@midwestcityok.org).



The meeting minutes and video can be found on the City's website in the Agenda Center: <https://midwestcityok.org/AgendaCenter>.



To make a special assistance request, call 739-1215 or email [pmenefee@midwestcityok.org](mailto:pmenefee@midwestcityok.org) no less than 24 hours prior to the start of a meeting. If special assistance is needed during a meeting, call 739-1388.





## **MIDWEST CITY UTILITIES AUTHORITY AGENDA**

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

April 24, 2018 - 7:15 PM

To make a special assistance request, call 739-1215 or email [pmenefee@midwestcityok.org](mailto:pmenefee@midwestcityok.org) no less than 24 hours prior to the start of a meeting. If special assistance is needed during a meeting, call 739-1388.

- A. CALL TO ORDER.
- B. DISCUSSION ITEM.
  - 1. Discussion and consideration of approving the staff briefing and the special meeting minutes of the October 10, 2017 meeting, as submitted. (City Clerk - S. Hancock)
- C. EXECUTIVE SESSION.
  - 1. Discussion and consideration of 1) entering into executive session, as allowed under 25 O.S. § 307(C)(10), to confer on matters pertaining to economic development, including the transfer of property, financing or the creation of a proposal to entice a business to remain or to locate within the City. (City Manager - G. Henson)
- D. ADJOURNMENT.



DISCUSSION ITEM



Notice of this special Midwest City Memorial Utilities Authority meeting was filed with the City Clerk of Midwest City 48 hours prior to the meeting and copies of the agenda were posted at City Hall and on the City of Midwest City's website, accessible to the public for at least 24 hours in advance of the meeting.

**MINUTES OF THE SPECIAL STAFF BRIEFING FOR  
MIDWEST CITY UTILITIES AUTHORITY**

October 10, 2017 – 6:00 PM

This special meeting was held in the Midwest City Council Conference Room on the second floor of City Hall, 100 N. Midwest Boulevard, Midwest City, County of Oklahoma, State of Oklahoma.

Chairman Matt Dukes called the meeting to order at 6:27 p.m. with the following members present: Trustees Susan Eads, Pat Byrne, Rick Dawkins, Sean Reed, Christine Allen, Jeff Moore; and Secretary Sara Hancock. Absent: None.

**Discussion.**

**Clarification of agenda items, handouts, and presentation of new or additional information for items on the Hospital Authority agenda for October 10, 2017.**

Staff discussed individual agenda items with the Trustees.

Chairman Dukes closed the meeting at 6:29 PM.

ATTEST:

\_\_\_\_\_  
MATTHEW D. DUKES, II, Chairman

\_\_\_\_\_  
SARA HANCOCK, Secretary

Notice of this special meeting of the Midwest City Utilities Authority was filed with the City Clerk of Midwest City 48 hours prior to the meeting and copies of the agenda were posted at City Hall and on the website, accessible to the public for at least 24 hours in advance of the meeting.

**MINUTES OF THE SPECIAL MIDWEST CITY  
UTILITIES AUTHORITY MEETING**

October 10, 2017 - 7:02 PM

This special meeting was held in the Midwest City Council Chambers, 100 North Midwest Boulevard, Midwest City, County of Oklahoma, State of Oklahoma.

Chairman Matt Dukes called the meeting to order at 7:17 PM with the following members present: Trustees Pat Byrne, Susan Eads, Rick Dawkins, Sean Reed, Christine Allen, and Jeff Moore; and Secretary Sara Hancock. Absent: None.

**Discussion Item.**

1. **Discussion and consideration of approving the minutes of the August 8, 2017 meeting, as submitted.** Dawkins made a motion to approve the minutes, as submitted, seconded by Moore. Voting aye: Byrne, Eads, Dawkins, Sean, Allen, Jeff and Chairman Dukes. Nay: none. Absent: Motion carried.

Chairman Dukes recessed the meeting at 7:17 PM and returned to the meeting at 11:06 PM.

**Executive Session.**

1. **Discussion and consideration of 1) entering into executive session, as allowed under 25 O.S. § 307(C)(10), to confer on matters pertaining to economic development, including the transfer of property, financing or the creation of a proposal to entice a business to remain or to locate within the City.** Eads made a motion to go into executive session, seconded by Reed. Voting aye: Eads, Byrne, Dawkins, Reed, Allen, Moore, and Chairman Dukes. Nay: none. Absent: none. Motion carried. The Trustees went into executive session at 11:06 PM and returned to open session at 11:12 PM. No action was taken.

**Adjournment.**

There being no further business, Chairman Dukes adjourned the meeting at 11:12 PM.

ATTEST:

\_\_\_\_\_  
MATTHEW D. DUKES, II, Chairman

\_\_\_\_\_  
SARA HANCOCK, Secretary



EXECUTIVE SESSION





**City Manager**  
100 N. Midwest Boulevard  
Midwest City, OK 73110  
ghenson@midwestcityok.org  
Office: 405.739.1204  
Fax: 405.739.1208  
[www.midwestcityok.org](http://www.midwestcityok.org)

MEMORANDUM

TO: Honorable Chairman and Trustees

FROM: J. Guy Henson, City Manager

DATE: April 24, 2018

SUBJECT: Discussion and consideration of 1) entering into executive session, as allowed under 25 O.S. § 307(C)(10), to confer on matters pertaining to economic development, including the transfer of property, financing or the creation of a proposal to entice a business to remain or to locate within the City.

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Appropriate information will be dispersed during the meeting. Action is at the Trustee's discretion.

J. GUY HENSON, AICP  
City Manager