

The City of Muskogee encourages participation from all its citizens in public meetings. If participation is not possible due to a disability, notify the City Clerk, in writing, at least forty-eight hours prior to the scheduled meeting and necessary accommodations will be made (ADA 28 CFR/36).

Council Rules of Decorum limit citizen comments on agenda items and public hearings to five (5) minutes and general comments for non-agenda items to three (3) minutes. Any person desiring to address the Council during such period is required to sign in with the City Clerk prior to the Council meeting between 5:00 p.m. and 5:15 p.m. on the third floor of City Hall or anytime between 8:00 a.m. and 5:00 p.m. in the Office of the City Clerk. They shall provide their name, address and specify the agenda item they wish to address. Remarks shall be directed to the matter being considered and the speaker is allowed to speak only one time. If written materials are to be submitted twelve (12) copies should be made available, and may not be returned.

AGENDA
MUSKOGEE CITY COUNCIL
JUNE 25, 2018

REGULAR SESSION -5:30 P.M., 3RD FLOOR, COUNCIL CHAMBERS MUNICIPAL BUILDING,
229 W. OKMULGEE, MUSKOGEE, OKLAHOMA

INVOCATION - COUNCILMEMBER JAIME STOUT

FLAG SALUTE - MAYOR BOB COBURN

ROLL CALL - MAYOR BOB COBURN

APPROVAL OF MINUTES: SPECIAL CALL CITY COUNCIL JUNE 4, 2018 AND CITY
COUNCIL REGULAR SESSION JUNE 11, 2018.

CONSENT AGENDA

The following items are considered to be routine by the City Council and will not be read aloud. The Consent Agenda will be enacted with one motion and should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately prior to the Regular Agenda.

1. Approval of claims for all City departments May 31, 2018 through June 13, 2018.
2. Approval of the Community Development Block Grant 2018 Application Documents; Citizen Participation Plan, Applicant Resolution, and Leverage Resolution (Resolution No. 2732) committing up to \$103,887.00 as leverage, all relating to the Oklahoma Department of Commerce Small Cities Set Aside Grant Fund Program, or take other necessary action. (Gary D. Garvin)

3. Approval of the renewal of a Professional Service Agreement beginning July 1, 2018 ending June 30, 2019, with Michael Gilliard, Attorney at Law, to provide representation for the City of Muskogee in Workers' Compensation Court, or take other necessary action. (Roy D. Tucker)
4. Approval of a Professional Service Agreement beginning July 1, 2018 ending June 30, 2019, with Mr. Michael Finerty, Attorney at Law, to provide representation for the City of Muskogee in Workers' Compensation Court, or take other necessary action. (Roy D. Tucker)
5. Approval of a Professional Service Agreement with Betty Outhier Williams to provide representation for the City of Muskogee in four (4) inverse condemnation lawsuits filed in Muskogee County District Court styled England v. City of Muskogee, Case No. CV-2007-20; Lacey v. City of Muskogee, Case No. CV-2007-1377; Taff v. City of Muskogee, Case No. CJ-2007-1410; Vaughn v. City of Muskogee, Case No. CJ-2007-1371; and authorize the Mayor and City Clerk to execute the agreement, or take other necessary action. (Roy D. Tucker)
6. Approval to renew a Professional Service Agreement with Cate and Hammons Law Firm to provide representation for the City of Muskogee in seven (7) inverse condemnation lawsuits filed in Muskogee County District Court; Michael & Lori Carmen v. City of Muskogee, Case No. CJ-2011-168; Stanley & Linda Clark v. City of Muskogee, Case No. CJ-2011-164; W.C. Cochran v. City of Muskogee, Case No. CJ-2011-466; Harold & LeAnne Cox v. City of Muskogee, Case No. CJ-2011-465; Jerry & Marie Maxey v. City of Muskogee, CJ-11-469, Bobby & Linda Scoggins v. City of Muskogee, CJ-11-467; Crystal Thompson v. City of Muskogee, CJ-11-478, and the Civil case titled Lois Ivey v City of Muskogee, CV-07-1730, and authorize the Mayor and City Clerk to execute the agreement. (Roy D. Tucker)
7. Approval to renew the municipal liability insurance contract with Oklahoma Municipal Assurance Group in the amount of \$251,710.00 for policy year July 1, 2018 through June 30, 2019, or take other necessary action. (Roy D. Tucker)
8. Approval to renew the municipal property and rolling stock insurance from Oklahoma Municipal Assurance Group (OMAG) in the amount of \$177,410.00, for policy year July 1, 2018 through June 30, 2019, or take other necessary action. (Jean Kingston)
9. Approval of awarding construction contract to Tonto Construction Inc., for the Junction Area Wastewater Collection System Improvements in the amount of \$249,690.00, as the lowest best bid, or take other necessary action. (Greg Riley)
10. Approval of awarding construction contract to Cook Consulting LLC, for the Westside Area Wastewater Collection System Improvements in the amount of \$1,252,208.00, as the lowest best bid, or take other necessary action. (Greg Riley)

11. Approval of awarding a construction contract to L & L Construction for the Phase I Wastewater Treatment Plant Improvements in the amount of \$2,843,375.00, as the lowest best bid, or take other necessary action. (Greg Riley)
12. Approval of awarding lowest bid to Midstate Traffic Control in the amount of \$39,520.00 for LED and Backplate Signal Project, or take other necessary action. (Greg Riley)
13. Approval of awarding to the lowest/best bid to ICM in the amount of \$53,940.00 for Hydro Excavator with Fire Hydrant Valve Exerciser, or take other necessary action. (Greg Riley)
14. Approval of awarding the lowest/best bid for chemicals used in the Water Treatment Plant to Brenntag Southwest, Univar USA, Hawkins Inc., D&F Services, Evoqua Water Technologies, Pennco Inc., and Petra Chemical, more particularly described as attached, or take other necessary action. (Greg Riley)
15. Approval of awarding a purchase from a National Joint Powers Alliance (Cooperative Purchasing) for a submersible hydraulic water pump to Thompson Pump in the amount of \$45,356.00, or take other necessary action. (Greg Riley)
16. Approval of receiving donated funds for the month of April, 2018 in the amount of \$286.00 for the City's Animal Shelter Sponsorship Program as per the attached list, or take other necessary action. (Rex Eskridge)
17. Approval of Resolution No. 2730 directing the filing and notification of the publication of Supplement No. 18 to the Muskogee City Code of Ordinances, or take other necessary action. (Tammy L. Tracy)
18. Approval of Resolution No. 2731 amending Appendix A to the City of Muskogee Code of Ordinances (Wholesale Customers Water Rates), as per the attached, or take other necessary action. (Mike Stewart)
19. Approval of nine (9) agreements with the following wholesale water users: Rural Water District #1, Rural Water District #2, Rural Water District #5, Rural Water District #6, Rural Water District #9, Haskell Public Works Authority, Okay Public Works Authority, Porter Public Works Authority, and Taft Public Works Authority, and authorize the Mayor and City Clerk to execute the agreements, or take other necessary action. (Roy D. Tucker)
20. Approval of amended Council Policy 3-2-1, Classification Titles and Descriptions, or take other necessary action. (Kelly Plunkett)
21. Approval of the appointment of Janey Cagle Boyston to serve a two (2) year term on the City of Muskogee Foundation Board, beginning August 1, 2018, and ending July 31, 2020, replacing Patrick Cale, or take other necessary action. (Councilor Wayne Johnson)

22. Approval of the appointment of William Barnes to serve a three (3) year term on the War Memorial Trust Authority beginning July 1, 2018, and ending on August 31, 2021, or take other necessary action. (Mayor Bob Coburn)

REGULAR AGENDA

23. Hold a Public Hearing and take action on the approval of Ordinance No. 4049-A rezoning the property located at 11 Beckman Drive, more particularly described in the Ordinance from "R-1" Single-Family Residential to "R-A" Agriculture Residential, and if approved, authorize Staff to revise the Official Zoning Map of the City to reflect said change, or take other necessary action. (Gary D. Garvin)

A PART OF THE NW1/4 OF THE NE1/4 OF SECTION 19, T15N, R18E, MUSKOGEE COUNTY, OKLAHOMA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF THE NW1/4 NE1/4 OF SECTION 19, T15N, R18E, MUSKOGEE COUNTY, OKLAHOMA; THENCE DUE SOUTH ALONG THE EAST BOUNDARY OF SAID NW1/4 NE1/4 A DISTANCE OF 1321.75 FEET TO A POINT; THENCE N89°48'00"W A DISTANCE OF 300.94 FEET TO THE POINT OF BEGINNING; THENCE N89°48'00"W A DISTANCE OF 362.84 FEET TO A POINT; THENCE DUE NORTH A DISTANCE OF 195.99 FEET TO A POINT; THENCE N63°34'00"E A DISTANCE OF 66.10 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 219.47 FEET A DISTANCE OF 101.43 FEET TO A POINT OF TANGENCY; THENCE S89°48'00"E A DISTANCE OF 0.00; THENCE DUE SOUTH A DISTANCE OF 40.0 FEET TO A POINT; THENCE S89°48'00"E A DISTANCE OF 195.74 FEET TO A POINT; THENCE S00°12'00"E A DISTANCE OF 0.00 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 50 FEET A DISTANCE OF 32.35 FEET TO A POINT; THENCE S36°52'10"E A DISTANCE OF 0.00 FEET TO THE POINT OF TANGENCY; THENCE DUE SOUTH A DISTANCE OF 178.75 FEET TO THE POINT OF BEGINNING.

24. Hold a Public Hearing to discuss the Community Development Block Grant 2018 Application for \$103,887.00 under the Oklahoma Department of Commerce Small Cities Set Aside Grant Fund Program, and take other necessary action. (Gary Garvin)
25. Receive year-end report from the Oklahoma Music Hall of Fame and Museum for FY 2017-2018, as well as consider approval to renew the Cooperative Agreement with the Oklahoma Music Hall of Fame and Museum, Inc., providing for funding for FY 2018-2019, and take other necessary action. (Mike Stewart)
25. Receive year-end report from Three Rivers Museum as to the financial condition, projects status, and progress towards achieving the public service objectives of heightening cultural diversity and area history and encouraging visitor development, as well as consider approval to renew the Cooperative Agreement for FY 2018-2019, or take other necessary action. (Mike Stewart)

26. Receive year-end report from Retail Attractions for activities in FY 2017-2018, as well as consider approval to renew a Professional Services Agreement with Retail Attractions, LLC., for FY 2018-2019, or take other necessary action. (Gary Garvin)
27. Receive a report from the Muskogee County Public Transit Authority as to the financial condition, progress, and achievement of providing public transportation, as well as consider approval to renew the Cooperative Agreement for FY 2018-2019, or take other necessary action. (Mike Stewart)
28. Receive year-end report from Main Street Muskogee Inc., as to project status and progress towards achieving the public service objectives of the organization, as well as consider approval to renew the Cooperative Agreement for FY 2018-2019, or take other necessary action. (Mike Stewart)
29. Consider the appointment of a Councilor to the Purchasing Committee, to serve a term commensurate with his/her term, replacing Councilor Ivory Vann, or take other necessary action. (Mike Miller)

RECOGNIZE CITIZENS WISHING TO SPEAK TO THE MAYOR AND COUNCIL.

Council Rules of Decorum limit citizen comments to three (3) minutes. Any person desiring to speak is required to sign-in with the City Clerk, provide their name, address, and the particular issue they wish to address. Under Oklahoma law, the Council Members are prohibited from discussing or taking any action on items not on today's agenda. If written materials are to be submitted to the Council twelve (12) copies should be made available, and may not be returned.

30. Consider an Executive Session to discuss and take possible action on the following:
 - a. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in Executive Session to discuss negotiations with the American Federation of State, County, and Municipal Employees, Local No. 2465, and if necessary, take appropriate action in open session. (Kelly Plunkett)
 - b. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in Executive Session to discuss negotiations with the International Association of Fire Fighters, Local No. 57, and if necessary, take appropriate action in open session. (Kelly Plunkett)
 - c. Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in Executive Session to discuss negotiations with the Fraternal Order of Police, Lodge No. 95, and if necessary, take appropriate action in open session. (Kelly Plunkett)
31. Consider approval of Resolution No. 2732 approving and adopting a best practices handbook for Oklahoma municipalities, or take other necessary action. (Roy D. Tucker)

32. Receive presentation from Oklahoma Municipal Assurance Group on best practices for Oklahoma municipalities and their governing bodies, and take any necessary action (Mike Miller).

ADJOURN

Regular City Council

Meeting Date: 06/25/2018
Initiator: Tammy Tracy, City Clerk
Department: City Clerk
Staff Information Source:

Information

AGENDA ITEM TITLE:

APPROVAL OF MINUTES: SPECIAL CALL CITY COUNCIL JUNE 4, 2018 AND CITY COUNCIL REGULAR SESSION JUNE 11, 2018.

BACKGROUND:

RECOMMENDED ACTION:

Fiscal Impact

Attachments

06-04-2018 spccmin
06-11-2018 ccmin

MINUTES

OF THE COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA, MET IN A SPECIAL CALL SESSION, IN THE COUNCIL CHAMBERS OF CITY HALL MONDAY, JUNE 4, 2018

The Council of the City of Muskogee, Oklahoma, met in a Special Call Session in Council Chambers of City Hall, Monday, June 4, 2018, at 5:30 p.m., with Mayor Coburn presiding.

Meeting was called to order by Mayor John R. Coburn and the City Clerk called the roll as follows:

Present: John R. Coburn, Mayor; Janey Boydston, Deputy Mayor; Jaime Stout, Councilmember; Patrick Cale, Councilmember; Wayne Johnson, Councilmember; Derrick Reed, Councilmember; Ivory Vann, Councilmember

Absent: Marlon Coleman, Councilmember; Dan Hall, Councilmember

Staff Mike Miller, City Manager; Mike Stewart, Assistant City Manager; Roy Tucker, City

Present: Attorney; Tammy L. Tracy, City Clerk; Gary Garvin, City Planner; Greg Riley, Public Works Director; Kelly Plunkett, Human Resources Director; Rex Eskridge, Police Chief; Prag Mahajan, Civil Engineer

- 1 Consider an Executive Session to discuss and take possible action on the following:

Council reconvened to regular session at 6:40 p.m.

Motion was made by Councilmember Dan Hall, seconded by Councilmember Wayne Johnson to approve an Executive Session.

AYE: Mayor John R. Coburn, Deputy Mayor Janey Boydston, Councilmember Jaime Stout, Councilmember Patrick Cale, Councilmember Wayne Johnson, Councilmember Derrick Reed, Councilmember Ivory Vann

Carried - Unanimously

- a **(No action taken):** Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in Executive Session to discuss negotiations with the Fraternal Order of Police, Lodge #95, and if necessary, take appropriate action in open session. (Kelly Plunkett)

Council reconvened to regular session at 6:40 p.m. The meeting was called to order by Mayor Coburn and the City Clerk called the Roll as follows:

Members Present: Mayor John R. Coburn, Deputy Mayor Janey Boydston, Councilmembers; Jaime Stout, Patrick Cale, Wayne Johnson, Derrick Reed, Ivory Vann

- b **(No action taken):** Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in Executive Session to discuss negotiations with the American Federation of State, County, and Municipal Employees, Local #2465, and if necessary, take appropriate action in open session. (Kelly Plunkett)

JOHN R. COBURN, MAYOR

TAMMY L. TRACY, CITY CLERK

MINUTES

OF THE COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA, MET IN REGULAR SESSION, IN THE COUNCIL CHAMBERS OF CITY HALL MONDAY, JUNE 11, 2018

The Council of the City of Muskogee, Oklahoma, met in Regular Session in Council Chambers of City Hall, Monday, June 11, 2018, at 5:30 p.m., with Mayor John R. Coburn presiding.

Invocation was given by Councilmember Derrick Reed

Flag Salute was led by Mayor John R. Coburn

Meeting was called to order by Mayor Coburn and the City Clerk called the roll as follows:

Present: Mayor John R. Coburn; Deputy Mayor Janey Boydston; Councilmember Jaime Stout; Councilmember Patrick Cale; Councilmember Marlon Coleman; Councilmember Dan Hall; Councilmember Derrick Reed; Councilmember Ivory Vann

Absent: Councilmember Wayne Johnson

Staff Present: Mike Miller, City Manager; Mike Stewart, Assistant City Manager; Roy Tucker, City Attorney; Tammy L. Tracy, City Clerk; Gary Garvin, City Planner; Greg Riley, Public Works Director; Matthew Beese, Assistant City Attorney; Donnie Wimbely, Purchasing Manager; Mark Wilkerson, Parks & Recreation Director; Michael O'Dell, Fire Chief; Kelly Plunkett, Human Resources Director; Rex Eskridge, Police Chief

1 Approval to excuse members not present.

Motion was made by Councilmember Dan Hall, seconded by Deputy Mayor Janey Boydston to approve excusing members not present.

AYE: Mayor John R. Coburn, Deputy Mayor Janey Boydston, Councilmember Jaime Stout, Councilmember Patrick Cale, Councilmember Marlon Coleman, Councilmember Dan Hall, Councilmember Derrick Reed, Councilmember Ivory Vann

Carried - Unanimously

APPROVAL OF MINUTES: SPECIAL CALL CITY COUNCIL MAY 21, 2018 and CITY COUNCIL REGULAR SESSION MAY 29, 2018.

Motion was made by Councilmember Marlon Coleman, seconded by Councilmember Jaime Stout to approve Amended Minutes: Special Call City Council May 21, 2018 and City Council Regular Session May 29, 2018.

AYE: Mayor John R. Coburn, Deputy Mayor Janey Boydston, Councilmember Jaime Stout, Councilmember Patrick Cale, Councilmember Marlon Coleman, Councilmember Dan Hall, Councilmember Derrick Reed, Councilmember Ivory Vann

Carried - Unanimously

CONSENT AGENDA

Motion was made by Deputy Mayor Janey Boydston, seconded by Councilmember Patrick Cale to approve the Consent Agenda.

AYE: Mayor John R. Coburn, Deputy Mayor Janey Boydston, Councilmember Jaime Stout, Councilmember Patrick Cale, Councilmember Marlon Coleman, Councilmember Dan Hall, Councilmember Derrick Reed, Councilmember Ivory Vann

Carried - Unanimously

The following items are considered to be routine by the City Council and will not be read aloud. The Consent Agenda will be enacted with one motion and should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately prior to the Regular Agenda.

- 1 Approval of claims for all City departments May 16, 2018 through May 30, 2018.
- 2 Approval to renew an Interlocal Agreement with Hilldale Public Schools to furnish Law Enforcement and School Resource Officer functions for the District campuses within the City, or take other necessary action. (Mike Stewart)
- 3 Approval of awarding the highest bid to Dan Leatherman for a five (5) year lease of the City of Muskogee's landfill grazing land, beginning June 1, 2018 and ending May 31, 2023, or take other necessary action. (Mike Stewart)
- 4 Approval of low bid from Hogle Plumbing (Plumbing Contractor) for maintenance and upkeep of all City facilities and buildings, or take other necessary action. (Billy Coffey)
- 5 Approval of low bid from B & R Electric (Electrical Contractor) for maintenance and upkeep of all City facilities and buildings, or take other necessary action. (Billy Coffey)
- 6 Approval of low bid from Hix AC Service (Mechanical Contractor) for maintenance and upkeep of all City facilities and buildings, or take other necessary action. (Billy Coffey)
- 7 Approval of low bid from Johnson Service (Refrigeration Contractor) for maintenance and upkeep of all City facilities and buildings, or take other necessary action. (Billy Coffey)

- 8 Approval of Resolution No. 2729 declaring certain items of personal property presently in possession of the City of Muskogee, to be surplus to the needs of the City and authorize the City Manager to dispose of the same as per the attached list, or take other necessary action. (Mike Miller)
- 9 Approval to award a contract to Alliance Benefit Group in the amount of \$39,600.00 per year for three (3) years pursuant to solicited requests for proposals for Third Party Administration Services of the City's Self-Insured Workers Compensation Plan, or take other necessary action. (Roy D. Tucker)
- 10 Approval of awarding contract to the lowest and best bid from Whittinghill Disposal Services, Inc., in the amount of \$2.75 per square foot for the demolition of dilapidated structures project under the Community Development Block Grant Demolition and Clearance Projects Bid Group 39, or take other necessary action. (Tish Callahan)

REGULAR AGENDA

- 11 Hold a Public Hearing and take action on the approval of Ordinance No. 4048-A rezoning the property located at 100 N. York Street, more particularly described in the Ordinance, from "C-1" Local Commercial District to "C-2" General Commercial District, and if approved, authorize Staff to revise the Official Zoning Map of the City to reflect said change, or take other necessary action. (Gary D. Garvin)

Mayor Bob Coburn opened the Public Hearing.

Planning Director Gary Garvin stated the applicants, Joe and Rosemary Seabolt, are requesting to rezone the property located 100 N. York Street, from "C-1" Local Commercial District to "C-2" General Commercial District to allow a restaurant to be on the property. The "C-2" zone is necessary to allow a restaurant with a drive-thru to be located on the site ("C-1" allows restaurants, but not a restaurant with a drive thru).

The Comprehensive Plan/Land Use Map, adopted by the City of Muskogee, indicates local and general commercial along the York Street corridor. Therefore, the request to rezone to "C-2" General Commercial District complies with the Comprehensive Plan and Land Use Map.

Notices have been sent to the property owners within 300 foot radius, as required, and published in the newspaper twenty (20) days prior to the Public Hearing. A Public Hearing will be held on the following days:

June 4, 2018 at 9:00 a.m.: City of Muskogee Planning & Zoning Commission
June 4, 2018, 2017 at 5:30 p.m.: Public Works Committee
June 11, 2018 at 5:30 p.m. Muskogee City Council Meeting

Mayor Bob Coburn closed the Public Hearing.

Motion was made by Councilmember Marlon Coleman, seconded by Councilmember Dan Hall to approve Ordinance No. 4048-A rezoning the property located at 100 N. York Street, more particularly described in the Ordinance, from "C-1" Local Commercial District to "C-2" General Commercial District, and if approved, authorize Staff to revise the Official Zoning Map of the City to reflect said change.

AYE: Mayor John R. Coburn, Deputy Mayor Janey Boydston, Councilmember Jaime Stout, Councilmember Patrick Cale, Councilmember Marlon Coleman, Councilmember Dan Hall, Councilmember Derrick Reed, Councilmember Ivory Vann

Carried - Unanimously

- 12 **(No action taken.)** Receive presentation of Financial Audit for City of Muskogee Foundation for Fiscal Year 2016-2017. (Mike Miller)
- 13 Consider approval to renew the Cooperative Agreement between the City of Muskogee and Neighbors Building Neighborhoods for FY 2019-2020, or take other necessary action. (Mike Stewart)

City Attorney Roy Tucker explained there was a typographical error on the agenda and the contract is actually for FY 2018-2019, rather than FY 2019-2020.

Motion was made by Councilmember Marlon Coleman, seconded by Councilmember Jaime Stout to renew the Cooperative Agreement between the City of Muskogee and Neighbors Building Neighborhoods for FY 2018-2019, or take other necessary action.

AYE: Mayor John R. Coburn, Deputy Mayor Janey Boydston, Councilmember Jaime Stout, Councilmember Patrick Cale, Councilmember Marlon Coleman, Councilmember Dan Hall, Councilmember Ivory Vann

Other: Councilmember Derrick Reed (ABSTAIN)

Carried

- 14 Consider approval of the reappointment of Gary Dunlap to serve a three (3) year term on the Muskogee Housing Authority Board, beginning July 1, 2018, and ending on May 31, 2021, or take other necessary action. (Councilor Dan Hall)

Motion was made by Councilmember Dan Hall, seconded by Councilmember Ivory Vann to approve the reappointment of Gary Dunlap to serve a three (3) year term on the Muskogee Housing Authority Board, beginning July 1, 2018, and ending on May 31, 2021, or take other necessary action.

AYE: Mayor John R. Coburn, Deputy Mayor Janey Boydston, Councilmember Jaime Stout, Councilmember Patrick Cale, Councilmember Marlon Coleman, Councilmember Dan Hall, Councilmember Derrick Reed, Councilmember Ivory Vann

Carried - Unanimously

RECOGNIZE CITIZENS WISHING TO SPEAK TO THE MAYOR AND COUNCIL.

Council Rules of Decorum limit citizen comments to three (3) minutes. Any person desiring to speak is required to sign-in with the City Clerk, provide their name, address, and the particular issue they wish to address. Under Oklahoma law, the Council Members are prohibited from discussing or taking any action on items not on today's agenda. If written materials are to be submitted to the Council twelve (12) copies should be made available, and may not be returned.

Wilma Newton, 411 North 14th Street and Tommy McNac, 4950 North York Street spoke on behalf of the Oklahoma Juneteenth Historical Association. They wished to thank the Mayor, Council, and City employees for their support for the 2017 Juneteenth Celebration and wished to make them aware of the upcoming 2018 Celebration.

Stephen Ezell, 6121 South 6th Street East, wanted to make certain that everyone was aware that the Wall of Remembrance would be visiting the War Memorial Park from June 20 - 25 and invited everyone to attend.

- 15 Consider an Executive Session to discuss and take possible action on the following:

Motion was made by Deputy Mayor Janey Boydston, seconded by Councilmember Jaime Stout to approve an Executive Session.

AYE: Mayor John R. Coburn, Deputy Mayor Janey Boydston, Councilmember Jaime Stout, Councilmember Patrick Cale, Councilmember Marlon Coleman, Councilmember Dan Hall, Councilmember Derrick Reed, Councilmember Ivory Vann

Carried - Unanimously

- a Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in Executive Session to discuss the worker's compensation claim of Steve Chick, and if necessary, take appropriate action in open session. (Roy D. Tucker)

Council reconvened to Regular Session at 6:10 p.m. The meeting was called to order by Mayor Coburn and the City Clerk called the Roll as follows:

Members Present: Mayor John R. Coburn, Deputy Mayor Janey Boydston, Councilmembers; Jaime Stout, Patrick Cale, Marlon Coleman, Dan Hall, Derrick Reed, Ivory Vann

Motion was made by Councilmember Dan Hall, seconded by Councilmember Patrick Cale to approve settlement of the Workers' Compensation claim of Steve Chick in the amount of \$1,265.90.

AYE: Mayor John R. Coburn, Deputy Mayor Janey Boydston, Councilmembers; Jaime Stout, Patrick Cale, Marlon Coleman, Dan Hall, Derrick Reed, Ivory Vann
Carried - Unanimously

- b Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening an Executive Session to discuss the lawsuit styled Glover & Associates Inc. vs City of Muskogee, in the District Court for Muskogee County Oklahoma, Case No. CJ-2017-263, and if necessary, take appropriate action in open session. (Roy D. Tucker)

Motion was made by Councilmember Dan Hall, seconded by Deputy Mayor Janey Boydston to approve authorizing the City Attorney to attempt to settle the lawsuit styled Glover & Associates Inc., vs City of Muskogee with parameters set forth in Executive Session.

AYE: Mayor John R. Coburn, Deputy Mayor Janey Boydston, Councilmember Jaime Stout, Councilmember Patrick Cale, Councilmember Marlon Coleman, Councilmember Dan Hall, Councilmember Derrick Reed, Councilmember Ivory Vann

Carried - Unanimously

ADJOURN

JOHN R. COBURN, MAYOR

TAMMY L. TRACY, CITY CLERK

Regular City Council

1.

Meeting Date: 06/25/2018

Initiator: Donnie Wimbley, Purchasing Director

Department: Purchasing

Staff Information Source:

Information

AGENDA ITEM TITLE:

Approval of claims for all City departments May 31, 2018 through June 13, 2018.

BACKGROUND:

Claims List for all City Departments.

RECOMMENDED ACTION:

Approve of the claims for all City Department May 31, 2018 through June 13, 2018.

Fiscal Impact

Attachments

Claims List

CHECK NO	VENDOR NO	VENDOR NAME	CHECK DATE	CHECK AMOUNT
199394	3251	AAA FENCE LLC	6/1/2018	1,800.00
199395	3024	ABIGAIL WRIGHT	6/1/2018	12.00
199396	2	ACCURATE LABS & TRAINING CENTE	6/1/2018	2,304.34
199397	155	ACECO RENTAL AND SALES	6/1/2018	485.91
199398	2713	ACTION GROUP STAFFING	6/1/2018	4,131.82
199399	2461	ADVANCE AUTO PARTS 64771111001	6/1/2018	1,185.00
199400	5166	ANIMAL MEDICAL CENTER #15597	6/1/2018	2,192.00
199401	914	APAC CENTRAL INC	6/1/2018	920.89
199402	3761	ARKANSAS AQUATICS LLC	6/1/2018	915.79
199403	52	AUFFENBERG CHEVROLET CADILLAC	6/1/2018	313.71
199404	11	B & J OIL CO INC	6/1/2018	419.93
199405	871	BAYSINGER POLICE SUPPLY	6/1/2018	129.99
199406	342	THE BECKMAN COMPANY	6/1/2018	30.00
199407	3024	BENITA HOTEMA	6/1/2018	189.00
199408	2905	BETTY OUTHIER WILLIAMS LAW OFF	6/1/2018	527.50
199409	3024	BILLY COFFER	6/1/2018	536.61
199410	3075	BIO-AQUATIC TESTING	6/1/2018	850.00
199411	259	BRENNTAG SOUTHWEST INC	6/1/2018	15,469.20
199412	3238	BROKEN ARROW ELECTRIC	6/1/2018	25.10
199413	586	CAGLE'S FLOWERS & GIFTS	6/1/2018	113.90
199414	992	CARE AROUND THE CLOCK INC	6/1/2018	3,082.77
199415	3024	CHRIS CUMMINGS	6/1/2018	180.40
199416	5385	CHUPP IMPLEMENT COMPANY	6/1/2018	1,740.18
199417	4738	CITYWIDE PROPERTY MAINTENANCE	6/1/2018	2,208.91
199418	3626	CLARK EQUIPMENT	6/1/2018	360.00
199419	4804	CLIFFORD K. CATE, JR., INC	6/1/2018	3,060.00
199420	5013	COOK CONSULTING LLC	6/1/2018	7,450.00
199421	2292	CORE & MAIN LP	6/1/2018	1,839.20
199422	522	CORPORATE TO CASUAL SCREEN PRI	6/1/2018	403.30
199423	3154	CREATIVE APPAREL AND MORE INC	6/1/2018	272.88
199424	3024	DAKOTA JONES	6/1/2018	205.00
199425	4311	DAVID'S DISCOUNT TIRES INC	6/1/2018	2,053.16
199426	25	DEALERS ELECTRICAL SUPPLY	6/1/2018	140.93
199427	26	DELL MARKETING LP	6/1/2018	464.16
199428	5393	MARK DREADFULWATER	6/1/2018	70.00
199429	5034	DUBOIS CHEMICALS INC	6/1/2018	350.00
199430	3024	DUSTIN STAFFORD	6/1/2018	195.00
199431	170	EAST CENTRAL ELECTRIC	6/1/2018	789.00
199432	5416	TYLER EDGAR	6/1/2018	280.00
199433	5225	EDNA SUE LAWRENCE	6/1/2018	130.00
199434	5378	JAMES E. EVANS II	6/1/2018	120.00
199435	953	EXPRESS EMPLOYMENT PROFESSIONA	6/1/2018	4,990.35
199436	29	FASTENAL COMPANY	6/1/2018	1,910.53
199437	884	FERGUSON ENTERPRISES INC	6/1/2018	401.92

CHECK NO	VENDOR NO	VENDOR NAME	CHECK DATE	CHECK AMOUNT
199438	133	FIVE STAR OFFICE SUPPLY	6/1/2018	34.59
199439	3509	FLEETPRIDE INC	6/1/2018	35.14
199440	5322	KYLAR FOSHEE	6/1/2018	180.00
199441	34	GRAINGER	6/1/2018	189.64
199442	2764	GRISSOMS LLC	6/1/2018	1,018.80
199443	5260	GUARD TRONIC INC	6/1/2018	1,470.00
199444	4096	HARDIN MASONRY LLC	6/1/2018	250.00
199445	40	HARRISON TIRE & SUPPLY	6/1/2018	80.00
199446	5410	HUNTER HARRISON	6/1/2018	70.00
199447	554	HAYNES EQUIPMENT COMPANY	6/1/2018	51,141.00
199448	5377	TONY HENSON	6/1/2018	270.00
199449	181	HIX AIR CONDITIONING SERVICE	6/1/2018	254.00
199450	42	HOGLE COMPANY	6/1/2018	727.21
199451	1414	HOMELAND STORES INC	6/1/2018	106.52
199452	5384	IDEXX DISTRIBUTION, INC.	6/1/2018	7,165.51
199453	4902	IMPERIAL LLC	6/1/2018	44.90
199454	5415	INFINITY INVESTIGATIONS	6/1/2018	500.00
199455	3024	JEFF LESTER	6/1/2018	195.00
199456	3024	KAREN COKER	6/1/2018	12.00
199457	3024	KARISSA WALLIS	6/1/2018	62.00
199458	3070	LAFERRY'S PROPANE CO	6/1/2018	42.63
199459	53	LAKE REGION ELECTRIC COOPERATI	6/1/2018	230.00
199460	4855	KELSEY LAMB	6/1/2018	180.00
199461	5407	ZACHARY LEWIS	6/1/2018	180.00
199462	1133	THE LIFEGUARD STORE	6/1/2018	49.60
199463	5391	JOSHUA KEITH LINN	6/1/2018	140.00
199464	399	LOCKE SUPPLY CO	6/1/2018	50.72
199465	1154	LOVE BOTTLING CO - #107510	6/1/2018	68.31
199466	56	LOWES	6/1/2018	1,198.14
199467	3024	MARCIE GILLIAM	6/1/2018	316.62
199468	5409	DALTON BRICE MARTIN	6/1/2018	250.00
199469	4246	MARVIN'S MOWERS AND OUTDOOR LL	6/1/2018	1,644.81
199470	5379	RODNEY L. MATHEWS	6/1/2018	230.00
199471	4519	MID AMERICA METER, INC	6/1/2018	92.59
199472	194	MORGAN SERVICES COMPANY LLC	6/1/2018	100.00
199473	508	MUNICIPAL CODE CORPORATION	6/1/2018	4,522.00
199474	5195	MUSKOGEE STAFFING SOLUTIONS, L	6/1/2018	111.37
199475	195	MUSKOGEE COUNTY CLERK	6/1/2018	468.00
199476	62	MUSKOGEE COUNTY SHERIFFS DEPAR	6/1/2018	35,518.00
199477	63	MUSKOGEE DAILY PHOENIX	6/1/2018	250.00
199478	1696	MUSKOGEE READY MIX LLC	6/1/2018	3,106.50
199479	3652	NEWTON EQUIPMENT LLC	6/1/2018	142.80
199480	4754	NEWTON, BRYCE DBA	6/1/2018	595.00
199481	4732	NORTH TEXAS TOLLWAY AUTHORITY	6/1/2018	54.93
199482	712	OCT EQUIPMENT INC	6/1/2018	259.50

CHECK NO	VENDOR NO	VENDOR NAME	CHECK DATE	CHECK AMOUNT
199483	1944	OFFICE CONNECTIONS LLC	6/1/2018	225.96
199484	114	OFFICE DEPOT	6/1/2018	400.10
199485	2352	OG&E #127846305-2	6/1/2018	126.31
199486	67	OKLAHOMA NATURAL GAS	6/1/2018	2,412.60
199487	68	OKLAHOMA TURNPIKE AUTHORITY (O	6/1/2018	35.80
199488	2763	ONE SOURCE WATER LLC	6/1/2018	281.85
199489	70	OREILLY AUTO PARTS	6/1/2018	2,955.93
199490	2786	OZARK LASER & SHORING, INC.	6/1/2018	300.00
199491	73	PATE INDUSTRIAL SUPPLY INC	6/1/2018	57.84
199492	5399	NIKOLAUS PLEAS	6/1/2018	70.00
199493	3024	PRAG MAHAJAN	6/1/2018	12.00
199494	4795	PREMIER TRUCK GROUP	6/1/2018	387.92
199495	3024	ROBERT SWEPSTON	6/1/2018	546.72
199496	5246	ROBERTS TRUCK CENTER HOLDING C	6/1/2018	687.62
199497	3901	JAMES C ROLLAND	6/1/2018	1,375.00
199498	149	ROSSON WHEEL SERVICE	6/1/2018	150.00
199499	84	SADLER PAPER COMPANY	6/1/2018	255.41
199500	435	SAFETY-KLEEN SYSTEMS INC	6/1/2018	222.44
199501	125	SALLY MITCHELL	6/1/2018	30.00
199502	3024	SHELLY PATTERSON	6/1/2018	196.07
199503	2433	SIGNAL TEK, INC	6/1/2018	4,427.00
199504	5382	SLEEP INN SUITES OK119	6/1/2018	474.00
199505	5411	CAM'RON SUMMERS	6/1/2018	70.00
199506	93	SUPERIOR LINEN SERVICE INC	6/1/2018	45.04
199507	3024	TAYLOR ETCHISON	6/1/2018	195.00
199508	94	TECHNICAL PROGRAMMING SERVICES	6/1/2018	2,715.01
199509	5417	BRENT N. THOMPSON	6/1/2018	440.00
199510	5418	COLBY THOMPSON	6/1/2018	401.00
199511	3024	TISH CALLAHAN	6/1/2018	275.25
199512	4183	TONY'S TIRE SERVICE INC	6/1/2018	150.00
199513	1953	MICHAEL TRIMBLE	6/1/2018	140.00
199514	4235	TUBE PRO INC	6/1/2018	1,852.00
199515	4446	TULSA ASPHALT LLC	6/1/2018	7,234.47
199516	97	UNIFIRST HOLDINGS LP	6/1/2018	0.00
199517	97	UNIFIRST HOLDINGS LP	6/1/2018	1,218.52
199518	2325	UNITED FORD FLEET & COMMERCIAL	6/1/2018	12.22
199519	796	UTILITY SUPPLY CO	6/1/2018	9,236.70
199520	5398	TRISTEN VANDALEY	6/1/2018	230.00
199521	532	VULCAN INC	6/1/2018	9,141.90
199522	3024	WALKER CROW	6/1/2018	195.00
199523	215	WASTE MANAGEMENT OF OKLAHOMA I	6/1/2018	567.67
199524	329	WELDON PARTS - MUSKOGEE	6/1/2018	57.42
199525	1128	WHITTINGHILL DISPOSAL SERVICE	6/1/2018	4,306.50
199526	1128	WHITTINGHILL DISPOSAL SERVICE	6/1/2018	267.92
199527	3629	YELLOWHOUSE MACHINERY CO	6/1/2018	252.08

CHECK NO	VENDOR NO	VENDOR NAME	CHECK DATE	CHECK AMOUNT
199528	3450	ZEBEC OF NORTH AMERICA INC	6/1/2018	4,510.00
199529	5183	3SI SECURITY SYSTEMS, INC.	6/1/2018	216.00
199530	121	COLDWELL BANKER SELECT	6/1/2018	16.64
199531	121	DAILEY, REBEKAH K	6/1/2018	24.56
199532	121	GLOVER, PAUL	6/1/2018	0.00
199533	121	SMART, BILLY	6/1/2018	8.22
199534	121	WRIGHTSMAN, DON	6/1/2018	17.18
199535	121	ONTIVEROS, ALEJANDRO C	6/1/2018	20.02
199536	5290	JANEY C BOYDSTON	6/1/2018	75.00
199537	4390	BOB COBURN	6/1/2018	75.00
199538	4838	MARLON COLEMAN	6/1/2018	75.00
199539	4819	HALL, DAN	6/1/2018	75.00
199540	4984	WAYNE A JOHNSON	6/1/2018	75.00
199541	4801	DERRICK REED	6/1/2018	75.00
199542	5421	JAMIE LYNN STOUT	6/1/2018	75.00
199543	4789	IVORY L VANN	6/1/2018	75.00
199544	5400	TYLER ANDERSON	6/5/2018	64.00
199545	4468	BLUECROSS/BLUE SHIELD OF OK	6/5/2018	78,806.83
199546	5416	TYLER EDGAR	6/5/2018	90.00
199547	5378	JAMES E. EVANS II	6/5/2018	180.00
199548	5322	KYLAR FOSHEE	6/5/2018	180.00
199549	5396	TAYLOR GOODMAN	6/5/2018	81.00
199550	5410	HUNTER HARRISON	6/5/2018	70.00
199551	5377	TONY HENSON	6/5/2018	90.00
199552	4855	KELSEY LAMB	6/5/2018	90.00
199553	5407	ZACHARY LEWIS	6/5/2018	180.00
199554	5391	JOSHUA KEITH LINN	6/5/2018	160.00
199555	5409	DALTON BRICE MARTIN	6/5/2018	140.00
199556	5379	RODNEY L. MATHEWS	6/5/2018	140.00
199557	5411	CAM'RON SUMMERS	6/5/2018	70.00
199558	5417	BRENT N. THOMPSON	6/5/2018	140.00
199559	5418	COLBY THOMPSON	6/5/2018	128.00
199560	1953	MICHAEL TRIMBLE	6/5/2018	140.00
199561	1100	UNITED ENGINES LLC	6/5/2018	8,040.20
199562	5398	TRISTEN VANDALEY	6/5/2018	140.00
199563	121	WALDRON, JAMES E II	6/5/2018	782.88
199564	121	BAJEMA, PETER	6/6/2018	10.97
199565	121	BROWN, JOSEPH B	6/6/2018	34.77
199566	121	CHEATER, JONATHAN	6/6/2018	51.83
199567	121	CHERRY, SHERIKA M	6/6/2018	16.66
199568	121	CLARK, EARL D	6/6/2018	47.59
199569	121	COLLINS, MYRTLE L	6/6/2018	47.03
199570	121	CRAGG, SHEILA KAY	6/6/2018	27.89
199571	121	CUSTOM TOUCH	6/6/2018	11.28
199572	121	DAVIS, MARK	6/6/2018	41.94

CHECK NO	VENDOR NO	VENDOR NAME	CHECK DATE	CHECK AMOUNT
199573	121	DUNN, DAVIDENE	6/6/2018	37.39
199574	121	EVANS, CODY Z	6/6/2018	43.45
199575	121	GOTTFRIED, PIPER L	6/6/2018	5.78
199576	121	HAYES, RACHEL L	6/6/2018	21.23
199577	121	HOGNER, ASHLEY N	6/6/2018	15.32
199578	121	HOLMES, WILLIE	6/6/2018	54.61
199579	121	JOHNSON, JOHNNY W	6/6/2018	38.15
199580	121	LAWSON, JOHN THOMAS	6/6/2018	41.06
199581	121	LEEWORTHY, SHU-MEE	6/6/2018	62.37
199582	121	P&K PROPERTIES, LLC	6/6/2018	23.77
199583	121	PORTER, KAYLA R	6/6/2018	18.22
199584	121	RANDLEMAN, M CARMEN	6/6/2018	29.65
199585	121	READY MORTGAGE	6/6/2018	55.16
199586	121	TISHER, TOM	6/6/2018	3.71
199587	121	WEIDEL, LOUISE	6/6/2018	56.83
199588	121	BROWN, FAIRON N	6/8/2018	21.14
199589	121	EPPS, AUSTIN L	6/8/2018	19.29
199590	121	GLOVER, PAUL	6/8/2018	58.09
199591	121	TOLLETTE, J D	6/8/2018	20.11
199592	5424	SMOLEN, SMOLEN & ROYTMAN, PLLC	6/8/2018	700,000.00
199593	3442	CITY OF MUSKOGEE FOUNDATION	6/8/2018	1,000,000.00

Regular City Council**2.**

Meeting Date: 06/25/2018

Submitted For: Gary Garvin, Planning

Initiator: Tish Callahan,
Planning Asst.

Department: Planning

Staff Information Source:

Information**AGENDA ITEM TITLE:**

Approval of the Community Development Block Grant 2018 Application Documents; Citizen Participation Plan, Applicant Resolution, and Leverage Resolution (Resolution No. 2732) committing up to \$103,887.00 as leverage, all relating to the Oklahoma Department of Commerce Small Cities Set Aside Grant Fund Program, or take other necessary action. (Gary D. Garvin)

BACKGROUND:

The City of Muskogee is making application to the Oklahoma Department of Commerce (ODOC) Community Development Block Grant Small Cities Set Aside funding assistance program for grant year 2018. A public hearing, an application requirement, will be held on Monday, June 25, 2018 during the Muskogee City Council Meeting regarding the City's application. Following the public hearing, the required application documents will be submitted for approval. The documents are: the Citizen Participation Plan, Applicant Resolution and Leverage Resolution.

RECOMMENDED ACTION:

Approve the application documents; Citizen Participation Plan, Applicant Resolution, and Leverage Resolution committing up to \$103,887 as leverage, relating to the Oklahoma Department of Commerce Small Cities Set Aside 2018 Grant Fund Program.

Fiscal Impact**FUNDING SOURCE:**

CDBG Grant Funds	\$103,887
CDBG City Match	\$103,887
Total Project funds available	\$207,774

Attachments

Citizen's Participation Plan 2018
Applicant Resolution 2018
Leverage Resolution
Public Hearing Notice 2018

***Community Development Block Grant (CDBG)
2018 STATE SMALL CITIES PROGRAM
CITIZEN PARTICIPATION PLAN***

2018 CITIZEN PARTICIPATION PLAN

City of Muskogee intends to implement a Citizen Participation Program for its 2018 application process to accomplish the following objectives:

- A. Provide for and encourage citizen participation, particularly by low and moderate income persons who reside in areas where Community Development Block Grant (CDBG) funds are proposed to be used. This will be accomplished by:
 - 1. Providing frequent and timely public notice of CDBG program activities in the local newspaper and by posting at City/County Office.
 - 2. Adopting a comprehensive CDBG Statement of Needs.
 - 3. Conducting a Special Public Hearing to inform citizens of the proposed 2018 CDBG project and authorizing the Mayor to sign a CDBG application in a formal Council/Board of Commissioners meeting.
- B. Ensure that citizens will be given reasonable and timely access to local meetings, information, and records relating to proposed and actual use of funds, including, but not be limited to:
 - 1. The amount of CDBG funds to be made available for the current fiscal year, if the proposed project is approved.
 - 2. The range of activities that may be undertaken with those funds.
 - 3. The estimated amount of those funds proposed to be used for activities that will benefit low and moderate income persons.
 - 4. The proposed CDBG activities likely to result in displacement and any anti-displacement and relocation plans developed by the City of Muskogee in accordance with Section 104(d)(1) and (2) of the Act.
 - 5. The basis on which the City of Muskogee may provide technical assistance to groups representative of persons of low and moderate income that may request assistance in developing proposals. The level and type of assistance to be provided is at the discretion of the City of Muskogee and does not necessarily include providing funding to such groups.

***Community Development Block Grant (CDBG)
2018 STATE SMALL CITIES PROGRAM
CITIZEN PARTICIPATION PLAN***

6. This requirement will be accomplished by discussing the CDBG proposal during regular Council/Board of Commissioners meetings and in one formal public hearing prior to the submittal of the City of Muskogee 2018 CDBG application. During the hearing the five (5) items listed above will be explained to the public. Records of the 2018 CDBG process will be maintained in the City of Muskogee by the City Clerk and will be available upon request for review by the public. A brief summary of the proposed 2018 CDBG project will be available for public review after the Council/Board of Commissioners has made its final selection.
- C. Provide for a minimum of two (2) public hearings; one (1) prior to submission of the application for funding of the project for the purpose of obtaining citizen views and formulating or responding to proposals and questions, and the other end of the grant period if the City of Muskogee receives funding, that discusses the City of Muskogee's accomplishments in relation to initial plans. The application stage hearing will include discussion of CDBG needs, and the development of activities being proposed for CDBG funding. There will be reasonable notice of all hearings, which will be scheduled for times and locations convenient to the potential and actual beneficiaries and which will accommodate the handicapped. Regularly scheduled Council/Board of Commissioners meetings will not be used for this purpose.
1. This requirement will be met through scheduling a Special Public Hearing to discuss the City of Muskogee 2018 CDBG proposal. At this hearing, the proposed project will be reviewed for the public and further citizen input will be solicited. Notice will be given seven (7) to ten (10) days in advance of this hearing in the Muskogee Phoenix and by posting at the City Office. The hearing will be held in the early evening so those citizens who work may attend. A second hearing will be held at the end of the grant period if the City of Muskogee is funded in the 2018 CDBG process.
- D. Meet the needs of non-English speaking residents in those instances where a significant number of non-English speaking residents can reasonably be expected to participate in the 2018 CDBG process. For example: the City of Muskogee does not currently have a significant population of non-English speaking citizens. However, every effort will be made to accommodate the needs of any non-English speaking citizens who wish to participate.
- E. Provide citizens with reasonable advance notice of, and opportunity to comment on, proposed activities not previously described in the City of Muskogee funding request and on activities which are proposed to be deleted or substantially changed in terms of purpose, scope, location or beneficiaries.

***Community Development Block Grant (CDBG)
2018 STATE SMALL CITIES PROGRAM
CITIZEN PARTICIPATION PLAN***

The proposed seven (7) to ten (10) day notice for all public meetings and hearings in connection with the City of Muskogee 2018 CDBG application process is believed by the City of Muskogee to afford citizens with reasonable advance notice. In addition, if any change is proposed to the purpose, scope, location, or beneficiaries of the proposed project or if the CDBG project budget changes by more than 25%, the public will be notified and afforded an opportunity for additional input.

- F. Provide the place, telephone number, and times when citizens are able to submit written complaints or grievances and the process the City of Muskogee will use to provide a timely, written response to such complaints or grievances. For example: Citizens with comments or grievances on the 2018 CDBG process may submit them in writing or in person at the City Clerk's Office during regular business hours or may call 918-682-6602. The City of Muskogee will respond to such comments or grievances within fifteen (15) working days, where practicable.

By formally adopting this Citizen Participation Plan, the Muskogee City Council accepts the responsibility for implementing its provisions. The Muskogee City Council further charges all employees and contractors with the responsibility of implementing this plan and living up to the spirit of the citizen participation requirements of the 2018 CDBG program.

Adopted this 25th day of June, 2018 by the City Council of Muskogee.

John R. Coburn, Mayor - Chief Elected Official

ATTEST:

Tammy L. Tracy, City Clerk

**COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)
2018 SMALL CITIES PROGRAM**

RESOLUTION

WHEREAS, Title I of the Housing and Community Development Act of 1974, Public Law 93-383, as amended, authorized by the Secretary of Housing and Urban Development, as representative of the United States of America, to grant to the State of Oklahoma funds and administrative responsibility for the "Small Cities Community Development Block Grant" program; and

WHEREAS, the Oklahoma Department of Commerce, pursuant to designation by the Governor as the administering agency of the Community Development Block Grant Program for Small Cities in Oklahoma, is directed to further the purposes of community development in the State, and is authorized and empowered to accept funds from the Federal Government or its agencies and to enter into such contracts and agreements as are necessary to carry out the functions of the Department; and

WHEREAS, the City of Muskogee is a local unit of general purpose government that will provide opportunity for input by residents in determining and prioritizing community development needs through its written Citizen Participation Plan; and

NOW THEREFORE, BE IT RESOLVED by the Muskogee City Council that City of Muskogee desires to obtain assistance in community development and hereby requests the Oklahoma Department of Commerce to provide assistance under the policies, regulations, and procedures applicable to local communities in Oklahoma.

NOW THEREFORE, BE IT RESOLVED by the Muskogee City Council that City of Muskogee affirms its commitment to take all action within its power to facilitate the receipt of the assistance of community development funds if the City of Muskogee is awarded a Community Development Block Grant, and upon receipt to administer said grant by the rules and regulations established by the United States of America, the State of Oklahoma, and all empowered agencies thereof.

ADOPTED this 25th day of June, 2018, at a regularly scheduled meeting of the governing body, in compliance with the Open Meeting Act, 25 O.S. §§ 301-314 (2001).

John R. Coburn, Mayor

Date _____

Signature of Chief Elected Official

(S E A L)

Attest:

Subscribed and sworn to before me _____, 2018

My commission expires _____, 20____. Commission No. _____

Tammy L. Tracy, City Clerk

RESOLUTION NO. 2732

**A RESOLUTION RELATING TO A COMMUNITY DEVELOPMENT
BLOCK GRANT FOR THE CITY OF MUSKOGEE, OKLAHOMA
COMMITTING UP TO \$103,887 AS LEVERAGE FROM THE CITY OF
MUSKOGEE**

WHEREAS, the City of Muskogee has entered into an agreement with the Oklahoma Department of Commerce to participate in the Small Cities Set-Aside program and has been awarded funds with a 1:1 ratio match to be used for demolition of structures within the city limits of Muskogee, Oklahoma, and

WHEREAS, as a condition to the funding of the Community Development Block Grant, the Oklahoma Department of Commerce has required adoption of a resolution by the City Council of the City of Muskogee, Oklahoma, to commit funds in the amount of \$103,887 to the project,

NOW THEREFORE, Be it resolved by the City Council of the City of Muskogee, Oklahoma that,

The City of Muskogee, through the general operating budget, agrees to commit up to \$103,887 toward the demolition of structures within the city limits of Muskogee, Oklahoma.

ADOPTED this **25th day of June, 2018**

City of Muskogee, Oklahoma

John R. Coburn, Mayor

ATTEST:

Tammy L. Tracy, City Clerk

Approved as to form and legality this
_____ day of _____, 2018.

(Seal)

Roy D. Tucker, City Attorney

APPROVED BY CITY COUNCIL ON: June 25, 2018

TO BE PUBLISHED AS A LEGAL NOTICE IN THE MUSKOGEE DAILY
PHOENIX ON June 15, 2018

**PUBLIC HEARING
CDBG FY 2018**

The City of Muskogee is considering applying to the Oklahoma Department of Commerce (ODOC) Community Development Block Grant Community Development funding assistance. The State of Oklahoma has funds available to units of local government to undertake viable community development activities that primarily benefit persons defined as low and moderate income.

Community development has been identified as a City priority need and a tentative decision has been made to renew funding from the ODOC for \$103,887 in Fiscal Year 2018.

The purpose of this public hearing is to enable comments on the specific project activities that are proposed and to provide a clear explanation of the probable impact on the City and residents, should the project be funded.

More specific details regarding eligible activities and program requirements will be provided at the public hearing on **Monday, June 25, 2018 at 5:30 p.m. during the Muskogee City Council meeting to be held at Muskogee City Hall, 229 West Okmulgee, Council Chambers, 3rd Floor.**

Any questions prior to the public hearing can be directed to the City of Muskogee Planning Department (918) 684-6232.

Regular City Council**3.****Meeting Date:** 06/25/2018**Submitted For:** Roy Tucker, City Attorney**Initiator:** Leslie Arnold,
Attorney Secretary**Department:** City Attorney**Staff Information Source:** City Attorney

Information**AGENDA ITEM TITLE:**

Approval of the renewal of a Professional Service Agreement beginning July 1, 2018 ending June 30, 2019, with Michael Gilliard, Attorney at Law, to provide representation for the City of Muskogee in Workers' Compensation Court, or take other necessary action. (Roy D. Tucker)

BACKGROUND:

Mr. Gilliard has represented the City of Muskogee for several years on cases filed by employees before the Oklahoma Workers' Compensation Court. Normally these cases are heard in Tulsa, however on occasion the cases are heard in Oklahoma City. His representation also includes appeals of adverse judgments on a case by case determination if the City considers the case to have been decided adverse to medical evidence or the law. The costs as of 5-31-18 is \$18,604.67.

RECOMMENDED ACTION:

Approve the professional services agreement for the fiscal year July 1, 2018 through June 30, 2019, with Mr. Michael Gilliard to provide representation on workers' compensation cases.

Fiscal Impact**Attachments**Agreement

RETAINER AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made and entered into this 1st day of July, 2018, between the CITY OF MUSKOGEE, hereinafter referred to as "City" and The Blanchard Law Firm, hereinafter referred to as "Firm" and supersedes any previous agreement between the parties.

WHEREAS, it is in the best interest of the City that Mr. Michael D. Gilliard a member of the Firm be retained to represent the City in defense of workers' compensation claims filed against the City; and

WHEREAS, the Firm has agreed to provide legal counsel to represent the City in defense of workers' compensation claims filed against the City; and the Firm desires to enter into a retainer agreement.

Now, therefore, in consideration of the mutual covenants and agreements set forth herein, it is mutually agree between the parties as follows:

ARTICLE I, COMMENCEMENT AND TERMINATION

1.01 This agreement shall become effective July 1, 2018, and shall expire June 30, 2019.

1.02 The agreement may be terminated by the mutual consent of the parties, or by either party, with or without cause, by one party giving the other party at least sixty (60) days notices in advance of the date of termination.

1.03 The Firm shall continue to represent the City on claims assigned to the Firm prior to the expiration or termination date of this agreement. Compensation for the continuing legal services will be t the rates specified in Article III.

ARTICLE II, LEGAL SERVICES

2.01 Firm agrees to provide the following legal services;

A. Defending and workers' compensation claims contested by the City or for which permanent disability or disfigurement compensation is sought, suits, or other proceedings brought under the Workers Compensation Act against the City; appearing before the Workers Compensation Court, Court en Banc, and the appellate courts of the State of Oklahoma;

B. Preparation of all necessary pleadings and forms for submission to the Workers' Compensation Court, Court En Banc and state appellate courts.

C. Preparation for defense of workers; compensation claims; including investigations and depositions, and such other preparation felt necessary in the professional judgment of the Firm, and arranging for documentary and testamentary evidence in cooperation with the City's Workers' Compensation Administrator (Administrator) and the City of Muskogee Safety and Risk Officer. With the exception that the claimant will be routinely deposed for claims contested by the City, Firm shall consult with the City Attorney prior to taking other depositions;

D. Preparation of trial and appellate briefs, and presenting oral arguments before appellate courts as required;

E. Negotiating or otherwise effecting the settlement of workers' compensation claims or suits. Firm's authority to settle is subject to the approval of the City Attorney;

F. Firm shall use their professional judgment and discretion on behalf of the City's best interest regarding the use of such legal services, and shall confer and cooperate with the Administrator on matters relating to pending claims;

G. Firm agrees to assist the City Attorney and the City of Muskogee in developing new methods to further reduce the City's obligations and exposure to workers' compensation claims, including legal fees;

H. Firm agrees to submit clear and accurate statements to the Administrator on a timely basis for all services rendered pursuant to this agreement.

2.02 Firm agrees to cooperate in the following manner with the City of Muskogee and the Administrator or its successor, if any:

A. Assisting the Administrator in the preparation of all documents for the payments of compromise settlements and orders;

B. Assisting the Administrator in the preparation of reports to the City regarding workers' compensation claims;

C. Assisting the Administrator and the City Attorney's office in the processing of all documents required by the City for authorization of judgments and the payments thereof;

D. Assisting the Administrator in conducting and directing investigations deemed necessary for the defense of such workers' compensation claims.

ARTICLE III, FEES

3.01 The parties mutually agree the fees for legal services to be provided pursuant to this agreement shall be at the rates shown on the attached exhibit titled "Fee and Expense Schedule".

ARTICLE IV, MALPRACTICE INSURANCE

4.01 The Firm shall provide to the City Attorney certificates of malpractice insurance on form approved by the State Insurance Commissioner. Firm agrees to maintain malpractice insurance current at all times during the effective dates of this agreement.

ARTICLE V, INDEPENDENT CONTRACTOR

5.01 Firm is an independent contractor and not an employee of the City

ARTICLE VI, ERRORS AND OMISSIONS

6.01 No accidental errors or omissions upon the part of either party shall relieve the other party of its responsibilities under this agreement, provided such errors or omissions are rectified as soon as possible after discovery, provided that the Firm shall

be held accountable for any deliberate or willful failure to carry out the instructions of the City or the City Attorney with respect to any specific matter.

ARTICLE VII, HOLD HARMLESS

7.01 The Firm shall defend, indemnify and save harmless the City from and all claims and causes of action brought against the City, its officials and employees for damages or injury to any person or property arising out of or in connection with the negligent performance or negligent acts of the Firm or employees of the Firm performing under the terms of this agreement.

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

CITY OF MUSKOGEE, OKLAHOMA
A Municipal Corporation

By: _____
JOHN R. COBURN., MAYOR

ATTEST:

TAMMY L. TRACY, CITY CLERK

Approved as to form and legality this _____ day of _____ 2018.

ROY D. TUCKER, CITY ATTORNEY

THE BLANCHARD
LAW FIRM

By: _____

MICHAEL D. GILLIARD

FEE AND EXPENSE SCHEDULE

FEES

Fee charges shall be billed to the City through the Administrator at the following rates:

1. Firm shall represent the City at the billable rate of \$125.00 per hour for legal services provided by Michael D. Gilliard.
2. The Firm shall bill actual time for file opening at the rate of \$90.00 per hour paralegal time.
3. The Firm shall bill the City for other paralegal time spent on a file at the rate of \$90.00 per hour.
4. Unrepresented Joint Petition at the flat rate of \$400.00
5. Unrepresented agreed orders at the flat rate of \$150.00

EXPENSES

The following expenses shall be billed directly to the City through the Administrator:

1. Actual telephone expenses for long distance telephone calls,
2. Photocopy expenses at the rate paid by the firm not to exceed \$.15 per page.
3. Mileage in Tulsa, No Charge.
Mileage out of town:
Mileage will be charged at the standard government rate
Turnpike Tolls at the actual rate paid for travel on Oklahoma turnpikes
Parking fees if any at the amount actually paid
Attorney's Fee at the hourly rate
Trips from Tulsa to Muskogee not to exceed 2 hours travel time round trip
Trips from Tulsa to Oklahoma City not to exceed 4 hours travel time round trip
4. Postage, No charge for standard US Mail, Certified or express mail at the rate paid
5. Filing fees to be billed to the City through the Administrator

Regular City Council

4.

Meeting Date: 06/25/2018

Submitted For: Roy Tucker, City Attorney

Initiator: Leslie Arnold,
Attorney Secretary

Department: City Attorney

Staff Information Source: City Attorney

Information

AGENDA ITEM TITLE:

Approval of a Professional Service Agreement beginning July 1, 2018 ending June 30, 2019, with Mr. Michael Finerty, Attorney at Law, to provide representation for the City of Muskogee in Workers' Compensation Court, or take other necessary action. (Roy D. Tucker)

BACKGROUND:

The City Attorney's Office seeks to engage Mr. Finerty to assist in handling cases before the Oklahoma Worker's Compensation Court. For the last several years, these cases have been handled exclusively by Mike Gilliard; however, Mr. Gilliard has recently closed his firm and has accepted employment with another firm. Mr. Gilliard's new firm is not exclusively dedicated to workers compensation claims, so availability and potential conflicts of interest may arise. Therefore, in order to be prudent, it is necessary to engage Mr. Finerty.

The addition of Mr. Finerty will have no impact to the budget.

RECOMMENDED ACTION:

Approve the professional services agreement for the fiscal year July 1, 2018 through June 30, 2019, with Mr. Michael Finerty to provide representation on workers' compensation cases.

Fiscal Impact

Attachments

Agreement

RETAINER AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made and entered into this 1st day of July, 2018, between the CITY OF MUSKOGEE, hereinafter referred to as "City" and Michael A. Finerty, hereinafter referred to as "Firm" and supersedes any previous agreement between the parties.

WHEREAS, it is in the best interest of the City that Mr. Michael A. Finerty, attorney at law, be retained to represent the City in defense of workers' compensation claims filed against the City; and

WHEREAS, Michael A. Finerty has agreed to provide legal counsel to represent the City in defense of workers' compensation claims filed against the City; and Michael A. Finerty desires to enter into a retainer agreement.

Now, therefore, in consideration of the mutual covenants and agreements set forth herein, it is mutually agree between the parties as follows:

ARTICLE I, COMMENCEMENT AND TERMINATION

- 1.01 This agreement shall become effective July 1, 2018, and shall expire June 30, 2019.
- 1.02 The agreement may be terminated by the mutual consent of the parties, or by either party, with or without cause, by one party giving the other party at least sixty (60) days notices in advance of the date of termination.
- 1.03 Michael A. Finerty shall continue to represent the City on claims assigned to the Firm prior to the expiration or termination date of this agreement. Compensation for the continuing legal services will be t the rates specified in Article III.

ARTICLE II, LEGAL SERVICES

- 2.01 Michael A. Finerty agrees to provide the following legal services;
 - A. Defendant and workers' compensation claims contested by the City or for which permanent disability or disfigurement compensation is sought, suits, or other proceedings brought under the Workers Compensation Act against the City; appearing before the Workers

Compensation Court, Court en Banc, and the appellate courts of the State of Oklahoma and Workers' Compensation Commission.

B. Preparation of all necessary pleadings and forms for submission to the Workers' Compensation Court, Court En Banc, State Appellate Courts, and the Workers' Compensation Commission.

C. Preparation for defense of workers; compensation claims; including investigations and depositions, and such other preparation felt necessary in the professional judgment of the Michael A. Finerty, and arranging for documentary and testimonial evidence in cooperation with the City's Workers' Compensation Administrator (Administrator) and the City of Muskogee Safety and Risk Officer. With the exception that the claimant will be routinely deposed for claims contested by the City, Michael A. Finerty shall consult with the City Attorney prior to taking other depositions;

D. Preparation of trial and appellate briefs, and presenting oral arguments before appellate courts as required;

E. Negotiating or otherwise effecting the settlement of workers' compensation claims or suits. Michael A. Finerty's authority to settle is subject to the approval of the City Attorney and also subject to the approval of the City Council for the City of Muskogee;

F. Michael A. Finerty shall use his professional judgment and discretion on behalf of the City's best interest regarding the use of such legal services, and shall confer and cooperate with the Administrator on matters relating to pending claims;

G. Michael A. Finerty agrees to assist the City Attorney and the City of Muskogee in developing new methods to further reduce the City's obligations and exposure to workers' compensation claims, including legal fees;

H. Michael A. Finerty agrees to submit clear and accurate statements to the Administrator on a timely basis for all services rendered pursuant to this agreement.

2.02 Michael A. Finerty agrees to cooperate in the following manner with the City of Muskogee and the Administrator or its successor, if any:

A. Assisting the Administrator in the preparation of all documents for the payments of compromise settlements and orders;

B. Assisting the Administrator in the preparation of reports to the City regarding workers' compensation claims;

C. Assisting the Administrator and the City Attorney's office in the processing of all documents required by the City for authorization of judgments and the payments thereof;

D. Assisting the Administrator in conducting and directing investigations deemed necessary for the defense of such workers' compensation claims.

ARTICLE III, FEES

3.01 The parties mutually agree the fees for legal services to be provided pursuant to this agreement shall be at the rates shown on the attached exhibit titled "Fee and Expense Schedule".

ARTICLE IV, MALPRACTICE INSURANCE

4.01 Michael A. Finerty shall provide to the City Attorney certificates of malpractice insurance on form approved by the State Insurance Commissioner. Michael A. Finerty agrees to maintain malpractice insurance current at all times during the effective dates of this agreement.

ARTICLE V, INDEPENDENT CONTRACTOR

5.01 Michael A. Finerty is an independent contractor and not an employee of the City

ARTICLE VI, ERRORS AND OMISSIONS

6.01 No accidental errors or omissions upon the part of either party shall relieve the other party of its responsibilities under this agreement, provided such errors or omissions are rectified as soon as possible after discovery, provided that Michael A. Finerty shall be held accountable for any deliberate or willful failure to carry out the instructions of the City or the City Attorney with respect to any specific matter.

ARTICLE VII, HOLD HARMLESS

7.01 Michael A. Finerty shall defend, indemnify and save harmless the City from and all claims and causes of action brought against the City, its officials and employees for damages or injury to any person or property arising out of or in connection with the negligent performance or negligent acts of Michael A. Finerty or employees of Michael A. Finerty performing under the terms of this agreement.

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

CITY OF MUSKOGEE, OKLAHOMA
A Municipal Corporation

By: _____
JOHN R. COBURN., MAYOR

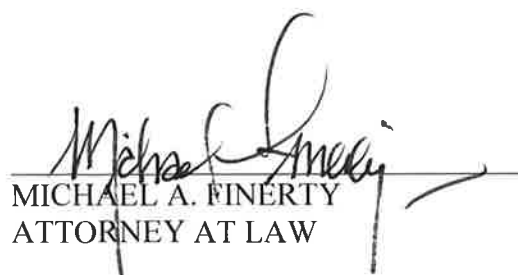
ATTEST:

TAMMY L. TRACY, CITY CLERK

Approved as to form and legality this ____ day of _____ 2018.

ROY D. TUCKER, CITY ATTORNEY

By:



MICHAEL A. FINERTY
ATTORNEY AT LAW

FEE AND EXPENSE SCHEDULE

FEES

Fee charges shall be billed to the City through the Administrator at the following rates:

1. Michael A. Finerty shall represent the City at the billable rate of \$115.00 per hour for legal services provided by Michael A. Finerty.
2. Michael A. Finerty shall bill actual time for file opening at the rate of \$66.00 per hour paralegal time.
3. Michael A. Finerty shall bill the City for other paralegal time spent on a file at the rate of \$66.00 per hour.
4. Unrepresented Joint Petition at the flat rate of \$250.00
5. Unrepresented agreed orders at the flat rate of \$150.00

EXPENSES

The following expenses shall be billed directly to the City through the Administrator:

1. Actual telephone expenses for long distance telephone calls,
2. Photocopy expenses at the rate paid by Michael A. Finerty not to exceed \$.15 per page.
3. Mileage to Tulsa/Oklahoma City for Court, depositions or mediations.
Mileage out of town:
Mileage will be charged at the standard government rate
Turnpike Tolls at the actual rate for travel on Oklahoma turnpikes
Parking fees if any at the amount actually paid
Attorney's Fee at the hourly rate
Trips from Muskogee to Oklahoma City not to exceed 4 hours
travel time round trip
4. Postage, No charge for standard US Mail, Certified or express mail at the rate paid
5. Filing fees to be billed to the City through the Administrator

Regular City Council**5.****Meeting Date:** 06/25/2018**Submitted For:** Roy Tucker, City Attorney**Initiator:** Leslie Arnold,
Attorney Secretary**Department:** City Attorney**Staff Information Source:** City Attorney

Information**AGENDA ITEM TITLE:**

Approval of a Professional Service Agreement with Betty Outhier Williams to provide representation for the City of Muskogee in four (4) inverse condemnation lawsuits filed in Muskogee County District Court styled England v. City of Muskogee, Case No. CV-2007-20; Lacey v. City of Muskogee, Case No. CV-2007-1377; Taff v. City of Muskogee, Case No. CJ-2007-1410; Vaughn v. City of Muskogee, Case No. CJ-2007-1371; and authorize the Mayor and City Clerk to execute the agreement, or take other necessary action. (Roy D. Tucker)

BACKGROUND:

In 2007, four lawsuits were filed in Muskogee County District Court demanding damages arising from alleged unlawful takings by the City on the structures owned individually by Plaintiffs, England, Taff, Vaughn, and Lacey. These structures were each condemned and demolished pursuant to City Code and state law for dilapidated structures. This is a renewal of an agreement that expires on June 30, 2018. The attached agreement provides for representation of the four lawsuits. Each lawsuit alleges similar acts by the City and is subject to similar defenses.

RECOMMENDED ACTION:

Approve the Professional Services Agreement with Betty Outhier Williams to provide representation for the City of Muskogee in four inverse condemnation lawsuits filed in Muskogee County District Court styled England v. City of Muskogee, Case No. CV-2007-20; Lacey v. City of Muskogee, Case No. CV-2007-1377; Taff v. City of Muskogee, Case No. CJ-2007-1410; Vaughn v. City of Muskogee, Case No. CJ-2007-1371; and authorize the Mayor and City Clerk to execute the agreement.

Fiscal Impact**Attachments**Agreement

RETAINER AGREEMENT FOR PROFESSIONAL SERVICES

On this ____ day of _____, 2018, the "Client", City of Muskogee, Oklahoma, and the "Attorney" Betty Outhier Williams of the "Firm" Betty Outhier Williams Law Office, enter into the following agreement for Client to retain the services of the Firm to represent the client specifically including but not limited to, four (4) inverse condemnation law suits presently pending in Muskogee County District Court¹. This agreement supersedes and makes more specific all previous agreements between the parties.

1. Scope. Firm shall provide those legal services reasonably required to represent client and shall take reasonable steps to keep client informed of progress and to respond to client's inquiries. Firm's services will include all attorney functions in defending the above-described lawsuits, as well as in keeping client fully informed of what is going on in the cases.

2. Clients' Duties. In order to adequately represent Client, it is important that Client be truthful with Attorney, cooperate with Attorney, keep Attorney informed of developments, abide by this agreement, pay Firm's bills on time and keep Firm advised of employee contacts and witnesses' current address and telephone number.

3. Legal Fees. Client agrees to pay each month for any legal services based upon the Firm's standard legal billing rates. Billable time shall include preparation, research, and travel time. The firm's hourly billing rates, at this time, are as follows: \$175.00 per hour for work performed by Betty Outhier Williams. Client understand that such rates may increase in the future; Firm agrees that Client will be notified of any raise in rate prior to the raise taking effect. Billable time will be charged in minimum 0.1 unit of time (6 minutes).

4. Costs and Expenses. In addition to the above fee, Client agrees to reimburse firm for costs and expenses incurred in connection with Attorney's representation of Client, including fees fixed by law or assessed by public agencies, long distance telephone calls, messenger or delivery fees, postage expenses, in-office photocopying at \$.15 per page, parking, mileage at \$.555 per mile (to change as the IRS approved travel rate changes) and investigation expenses..

5. Termination. Client is free to consult with another attorney at any time, and Client may discharge the Firm as Client's Attorney at any time. The Firm may withdraw from representing Client with Client's consent or for good cause. Good cause includes Client's breach of this agreement, Client's refusal to cooperate with Firm or to follow Attorney's advice on a material matter or any other fact or circumstance that would render attorney's continuing representation unlawful or unethical.

¹ The four inverse condemnation lawsuits are as follows:
England v City of Muskogee, No. CJ-2007-20, Muskogee County
Lacey v City of Muskogee, No. CV-07-1377, Muskogee County
Taff v City of Muskogee, No. CJ-2007-1410, Muskogee County
Vaughn v City of Muskogee, No. CJ-2007-1371, Muskogee County

6. Disclaimer of Guarantee. Client understand that nothing in this agreement and nothing in Attorney's statements to Client are to be construed as a promise or guarantee about the outcome of any of client's matters. Firm makes no such promises or guarantees. Attorney's comments about the outcome of Client's matters are expressions of opinion only. The Firm agrees to hold harmless the Client and indemnify it from any liability, suit, cause of action, or other legal proceedings which may be brought or claimed against the Client as a result of Firm's performance under this Agreement.

7. Independent Contractor. It is understood and agreed, with respect to the services the Firm shall render pursuant to this contract, that the Firm will perform such services exclusively as an independent contractor and not as an agent or employee of the Client.

8. Confidentiality. The Firm will hold in a fiduciary capacity for the benefit of the Client all confidential information and data relating to the Client, which shall have been obtained by the Firm during the term of this Agreement. The terms of the confidentiality statement shall not apply to any information that becomes a part of the public record.

9. Non-assignability. The rights and obligations of the Firm hereunder are not assignable and cannot be delegated, as the Firm has unique skills and abilities and specific performance is necessary. Any such purported assignment or delegation without the written consent of the Client shall be void and, at the option of the Client, this Agreement shall be terminated.

10. Contact. The City Attorney for the City of Muskogee shall be the Client representative for all matters pertaining to this Agreement.

11. Term of Agreement. This Agreement shall commence on July 1, 2018 and shall remain in full force and effect through June 30, 2019, unless the requested services are completed prior to that date. This agreement shall be renewed for additional one year terms under the same terms and conditions unless either party notifies the other that this agreement shall terminate. Upon termination of this Agreement, Attorney shall immediately deliver all materials belonging to the Client and a copy of all pleadings filed in the case, and all documents that have been developed through the cases to the City Attorney, which shall become the property of the Client.

12. Amendment. This Agreement may be amended, in writing, by mutual consent of the parties.

BETTY OUTHIER WILLIAMS LAW OFFICE


BETTY OUTHIER WILLIAMS

CITY OF MUSKOGEE, OKLAHOMA
a municipal corporation

JOHN R. COBURN, Mayor

ATTEST:

TAMMY L. TRACY, City Clerk

Approved as to form and legality this _____ day of _____, 2018.

ROY D. TUCKER, City Attorney

Regular City Council**6.****Meeting Date:** 06/25/2018**Submitted For:** Roy Tucker, City Attorney**Initiator:** Leslie Arnold,
Attorney Secretary**Department:** City Attorney**Staff Information Source:** City Attorney

Information**AGENDA ITEM TITLE:**

Approval to renew a Professional Service Agreement with Cate and Hammons Law Firm to provide representation for the City of Muskogee in seven (7) inverse condemnation lawsuits filed in Muskogee County District Court; Michael & Lori Carmen v. City of Muskogee, Case No. CJ-2011-168; Stanley & Linda Clark v. City of Muskogee, Case No. CJ-2011-164; W.C. Cochran v. City of Muskogee, Case No. CJ-2011-466; Harold & LeAnne Cox v. City of Muskogee, Case No. CJ-2011-465; Jerry & Marie Maxey v. City of Muskogee, CJ-11-469, Bobby & Linda Scoggins v. City of Muskogee, CJ-11-467; Crystal Thompson v. City of Muskogee, CJ-11-478, and the Civil case titled Lois Ivey v City of Muskogee, CV-07-1730, and authorize the Mayor and City Clerk to execute the agreement. (Roy D. Tucker)

BACKGROUND:

In 2007, 2011 & 2012, these lawsuits were filed in Muskogee County District Court demanding damages arising from alleged unlawful takings by the City on properties that are individually owned by Defendant. This is a renewal of an agreement that expires on June 30, 2019. The attached agreement provides for representation of the eight lawsuits.

RECOMMENDED ACTION:

Approve a Professional Services Agreement with Cate and Hammons Law Firm to provide representation for the City of Muskogee in seven condemnation lawsuits, and the Lois Ivey case, and authorize the Mayor and City Clerk to execute the agreement.

Fiscal Impact**Attachments**Agreement

RETAINER AGREEMENT BETWEEN CLIENT AND ATTORNEY

On this _____ day of _____, 2018, the "Client", City of Muskogee, Oklahoma, and the "Attorney" Cliff Cate of the "Firm" Cate and Hammons Law Office, enter into the following agreement for Client to retain the services of the Firm to represent the client in the projects commonly known as the Meadows subdivisions lawsuits, and the Lois Ivey civil case. This agreement supercedes and makes more specific all previous agreements between the parties.

1. Scope. Firm shall provide those legal services reasonably required to represent client and shall take reasonable steps to keep client informed of progress and to respond to client's inquiries. Firm's services will include all attorney functions in defending the above-described lawsuits, as well as in keeping client fully informed of what is going on in the cases.

2. Clients' Duties. In order to adequately represent Client, it is important that Client be truthful with Attorney, cooperate with Attorney, keep Attorney informed of developments, abide by this agreement, pay Firm's bills on time and keep Firm advised of employee contacts and witnesses' current address and telephone number.

3. Legal Fees. Client agrees to pay each month for any legal services based upon the Firm's standard legal billing rates. Billable time shall include preparation, research, and travel time. The firm's hourly billing rates, at this time, are as follows: \$210.00 per hour. Client understand that such rates may increase in the future; Firm agrees that Client will be notified of any raise in rate prior to the raise taking effect. Billable time will be charged in minimum 0.1 unit of time (12 minutes).

4. Costs and Expenses. In addition to the above fee, Client agrees to reimburse firm for costs and expenses incurred in connection with Attorney's representation of Client, including fees fixed by law or assessed by public agencies, long distance telephone calls, messenger or delivery fees, postage expenses, in-office photocopying at \$.10 per copy, parking, mileage at \$.54 per mile (to change as the IRS approved travel rate changes) and investigation expenses..

5. Termination. Client is free to consult with another attorney at any time, and Client may discharge the Firm as Client's Attorney at any time. The Firm may withdraw from representing Client with Client's consent or for good cause. Good cause includes Client's breach of this agreement, Client's refusal to cooperate with Firm or to follow Attorney's advice on a material matter or any other fact or circumstance that would render attorney's continuing representation unlawful or unethical.

6. Disclaimer of Guarantee. Client understand that nothing in this agreement and nothing in Attorney's statements to Client are to be construed as a promise or guarantee about the outcome of any of client's matters. Firm makes no such promises or guarantees. Attorney's comments about the outcome of Client's matters are expressions of opinion only. The Firm agrees to hold harmless the Client and indemnify it from any liability, suit, cause of action, or other legal proceedings which may be brought or claimed against the Client as a result of

Firm's performance under this Agreement.

7. Independent Contractor. It is understood and agreed, with respect to the services the Firm shall render pursuant to this contract, that the Firm will perform such services exclusively as an independent contractor and not as an agent or employee of the Client.

8. Confidentiality. The Firm will hold in a fiduciary capacity for the benefit of the Client all confidential information and data relating to the Client, which shall have been obtained by the Firm during the term of this Agreement. The terms of the confidentiality statement shall not apply to any information that becomes a part of the public record.

9. Non-assignability. The rights and obligations of the Firm hereunder are not assignable and cannot be delegated, as the Firm has unique skills and abilities and specific performance is necessary. Any such purported assignment or delegation without the written consent of the Client shall be void and, at the option of the Client, this Agreement shall be terminated.

10. Contact. The City Attorney for the City of Muskogee shall be the Client representative for all matters pertaining to this Agreement.

11. Term of Agreement. This Agreement shall commence on July 1, 2018 and shall remain in full force and effect through June 30, 2019, unless the requested services are completed prior to that date. This agreement shall be renewed for additional one year terms under the same terms and conditions unless either party notifies the other that this agreement shall terminate. Upon termination of this Agreement, Attorney shall immediately deliver all materials belonging to the Client and a copy of all pleadings filed in the case, and all documents that have been developed through the cases to the City Attorney, which shall become the property of the Client.

12. Amendment. This Agreement may be amended, in writing, by mutual consent of the parties.

Approved this _____ day of _____, 2018.

Cliff Cate

JohnTyler Hammons

CITY OF MUSKOGEE, OKLAHOMA
A Municipal Corporation

By: _____
JOHN R. COBURN, MAYOR

ATTEST:

TAMMY L. TRACY, CITY CLERK

Approved as to form and legality this _____ day of _____ 2018.

ROY D. TUCKER, CITY ATTORNEY

Regular City Council

7.

Meeting Date: 06/25/2018

Submitted For: Roy Tucker, City Attorney

Initiator: Leslie Arnold,
Attorney Secretary

Department: City Attorney

Staff Information Source: City Attorney

Information

AGENDA ITEM TITLE:

Approval to renew the municipal liability insurance contract with Oklahoma Municipal Assurance Group in the amount of \$251,710.00 for policy year July 1, 2018 through June 30, 2019, or take other necessary action. (Roy D. Tucker)

BACKGROUND:

The City's current policy of liability insurance expires at midnight on June 30, 2018. Oklahoma Municipal Assurance Group (OMAG) is asking for renewal for the municipality policy in the amount of \$251,710.00, which is an increase from the previous fiscal year, due to a higher volume of claims experience, and insurance ratings. There is no deductible for claims made for employee benefit administration, for bodily injury or property damage. All other claims have a policy deductible of \$1,000.00. The City Attorney's Office recommends accepting this renewal.

RECOMMENDED ACTION:

Award the municipal liability insurance renewal contract to Oklahoma Municipal Assurance Group in the amount of \$251,710.00 for policy year July 1, 2018 through June 30, 2019.

Fiscal Impact

Attachments

Declarations Page



3650 S. Boulevard • Edmond, OK 73013 • omag.org
405.657.1400 • 800.234.9461 • FAX 405.657.1401

Municipal Liability Protection Plan Declarations Page

1. PLAN MEMBER
and Mailing Address

CITY OF MUSKOGEE
P.O. BOX 1927
MUSKOGEE OK 74402-1927

AGREEMENT NUMBER
GLA 1400532 01

2. Plan Period From 12:01 A.M. Central Standard Time at the address of the Plan Member
From **07/01/2018** to **07/01/2019**

3. The Plan Member is a(n) **MUNICIPALITY**

4. The Coverage afforded by this agreement is only with respect to the following coverages as are indicated by specific limits of coverage, for which a premium is charged.

COVERAGE

PREMIUM

GENERAL LIABILITY (PARTS I, IV, AND V)

- | | |
|-------------------------|---------------------------------|
| A. Bodily Injury | B. Property Damage |
| C. Personal Injury | D. Errors and Omissions |
| I. Pollution Damage | J. Defense Reimbursement |
| K. Cyber / Data Breach | L. Uncovered Employment Defense |
| [] Prior Acts Coverage | |

\$222,814

Coverages A,B,C,D,I,J,K,L

AUTOMOBILE LIABILITY (PART II)

- | | |
|-------------------------------|--------------------|
| E. Bodily and Personal Injury | F. Property Damage |
|-------------------------------|--------------------|

\$11,742

Coverages E,F

[X] Hired and Non-owned Automobile Coverage

\$159

Hired and Non-owned

AUTOMOBILE & EQUIPMENT PHYSICAL DAMAGE (PART III)

- | | |
|-------------------------------|----------------------|
| G. Automobile Physical Damage | |
| 1. Comprehensive | } Per fleet schedule |
| 2. Specified Perils | |
| 3. Collision | |

\$14,636

Coverages G

[X] Hired Auto Physical Damage Limit: **\$150,000**

Included

Hired Auto Physical Damage

\$2,359

Coverages H

H. Equipment Physical Damage - Per equipment schedule

[] Mobile Equipment Leased/Rented Limit: **\$0**

\$0

Mobile Leased/Rented

5. LIMITS OF LIABILITY, except for Coverages G,H,I,J,L

Losses subject to the OKLAHOMA GOVERNMENTAL TORT CLAIMS ACT:

\$ 25,000 Each Property Damage Loss Per Occurrence, including Fire Legal

\$ 125,000 Each Other Loss Per Occurrence

\$ 1,000,000 Aggregate Per Occurrence

Losses not subject to the OKLAHOMA GOVERNMENTAL TORT CLAIMS ACT:

\$ 10,000 Medical Payments for Volunteers Per Loss

\$ 1,000,000 Each Other Loss Per Occurrence

Cyber Coverage: See Limits on Cyber / Data Breach Declaration Page

Annual Aggregate

\$ 2,000,000 Coverages C,D

\$ 10,000 Coverage J

\$251,710

Total Premium

(This is not an invoice)

6. DEDUCTIBLES

Coverages A,B,E,F,L: No Deductible, except for sanitary sewer overflows and electrical disruptions, which are subject to the deductible of coverages C & D.

Coverages C,D: **\$1,000** Per Occurrence

Coverages G,H: Per Schedule or Endorsement

Coverage I: \$1,000 Per Pollution Incident

Coverage J: \$5,000 SIR

Coverage K: Per Applicable Cyber / Data Breach Deductible

7. This agreement is composed of this Declaration Page, Schedules, Forms and Endorsements, if any.

OMAG Representative

06/08/2018

Date



3650 S. Boulevard • Edmond, OK 73013 • omag.org
405.657.1400 • 800.234.9461 • FAX 405.657.1401

Municipal Liability Protection Plan

ADDITIONAL NAMED PLAN MEMBERS

MUSKOGEE MUNICIPAL AUTHORITY
MUSKOGEE PARKING AUTHORITY
MUSKOGEE INDUSTRIAL TRUST
CITY OF MUSKOGEE URBAN RENEWAL
MUSKOGEE REDEVELOPMENT AUTHORI
MUSKOGEE WAR MEMORIAL PARK AUT

Regular City Council

8.

Meeting Date: 06/25/2018

Submitted For: Roy Tucker, City Attorney

Initiator: Leslie Arnold,
Attorney Secretary

Department: City Attorney

Staff Information Source: City Treasurer

Information

AGENDA ITEM TITLE:

Approval to renew the municipal property and rolling stock insurance from Oklahoma Municipal Assurance Group (OMAG) in the amount of \$177,410.00, for policy year July 1, 2018 through June 30, 2019, or take other necessary action. (Jean Kingston)

BACKGROUND:

The City's current policy of property and rolling stock insurance expires at midnight on June 30, 2018. OMAG is asking for renewal for the municipality policy in the amount of \$177,410.00, which is a decrease from the previous fiscal year, due to the Honeywell equipment insurance requirement falling off the policy. All claims have a \$5,000.00 deductible.

RECOMMENDED ACTION:

Accept the quote from OMAG for \$177,410.00 with a \$5,000.00 deductible.

Fiscal Impact

Attachments

No file(s) attached.

Regular City Council**9.**

Meeting Date: 06/25/2018

Submitted For: Greg Riley, Public Works Initiator: Prag Mahajan, Civil Engineer II

Department: Public Works

Staff Information Source: Greg Riley, Director of Public Works; George Kingston, Assistant Director of Operations ; Prag Mahajan Civil Engineer; Donnie Wimbley Purchasing Director; Jessica Zwirtz, CAD Tech , Jay Updike, HUB

Information**AGENDA ITEM TITLE:**

Approval of awarding construction contract to Tonto Construction Inc., for the Junction Area Wastewater Collection System Improvements in the amount of \$249,690.00, as the lowest best bid, or take other necessary action. (Greg Riley)

BACKGROUND:

The City advertised and solicited for Bid proposals and received four (4) proposals.

1. Tonto Construction
2. PM Construction & Rehab LLC
3. Sapulpa Digging Inc.
4. Horseshoe Construction Inc.

Bid proposal submitted by Tonto was most complete, economical and responsive and meets the requirements for the City

Bid Tab sheet is attached along with unit price comparison for your reference

This work is being completed as part of the OWRB loan for sewer collection system.

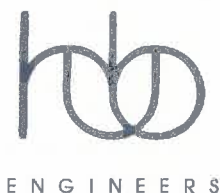
RECOMMENDED ACTION:

Approve award of a construction contract to Tonto Construction Inc. for the Junction Area wastewater collection system improvements in the amount of \$249,690.00 as per the unit prices submitted in their bid, or take other necessary action.

Fiscal Impact**Attachments**

Rec letter

Bid Tab



HOLLOWAY, UPDIKE AND BELLEN, INC.

818 East Side Boulevard
Post Office Box 1543
Muskogee, Oklahoma 74402
(918) 682-7811
(918) 682-4551 Fax

June 8, 2018

Mr. Greg Riley
Public Works Director
City of Muskogee
301 South Cherokee
Muskogee, OK 74403

Re: Wastewater Improvements
Junction Area Sewer Line Rehabilitation

Dear Mr. Riley:

We have tabulated the bids received on June 7, 2018 on the above referenced project. A copy of the bid tabulation is attached.

Tonto Construction, Inc. was the lowest bidder and in our opinion they are capable of performing the work and should be considered for award of the contract in the amount of \$249,690.00.

Sincerely,

HOLLOWAY, UPDIKE AND BELLEN, INC.



Jay Updike
President

JU:mm 17MUSJUNCSWR

BID TABULATION Wastewater Improvements Junction Area Sewer Line Rehabilitation CWSRF Project No. ORF-17-0019-CW Muskogee Municipal Authority Muskogee, Oklahoma HUB Project No. 17MUSJUNCSWR June 7, 2018 11:00 am				ENGINEER'S ESTIMATE Holloway, Updike and Bellen, Inc. PO Box 1543 Muskogee, OK 74402		CONTRACTOR Tonto Construction, Inc. 8101 W 33rd St S Muskogee, OK 74401		CONTRACTOR PM Construction & Rehab, LLC 131 N Richey Street Pasadena, TX 77506		CONTRACTOR Sapulpa Digging, Inc. PO Box 1105 Sapulpa, OK 74067		CONTRACTOR Horseshoe Construction, Inc. 2309 S Battleground Rd LaPorte, TX 77571	
				TOTAL	\$275,000.00	TOTAL	\$249,690.00	TOTAL	\$284,870.00	TOTAL	\$289,563.00	TOTAL	\$314,775.00
ITEM NO.	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
	<i>Bid Schedule</i>												
1	Pipe Burst with 18" HDPE DR 17 or Open Cut and Replace with 18" PVC DR 35	621	LF			130.00	\$80,730.00	170.00	\$105,570.00	179.00	\$111,159.00	195.00	\$121,095.00
2	Pipe Burst with 20" HDPE DR 17 or Open Cut and Replace with 21" PVC DR 35	568	LF			170.00	\$96,560.00	200.00	\$113,600.00	178.00	\$101,104.00	235.00	\$133,480.00
3	5' Diameter Manhole	3	EA			10,000.00	\$30,000.00	7,900.00	\$23,700.00	6,500.00	\$19,500.00	4,500.00	\$13,500.00
4	Point Repair	2	EA			6,000.00	\$12,000.00	7,500.00	\$15,000.00	10,000.00	\$20,000.00	11,000.00	\$22,000.00
5	Storm Water Prevention Plan	1	LS			1,500.00	\$1,500.00	2,000.00	\$2,000.00	7,000.00	\$7,000.00	250.00	\$250.00
6	Service Line Reconnection	4	EA			1,600.00	\$6,400.00	250.00	\$1,000.00	200.00	\$800.00	550.00	\$2,200.00
7	Solid Slab Sod	500	SY			5.00	\$2,500.00	8.00	\$4,000.00	20.00	\$10,000.00	4.50	\$2,250.00
8	Allowance	1	LS			20,000.00	\$20,000.00	20,000.00	\$20,000.00	20,000.00	\$20,000.00	20,000.00	\$20,000.00

Regular City Council**10.**

Meeting Date: 06/25/2018

Submitted For: Greg Riley, Public Works Initiator: Prag Mahajan, Civil Engineer II

Department: Public Works

Staff Information Source: Greg Riley, Director of Public Works; George Kingston, Assistant Director of Operations ; Prag Mahajan Civil Engineer; Donnie Wimbley Purchasing Director; Jessica Zwirtz, CAD Tech , Jay Updike, HUB

Information**AGENDA ITEM TITLE:**

Approval of awarding construction contract to Cook Consulting LLC, for the Westside Area Wastewater Collection System Improvements in the amount of \$1,252,208.00, as the lowest best bid, or take other necessary action. (Greg Riley)

BACKGROUND:

The City advertised and solicited for Bid proposals and received four (4) proposals.

1. Cook Consulting LLC
2. Carstensen Contracting Inc.
3. Goodwin & Goodwin Inc.
4. Horseshoe Construction Inc.

Bid proposal submitted by Cook Consulting LLC was most complete, economical and responsive and meets the requirements for the City

Bid Tab sheet is attached along with unit price comparison for your reference.

This work is being completed as part of the OWRB Loan for sewer collection systems.

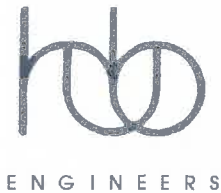
RECOMMENDED ACTION:

Approve award of a construction contract to Cook Consulting LLC for the Westside Area wastewater collection system improvements in the amount of \$1,252,208. 00 as per the unit prices submitted in their bid, or take other necessary action.

Fiscal Impact**Attachments**

Eng Rec letter

Bid Tab



HOLLOWAY, UPDIKE AND BELLEN, INC.

818 East Side Boulevard
Post Office Box 1543
Muskogee, Oklahoma 74402
(918) 682-7811
(918) 682-4551 Fax

June 8, 2018

Mr. Greg Riley
Public Works Director
City of Muskogee
301 South Cherokee
Muskogee, OK 74403

Re: Wastewater Improvements
Westside Collection System

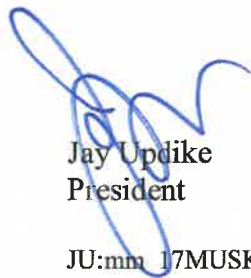
Dear Mr. Riley:

We have tabulated the bids received on June 7, 2018 on the above referenced project. A copy of the bid tabulation is attached.

Cook's Consulting, LLC was the lowest bidder and in our opinion they are capable of performing the work and should be considered for award of the contract in the amount of \$1,252,208.00.

Sincerely,

HOLLOWAY, UPDIKE AND BELLEN, INC.



Jay Updike
President

JU:mm 17MUSKWSES

BID TABULATION Wastewater Improvements Westside Collection System CWSRF Project No. ORF-17-0019-CW Muskogee Municipal Authority Muskogee, Oklahoma HUB Project No. 17MUSKWSSES June 7, 2018 11:00 am				ENGINEER'S ESTIMATE Holloway, Updike and Bellen, Inc. PO Box 1543 Muskogee, OK 74402		CONTRACTOR Cook's Consulting, LLC PO Box 10 Fort Gibson, OK 74434		CONTRACTOR Carstensen Contracting, Inc. 1507 7th Street SE Pipestone, MN 56164		CONTRACTOR Horseshoe Construction, Inc. 2309 S Battleground Road LaPorte, TX 77571		CONTRACTOR Goodwin & Goodwin, Inc. 3503 Free Ferry Rd Fort Smith, AR 72903	
				TOTAL	\$1,550,000.00	TOTAL	\$1,252,208.00	TOTAL	\$1,428,790.50	TOTAL	\$1,539,724.00	TOTAL	\$1,777,099.00
ITEM NO.	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
	<i>Bid Schedule</i>												
1	21" Gravity Sewer Line PVC DR 35	1040	LF			70.00	\$72,800.00	85.75	\$89,180.00	130.00	\$135,200.00	140.00	\$145,600.00
2	Pipe Bursting with 18" HDPE DR 17	341	LF			495.00	\$168,795.00	275.00	\$93,775.00	300.00	\$102,300.00	525.00	\$179,025.00
3	Pipe Bursting with 16" HDPE DR 17	2,110	LF			188.00	\$396,680.00	240.00	\$506,400.00	185.00	\$390,350.00	275.00	\$580,250.00
4	12" Force Main PVC DR 18	3360	LF			40.00	\$134,400.00	43.50	\$146,160.00	105.00	\$352,800.00	60.00	\$201,600.00
5	Boring and 36" Steel Casing (0.250" Wall)	40	LF			450.00	\$18,000.00	490.00	\$19,600.00	800.00	\$32,000.00	500.00	\$20,000.00
6	Boring and 20" Steel Casing (0.250" Wall)	250	LF			260.00	\$65,000.00	352.00	\$88,000.00	475.00	\$118,750.00	350.00	\$87,500.00
7	Air Release Valve	2	EA			6,950.00	\$13,900.00	19,900.00	\$39,800.00	22,000.00	\$44,000.00	6,000.00	\$12,000.00
8	Service Line Reconnection	30	EA			2,000.00	\$60,000.00	1,630.00	\$48,900.00	1,150.00	\$34,500.00	1,200.00	\$36,000.00
9	Manholes (5' Diameter)	12	EA			3,240.00	\$38,880.00	7,420.00	\$89,040.00	4,500.00	\$54,000.00	6,000.00	\$72,000.00
10	Asphalt or Concrete Pavement Removed and Replaced	300	LF			21.00	\$6,300.00	150.00	\$45,000.00	15.00	\$4,500.00	185.00	\$55,500.00
11	Tack Coat ODOT 407(B) 0250	934	GAL			5.50	\$5,137.00	7.00	\$6,538.00	20.00	\$18,680.00	6.00	\$5,604.00
12	Superpave, Type S4 (PG 64-22 OK) ODOT 411 (C) 5960	700	TONS			94.60	\$66,220.00	120.00	\$84,000.00	90.00	\$63,000.00	120.00	\$84,000.00
13	Cold Milling Pavement ODOT 412 5267	3846	SY			11.00	\$42,306.00	10.00	\$38,460.00	9.00	\$34,614.00	15.00	\$57,690.00
14	Patching ODOT SP	850	SY			55.00	\$46,750.00	48.00	\$40,800.00	50.00	\$42,500.00	105.00	\$89,250.00
15	Right-of-Way Restoration	6510	LF			4.00	\$26,040.00	1.25	\$8,137.50	3.00	\$19,530.00	8.00	\$52,080.00
16	Solid Slab Sod	4000	SY			4.00	\$16,000.00	2.50	\$10,000.00	4.50	\$18,000.00	6.00	\$24,000.00
17	Allowance	1	LS			75,000.00	\$75,000.00	75,000.00	\$75,000.00	75,000.00	\$75,000.00	75,000.00	\$75,000.00

Regular City Council**11.**

Meeting Date: 06/25/2018

Submitted For: Greg Riley, Public Works Initiator: Prag Mahajan, Civil Engineer II

Department: Public Works

Staff Information Source: Greg Riley, Director of Public Works; George Kingston, Assistant Director of Operations ; Prag Mahajan Civil Engineer; Donnie Wimbley Purchasing Director; Jessica Zwirtz, CAD Tech , Jay Updike, HUB

Information**AGENDA ITEM TITLE:**

Approval of awarding a construction contract to L & L Construction for the Phase I Wastewater Treatment Plant Improvements in the amount of \$2,843,375.00, as the lowest best bid, or take other necessary action. (Greg Riley)

BACKGROUND:

The City advertised and solicited for Bid proposals and received seven (7) proposals.

1. Cook Consulting LLC
2. L&L Construction Inc.
3. Crosland Heavy Contractors
4. BRB Contractors Inc.
5. Walters-Morgan construction Inc.
6. Wynn construction
7. JS Haren Company.

Bid proposal submitted by L & L Construction was most complete, economical and responsive and meets the requirements for the City

Bid Tab sheet is attached along with unit price comparison for your reference

This project is being completed as part of the OWRB Loan for sewer plant improvements.

RECOMMENDED ACTION:

Approve award of a construction contract to L & L Construction for the Phase 1 wastewater treatment plant improvements in the amount of \$2,843,375. 00 as per the unit prices submitted in their bid, or take other necessary action.

Fiscal Impact**Attachments**

Eng Rec Letter

Bid Tab



E N G I N E E R S

HOLLOWAY, UPDIKE AND BELLEN, INC.

905-A South 9th Street
Broken Arrow, OK 74012
(918) 251-0717
(918) 251-0754 Fax

818 East Side Boulevard
Post Office Box 1543
Muskogee, Oklahoma 74402
(918) 682-7811
(918) 682-4551 Fax

May 29, 2018

Mr. Greg Riley
Public Works Director
City of Muskogee
301 South Cherokee
Muskogee, OK 74403

Re: Wastewater Treatment Plant Rehabilitation
Phase 1 – Equipment Replacements

Dear Mr. Riley:

We have tabulated the bids received on May 23, 2018 on the above referenced project. A copy of the bid tab is attached.

L&L Construction, Inc. was the lowest bidder and in our opinion they are capable of performing the work and should be considered for award of the contract (Base Bid plus Additive Alternates No. 1 and 2 in the total amount of \$2,843,375.00).

Sincerely,

HOLLOWAY, UPDIKE AND BELLEN, INC.

Stephen Tolar, PE
Vice-President

BID TABULATION WASTEWATER TREATMENT PLANT REHABILITATION PHASE 1 EQUIPMENT REPLACEMENTS USKOGEE MUNICIPAL AUTHORITY, MUSKOGEE, OKLAHOMA				CONTRACTOR Engineers Estimate		CONTRACTOR L&L Construction, Inc. P.O. Box 36 Jenks, OK 74037		CONTRACTOR Crossland Heavy Contractors 14149 East Admiral Place Tulsa, OK 74116		CONTRACTOR Cook Consulting, LLC. P.O. Box 10 Fort Gibson, OK 74434		CONTRACTOR BRB Contractors, Inc. 3805 NW 25th Street Topeka, KS 66618		CONTRACTOR Walters-Morgan Construction, Inc 2616 Tuttle Creek Blvd. Manhattan, KS 66502		CONTRACTOR Wynn Construction 11901 N Eastern Ave. Oklahoma City, OK 73131		CONTRACTOR JS Haren Company 1175 Highway 11, North Athens, TN 37303		
MAY 23, 2018 AT 2:00 P.M.				TOTAL BID	3.4 MILLION	BASE BID	\$2,565,700.00	BASE BID	\$2,595,000.00	BASE BID	\$2,773,125.00	BASE BID	\$2,818,000.00	BASE BID	\$2,922,500.00	BASE BID	\$3,070,600.00	BASE BID	\$3,117,000.00	
						BB + ALTS 1 & 2	\$2,843,375.00	BB + ALTS 1 & 2	\$2,858,125.00	BB + ALTS 1 & 2	\$3,060,000.00	BB + ALTS 1 & 2	\$3,098,000.00	BB + ALTS 1 & 2	\$3,275,200.00	BB + ALTS 1 & 2	\$3,502,405.00	BB + ALTS 1 & 2	\$3,512,000.00	
ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	
	BASE BID																			
1	Raw Sewage Pump Station Improvements (Complete-In-Place)	1	LS	3.4 MILLION	3.4 MILLION	\$1,478,500.00	\$1,478,500.00	\$1,524,000.00	\$1,524,000.00	\$1,652,000.00	\$1,652,000.00	\$1,635,000.00	\$1,635,000.00	\$1,705,000.00	\$1,705,000.00	\$1,814,500.00	\$1,814,500.00	\$1,794,000.00	\$1,794,000.00	
2	Trickling Filter Effluent and Recirculation Pumps (Complete-In-Place)	1	LS			\$749,500.00	\$749,500.00	\$760,000.00	\$760,000.00	\$817,000.00	\$817,000.00	\$820,000.00	\$820,000.00	\$800,500.00	\$800,500.00	\$869,600.00	\$869,600.00	\$1,013,000.00	\$1,013,000.00	
3	Plant Drain Pumps (Complete-In-Place)	1	LS			\$116,800.00	\$116,800.00	\$106,000.00	\$106,000.00	\$92,570.00	\$92,570.00	\$139,000.00	\$139,000.00	\$194,000.00	\$194,000.00	\$155,000.00	\$155,000.00	\$90,000.00	\$90,000.00	
4	Secondary Sludge Transfer Pumps (Complete-In-Place)	1	LS			\$90,900.00	\$90,900.00	\$75,000.00	\$75,000.00	\$81,555.00	\$81,555.00	\$94,000.00	\$94,000.00	\$93,000.00	\$93,000.00	\$101,500.00	\$101,500.00	\$90,000.00	\$90,000.00	
5	Construction Allowance	1	LS			\$130,000.00	\$130,000.00	\$130,000.00	\$130,000.00	\$130,000.00	\$130,000.00	\$130,000.00	\$130,000.00	\$130,000.00	\$130,000.00	\$130,000.00	\$130,000.00	\$130,000.00	\$130,000.00	
	ADDITIVE ALTERNATE NO. 1																			
6	Application of Solventless Epoxy Concrete Coating in Raw Sewage Pump Station. Refer to Specification Section 9.2 for Requirements.	9,000	SF			\$16.40	\$147,600.00	\$14.75	\$132,750.00	\$16.40	\$147,600.00	\$16.00	\$144,000.00	\$26.40	\$237,600.00	\$23.00	\$207,000.00	\$23.00	\$207,000.00	
7	Application of Concrete Repair Materials in Raw Sewage Pump Station. Refer to Specification Section 9.2 for Requirements.	4,500	SF			\$21.75	\$97,875.00	\$26.75	\$120,375.00	\$21.75	\$97,875.00	\$28.70	\$129,150.00	\$21.80	\$98,100.00	\$41.00	\$184,500.00	\$26.00	\$117,000.00	
	ADDITIVE ALTERNATE NO. 2																			
8	Concrete Plugs and Pipe Demolition at Abandoned 48” Coody Creek Outfall, Refer to Drawing Sheet 26 for Requirements.	1	LS			\$32,200.00	\$32,200.00	\$10,000.00	\$10,000.00	\$41,400.00	\$41,400.00	\$6,850.00	\$6,850.00	\$17,000.00	\$17,000.00	\$40,305.00	\$40,305.00	\$71,000.00	\$71,000.00	

* Addition Error

Bid award period ends August 21, 2018 (90 days after bid opening)

Regular City Council**12.**

Meeting Date: 06/25/2018

Submitted For: Greg Riley, Public Works Initiator: Christy Byrd, Office Administrator I

Department: Public Works

Staff Information Source: Greg Riley, Director of Public Works; Jim Wixom, Assistant Director of Public Works/Operations; Donnie Wimbley, Purchasing Director

Information**AGENDA ITEM TITLE:**

Approval of awarding lowest bid to Midstate Traffic Control in the amount of \$39,520.00 for LED and Backplate Signal Project, or take other necessary action. (Greg Riley)

BACKGROUND:

This project includes replacing the LED signal heads at 32nd and Broadway, York and Chandler, 32nd and Shawnee, 32nd and West Okmulgee, York and Shawnee and Main and Shawnee. We are adding backplates at 32nd and Broadway and York and Chandler. We are also upgrading the pedestrian crossings on York and Chandler to countdown LED signals. The heads at these intersections are aging and getting dim so we are doing this project to upgrade these signals. This is budgeted in our signal repair and maintenance account.

Bids were received as follows:

MidState Traffic Control -\$39,520.00

Traffic & Lighting Systems-\$42,493.92

Traffic Signal, Inc.-\$43,730.00

RECOMMENDED ACTION:

Approve awarding the lowest bid to MidState Traffic Control in the amount of \$39,520.00 for LED and Backplate Signal Project.

Fiscal Impact**Attachments****Tab Sheet**



Bid Item: Traffic Signal Upgrades
Date: 5/11/2018
Department: PW Street Dept

Approved by Purchasing:

Approved by City Council:

[illegible]

Witnessed by:

Witnessed by:
 Miss Andrus
 Walter M. Jones
 J. G. Kila
 J. G. Kila

Approved by:

Regular City Council

13.

Meeting Date: 06/25/2018

Submitted For: Greg Riley, Public Works Initiator: Christy Byrd, Office Administrator I

Department: Public Works

Staff Information Source: Greg Riley, Director of Public Works; Danny Gable, Superintendant, Donnie Wimbley, Purchasing Director

Information

AGENDA ITEM TITLE:

Approval of awarding to the lowest/best bid to ICM in the amount of \$53,940.00 for Hydro Excavator with Fire Hydrant Valve Exerciser, or take other necessary action. (Greg Riley)

BACKGROUND:

Key Equipment withdrew their bid of \$47,759.00.

RECOMMENDED ACTION:

Approve to the next lowest bid to ICM in the amount of \$53,940.00 for Hydro Excavator with Fire Hydrant Valve Exerciser.

Fiscal Impact

Attachments

No file(s) attached.

Regular City Council**14.**

Meeting Date: 06/25/2018

Submitted For: Greg Riley, Public Works Initiator: Christy Byrd, Office Administrator I

Department: Public Works

Staff Information Source: Greg Riley, Director of Public Works; Stephen Morton, Water Plant Superintendent; George Kingston, Assistant Public Works Director-Utilities

Information**AGENDA ITEM TITLE:**

Approval of awarding the lowest/best bid for chemicals used in the Water Treatment Plant to Brenntag Southwest, Univar USA, Hawkins Inc., D&F Services, Evoqua Water Technologies, Pennco Inc., and Petra Chemical, more particularly described as attached, or take other necessary action. (Greg Riley)

BACKGROUND:

We find all of the lowest bids acceptable for our Water Treatment Chemicals other than coagulant. D&F Services was the third lowest price for our coagulant, however neither Hawkins, nor Chemtrade ran plant trials prior to bidding their product, as is required per bid specs. We have used D&F services' product in the past with great results. There is also potential savings by using their product, by reducing the feed rate of the coagulant. Therefore, we recommend using accepting D&F Services bid for Coagulant as it is the best bid on this item. The prices being awarded and companies are as follows.

Chlorine- Brenntag Southwest (.3225 cents per pound)
Fluorosilicic Acid- Univar USA (.1550 cents per pound)
Poly- Phosphate - Hawkins (.338 cents per pound)
Poly Aluminum Chloride coagulant- D&F Services (.2595 cents per pound)
Sodium Chlorite- Evoqua Water Technologies (.4450 cents per pound)
Ferric Chloride - Pennco (.118 cents per pound)
Caustic Soda- Brainard Chemical Company (.19 cents per pound)

RECOMMENDED ACTION:

Approve awarding the lowest bids for chemicals used in the water treatment plant to the companies as listed below and the best bid for coagulant to D&F Services.

Chlorine- Brenntag Southwest (.3225 cents per pound)
Fluorosilicic Acid- Univar USA (.1550 cents per pound)
Poly- Phosphate - Hawkins (.338 cents per pound)
Poly Aluminum Chloride coagulant- D&F Services (.2595 cents per pound)
Sodium Chlorite- Evoqua Water Technologies (.4450 cents per pound)
Ferric Chloride - Pennco (.118 cents per pound)
Caustic Soda- Brainard Chemical Company (.19 cents per pound)

Fiscal Impact**Attachments**

Memo Water Plant
Chemical Bid Sheet

Muskogee Water Treatment Plant



Date: 5/31/18
To: Greg Riley, George Kingston
From: Stephen Morton, Water Plant Superintendent
RE: 2018-2019 Chemical Bid Recommendations

Memo



Upon review of the recent chemical bid results, it is my recommendation to award all lowest bids with the exception of the our primary coagulant (Alum/polymer coagulant). My recommendation is to award this bid to D&F services. Pricing for all chemicals are as follows.

Chlorine - Brenntag Southwest..... (.3225 cents per pound)
Fluorosilicic Acid - Univar USA..... (.1550 cents per pound)
Poly- Phosphate - Hawkins..... (.338 cents per pound)
Poly Aluminum Chloride coagulant - D&F services..... (.2595 cents per pound)
Sodium Chlorite - Evoqua Water Technologies..... (.4450 cents per pound)
Ferric Chloride - Pennco..... (.118 cents per pound)
Caustic Soda - Brainard Chemical Company..... (.19 cents per pound)

D&F services was the third lowest price for our coagulant, however neither Hawkins, nor Chemtrade ran plant trials prior to bidding their product ,as is required per bid specs. We have used D&F services' product in the past with great results. There is also potential savings by using their product, by reducing the feed rate of the coagulant



Tabulation Sheet
City of Muskogee

Bid Item: Water Plant Chemicals 2018-19

Date: 5/11/2018

Department: Public Works - Water Plant

Approved by Purchasing: _____

Approved by City Council: _____

Vendors	Approx. 230,000 lbs Chlorine	Approx. 180,000 lbs Fluorosilicic Acid	Approx. 170,000 lbs Phosphate	Poly-	Approx. 1,000,000 lbs Alum./Polymer Coag.	Approx. 250,000 lbs Sodium Chlorite	Approx. 2,000,000 lbs Ferric Chloride	Approx. 1,500,000 lbs Caustic Soda
International Dioxide, Inc.	No Bid	No Bid	No Bid		No Bid	0.486	No Bid	No Bid
Shannon Chemical	No Bid	0.344	0.383		No Bid	No Bid	No Bid	No Bid
Chemtrade	No Bid	No Bid	No Bid		0.2570	No Bid	No Bid	No Bid
Kemira Water Solutions	No Bid	No Bid	No Bid		No Bid	No Bid	No Bid	No Bid
Solvay America	No Bid	0.1675	No Bid		No Bid	No Bid	No Bid	No Bid
Mosaic-Fishhawk	No Bid	0.195	No Bid		No Bid	No Bid	No Bid	No Bid
D & F Services	No Bid	No Bid	No Bid		0.2595	No Bid	No Bid	No Bid
Evoqua Water Technologies	No Bid	No Bid	No Bid		No Bid	0.4450	No Bid	No Bid
Univar USA	No Bid	0.1550	No Bid		No Bid	No Bid	No Bid	0.2117
DPC Industries	0.495	No Bid	No Bid		No Bid	No Bid	No Bid	0.2993
Geo Specialty Chemicals	No Bid	No Bid	No Bid		No Bid	No Bid	No Bid	No Bid
Carus Corporation	No Bid	No Bid	0.360		No Bid	No Bid	No Bid	No Bid
Hawkins Inc.	No Bid	No Bid	0.338		0.230	No Bid	No Bid	0.215
Pennco Inc.	No Bid	0.1745	No Bid		No Bid	No Bid	0.118	No Bid
Brenntag Southwest	0.3225	0.320	0.4225		0.2775	0.5475	0.1229	0.2125
Chemrite Inc.	No Bid	No Bid	0.342		No Bid	No Bid	No Bid	No Bid
Brainerd Chemical Company	No Bid	No Bid	No Bid		No Bid	No Bid	0.1325	0.19
Petra Chemical	No Bid	No Bid	No Bid		No Bid	No Bid	No Bid	0.237
USALCO	No Bid	No Bid	No Bid		No Bid	No Bid	No Bid	No Bid
Water Tech Inc.	No Bid	No Bid	No Bid		0.40	No Bid	0.1699	No Bid

Witnessed by: _____

Approved by: _____

ovals indicate recommended bid

highlights indicated lowest bid

Regular City Council**15.**

Meeting Date: 06/25/2018

Submitted For: Greg Riley, Public Works Initiator: Christy Byrd, Office Administrator I

Department: Public Works

Staff Information Source: Greg Riley, Director of Public Works; George Kingston, Assistant Public Works Director-Utilities; Danny Gable, Water Distribution Superintendent; Donnie Wimbley, Purchasing Director

Information**AGENDA ITEM TITLE:**

Approval of awarding a purchase from a National Joint Powers Alliance (Cooperative Purchasing) for a submersible hydraulic water pump to Thompson Pump in the amount of \$45,356.00, or take other necessary action. (Greg Riley)

BACKGROUND:

The 2017/18 budget included a new equipment item for a hydraulic submersible pump for Water Distribution. The pump will be used as needed for pumping during water line repairs. The National Joint Powers Alliance (NJPA) quote is \$45,356.00 from Thompson Pump. The City has successfully used the NJPA for purchases such as this in the past and this quote is under the budgeted amount.

RECOMMENDED ACTION:

Approve awarding the purchase of the hydraulic submersible pump to Thompson Pump in the amount of \$45,356.00.

Fiscal Impact**FUNDING SOURCE:**

Account #500-6540-461-64-50

Attachments

NJPA Pump Quote



4620 City Center Dr
Port Orange, Florida 32129
Phone: (386) 767-7310
www.thompsonpump.com

Sale Quotation

Quote #: Q-07363-1
Date: 4/23/2018 8:30 AM
Expires On: 5/23/2018
Lead Time: 12-14 Weeks (pending receipt of PO)

Bill To
City of Muskogee
1400 South C Street
Muskogee, OK 74402
US

Ship To
City of Muskogee
1400 South C Street
Muskogee OK 74402
Contact: Robert Swepston
Phone: (918) 684-6300

32HPU with 60HST

QTY	PART #	DESCRIPTION	NET PRICE	EXTENDED
1	32HPU-DJCS-423-M	32 HPU HYDRAULIC POWER UNIT	\$31,814.00	\$31,814.00
1	60HST	6" HYDRAULIC SUBMERSIBLE PUMP	\$6,197.00	\$6,197.00
32HPU with 60HST TOTAL:				\$38,011.00

Optional Accessories

QTY	PART #	DESCRIPTION	NET PRICE	EXTENDED
1	CPAUTOELECTRONICHPU	AUTO START/STOP CONTROL PANEL - ELECTRONIC HYDRAULIC POWER UNIT	\$4,249.00	\$4,249.00
1	TRAILERADD32HPU	TRAILER ADDER - 32HPU	\$1,896.00	\$1,896.00
Optional Accessories TOTAL:				\$6,145.00

Job Requirements: No specific duty point requested

Notes / Specification Variances:

FREIGHT: \$1,200.00

Customer PO #:

38,011.00
6,145.00
1,200.00
45,356.00

Signature: _____

Date: ____/____/____

Name (Print): _____

Title: _____

- All pumps are tested utilizing Hydraulic Institute standards. Thompson Pump is a member in good standing with the Contractor's Pump Bureau, the governing association of U.S. pump manufacturer standards. ISO 9001:2008 certified.
- **FOB:** Port Orange, FL.
- **TERMS:** Net 30 - pending credit approval.
- **WARRANTY:** One (1) year limited on new equipment. 30 day limited on used equipment.

Regular City Council

16.

Meeting Date: 06/25/2018

Submitted For: Rex Eskridge, Police

Initiator: Gayle Johnson, Chief
Secretary

Department: Police

Staff Information Source:

Information

AGENDA ITEM TITLE:

Approval of receiving donated funds for the month of April, 2018 in the amount of \$286.00 for the City's Animal Shelter Sponsorship Program as per the attached list, or take other necessary action. (Rex Eskridge)

BACKGROUND:

City Council approved a Resolution authorizing a Sponsorship Program for the City's Animal Shelter with said funds to be used for the purpose of neutering and spaying shelter animals.

RECOMMENDED ACTION:

Approve receiving donated funds for the month of April, 2018 in the amount of \$286.00 for the City's Animal Shelter Sponsorship Agenda Item Title.

Fiscal Impact

Attachments

April Donations

Animal Shelter Donations

April 2018

Tracey Coleman	\$	23.00
James Goodheart		20.00
Sandra Barney		65.00
Dylan Perry		10.00
Miriam Gonzalez		5.00
Kim Payton		5.00
Barbara McAlister		15.00
Marlene McBride		25.00
Christopher Jackson		10.00
Dottie Reeves		10.00
Wanda Winters		8.00
Oneta Bruner		10.00
Jeremy Estle		8.00
Martina Armas		5.00
Michael Pruel		14.00
Nellie Rose		20.00
Eric Thompson		8.00
Destinee Dunn		5.00
Catherine Clark		10.00
Jeff Hull		<u>10.00</u>
Total:	\$	286.00

Regular City Council

17.

Meeting Date: 06/25/2018

Submitted For: Tammy Tracy, City Clerk

Initiator: Tammy Tracy, City Clerk

Department: City Clerk

Staff Information Source:

Information

AGENDA ITEM TITLE:

Approval of Resolution No. 2730 directing the filing and notification of the publication of Supplement No. 18 to the Muskogee City Code of Ordinances, or take other necessary action. (Tammy L. Tracy)

BACKGROUND:

This is Supplement No. 18 for the Muskogee City Code of Ordinances.

RECOMMENDED ACTION:

Recommend approval.

Fiscal Impact

Attachments

RES #2730

RESOLUTION NO. 2730

**A RESOLUTION DIRECTING FILING AND
NOTIFICATION OF THE PUBLICATION OF
SUPPLEMENT NO. 18 TO THE MUSKOGEE CITY
CODE**

WHEREAS, the City of Muskogee has prepared the City's Code of Ordinances containing all ordinances adopted by the City; and

WHEREAS, the City of Muskogee has prepared a Supplement No.18 to the Code containing a revised index to ordinances passed through November 27, 2017;

WHEREAS, the City is required to adopt a resolution notifying the public of the publication of its code pursuant to Section 14-110 of Title 11 of the Oklahoma Statutes and to file a copy of the resolution in the office of the County Clerk;

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE;

THAT the public is hereby notified of the publication of Supplement No. 18 to the Muskogee Code of Ordinances and that copies of the Code are available for review in the Office of the City Clerk; and

THAT the City Clerk shall caused to be filed one copy of this resolution in the office of the County Clerk of Muskogee County; and

THAT the City Clerk shall cause one copy of this resolution and one copy of Supplement No. 18 to the Code to be filed with the Law Library of Muskogee County; and

THAT the City Clerk shall keep at least one (1) copy of Supplement No.18 to the Code of Ordinances in the office of the City Clerk for public use, inspection and examination.

ADOPTED this _____ day of June 2018 by the City Council of the City of Muskogee.

JOHN ROBERT COBURN MAYOR

ATTEST:

TAMMY L. TRACY, CITY CLERK

(SEAL)

Approved as to form and legality this _____ day of _____, 2018

Roy D. Tucker, City Attorney

Regular City Council**18.**

Meeting Date: 06/25/2018
Submitted For: Mike Stewart, Assistant City Manager
Initiator: Robin Orman, Office Administrator
Department: Assistant City Manager
Staff Information Source:

Information**AGENDA ITEM TITLE:**

Approval of Resolution No. 2731 amending Appendix A to the City of Muskogee Code of Ordinances (Wholesale Customers Water Rates), as per the attached, or take other necessary action. (Mike Stewart)

BACKGROUND:

The service area of the Wholesale Customer shall be located entirely outside the City limits of the City of Muskogee. Each Wholesale Customer shall enter into a contract with the City. The contract shall be reviewed annually. At its sole option, the City Council shall determine if the contract is to be extended. Wholesale Customer is defined as a municipality as defined by Article 18 of the Oklahoma Constitution and Title 11 of the Oklahoma Statutes, a rural water district as defined in Title 82, Oklahoma Statutes, or a private water utility whose rates are regulated by the Oklahoma Corporation Commission or a private water corporation.

RECOMMENDED ACTION:

Approve proposed Resolution amendment.

Fiscal Impact**Attachments**

Rural Water Rates
2731 RES

RESOLUTION NO. 2731

A RESOLUTION ADOPTING AMENDMENT TO APPENDIX A OF THE MUSKOGEE CITY CODE PERTAINING TO SCHEDULES OF FEES AND CHARGES PER ATTACHED LIST (WHOLESALE CUSTOMER WATER RATES).

WHEREAS, the City of Muskogee has prepared the City's Code of Ordinances containing all ordinances adopted by the City; and

WHEREAS, the City of Muskogee has prepared an Amendment to Appendix A to the City Code, pertaining to fees and charges as per attached;

WHEREAS, the rate charged for wholesale customers is based solely upon the cost to produce and deliver the water; and

WHEREAS, the rate charged for wholesale water is currently not included in Appendix A of the City of Muskogee Code of Ordinances; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA:

THAT Amendment to Appendix A of the Muskogee City code pertaining to schedule of City fees and charges, as per attached list, is hereby approved and adopted; and

THAT the public is hereby notified of adoption of amended fee schedule and that copies of the amended fee schedule are available for review in the office of the City Clerk; and

THAT the City Clerk shall cause to be filed one copy of this resolution with the office of the County Clerk of Muskogee County; and

THAT the City Clerk shall cause one copy of this resolution to be filed with the Law Library of Muskogee County; and

THAT the City Clerk shall keep at least one (1) copy of amended fee schedule to the Code of Ordinances in the office of the City Clerk for public use, inspection, and examination.

ADOPTED this ____ day of _____, 2018 by the City Council of the City of Muskogee.

JOHN R. COBURN, MAYOR

ATTEST:

TAMMY L. TRACY, CITY CLERK

Approved as to form and legality this ____ day of _____, 2018.

Roy D. Tucker, City Attorney

APPENDIX A – SCHEDULE OF FEES AND CHARGES

WATER SERVICE CHARGES

RATES GENERALLY

Code Section
82-71 (b)

Wholesale Customer:

The service area of the wholesale customer shall be located entirely outside the city limits of the City of Muskogee. Each wholesale customer shall enter into a contract with the city. ~~the~~The contract shall be reviewed ~~bi~~-annually. At its sole option, the city council shall determine if the contract is to be extended. Wholesale customer is defined as a municipality as defined by Article 18 of the Oklahoma Constitution and Title 11 of the Oklahoma Statutes, a rural water district as defined in Title 82 , Oklahoma Statutes, or a private water utility whose rates are regulated by the Oklahoma Corporation Commission or a private water corporation.

Rate for wholesale water

100 cubic feet

\$1.69

Excess Usage Rate. Wholesale customer will pay to the City two times the amount of the "BASE RATE" (2 x base rate) per 100 cubic feet of water usage over the maximum/month usage specified in the agreement.

Regular City Council**19.****Meeting Date:** 06/25/2018**Submitted For:** Roy Tucker, City Attorney**Initiator:** Leslie Arnold,
Attorney Secretary**Department:** City Attorney**Staff Information Source:** City Attorney

Information**AGENDA ITEM TITLE:**

Approval of nine (9) agreements with the following wholesale water users: Rural Water District #1, Rural Water District #2, Rural Water District #5, Rural Water District #6, Rural Water District #9, Haskell Public Works Authority, Okay Public Works Authority, Porter Public Works Authority, and Taft Public Works Authority, and authorize the Mayor and City Clerk to execute the agreements, or take other necessary action. (Roy D. Tucker)

BACKGROUND:

The City and the Water Districts have finalized agreements to continue the sale of treated water. There is no change to the water usage between these agreements and what our records show. These agreements have the Water District's approval. It also covers the City's ability to provide water and the requirements should there be an inability to serve and it allows for rate adjustment and caps the amount of water that may be sold to each District without the Town incurring additional charges. The term of the agreements are based on the City's fiscal year and it automatically extends one additional year. It may be terminated by either party with 180 days notice. The city reserves the right to adjust the contracts the actual cost of supplying the water is higher than the amount in the contracts.

Allocations per month:

Porter PWA	8020 units
RWD #5	21,288 units
Haskell PWA	26,070 units
RWD #2	6,684 units
Okay PWA	3,342 units
RWD #6	18,012.80 units
Taft PWA	2,674 units
RWD #9	3,200 units
RWD #1	10,694 units

RECOMMENDED ACTION:

Approve the agreements with the following: Rural Water District #1, Rural Water District #2, Rural Water District #5, Rural Water District #6, Rural Water District #9, Haskell Public Works Authority, Okay Public Works Authority, Porter Public Works Authority, and Taft Public Works Authority, for the sale of treated water and authorize the Mayor and City Clerk to execute the agreements.

Fiscal Impact

Attachments

RWD #1 Agreement

RDW #2 Agreement

RWD #5 Agreement

RWD #6 Agreement

RWD #9 Agreement

Haskell PWA Agreement

Okay PWA Agreement

Porter PWA Agreement

Taft PWA Agreement

WATER PURCHASE AGREEMENT

THIS AGREEMENT made and entered into this ___ day of____, 2018, by and between the City of Muskogee, Oklahoma, a municipal corporation, hereinafter called the "SELLER," and Muskogee Rural Water District #1 hereinafter called "BUYER", for the sale of treated water to the BUYER from the SELLER'S water supply system. The terms and conditions of this agreement supersede and replace any all prior agreements between the parties. This Agreement is in accordance with the provisions of 11 O.S. 2001, Section 22-104 and the Charter of SELLER.

WHEREAS, SELLER owns, operates and maintains a municipal water system and currently produces treated water surplus to the needs of the SELLER and its inhabitants; and

WHEREAS, the BUYER is currently purchasing buy treated water from the SELLER for resale to its current and future members and the current agreement does not allow for sufficient growth of BUYER'S system; and

WHEREAS, the SELLER is willing to sell treated water to the BUYER for the limited purpose of such resale to BUYER'S members; and

WHEREAS, SELLER has treated water and possesses authority to sell the same outside the corporate limits as provided in 11 O.S., Section 22-104 and the Charter of the SELLER; and

WHEREAS, the SELLER'S entire water supply and delivery system is an important factor in SELLER'S ability to supply treated water to BUYER; and

WHEREAS, the SELLER'S entire water supply and delivery system is an important factor in SELLER'S ability to promote economic development for its citizens;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto, it is mutually agreed by and between the SELLER and BUYER as follows:

1. CONDITIONS OF SALE

SELLER will sell and BUYER will buy treated water from SELLER's water supply system in accordance with the terms and provisions of this Agreement and the Muskogee City Code, as now in existence or as hereafter amended. When the phrase Muskogee City Code is used in this agreement it shall include "as now in existence or as hereafter amended" without repeating it each time.

2. MONTHLY SUPPLY/OVERAGE

The maximum monthly supply of water furnished shall meet the reasonable requirements of BUYER which is as follows:

In Gallons per Month/Cubic Feet per Month/Units per Month

<u>Maximum/Month</u>	
7,999,668	gallons
1,069,400	cubic feet
10,694	units

Any amount used in excess of the amount shown in the column Maximum/Month in "units" will be considered as usage in excess of the BUYER'S allocation and will be billed at the established rate for excess usage set out in Section 5 of this agreement.

3. USAGE

The water purchased by the BUYER will be used exclusively for agricultural (watering of stock and not for irrigation other than a domestic garden), domestic residential and for those commercial customers being served by SELLER the effective date of this agreement. The use of such water shall be restricted similarly to the use of water within the corporate limits of the City of Muskogee in the following zoning districts; single family residential district (B), urban estate residential district (B-1A), offices and personal services district (E), local commercial district (E-1) and agricultural district (A) except that the uses described in Section 90-805 (4) a and b shall not be permitted. The above zoning district references are found in Chapter 90 of the Muskogee City Code, and the conditions shall be in effect during the term of this contract or any extensions thereof.

4. TEMPORARY RESTRICTIONS

The SELLER shall take such action as is reasonably necessary to furnish BUYER treated water. As set out in Section 82-206 of the Muskogee City Code the quantity of water is not and cannot be guaranteed. Temporary or partial failure to deliver water shall be remedied as soon as reasonably possible.

In the event of an extended shortage of water, whether caused by equipment failure or an inadequate supply of raw (untreated) water, the water supplied to BUYER shall be reduced or diminished in the same proportion as the supply to the SELLER'S other customers located outside of SELLER'S city limits, unless the cause is a failure of the water main serving BUYER. If such an event is isolated to the SELLER'S ability to supply only the BUYER, SELLER shall take such actions as are reasonably necessary to remedy the cause of such shortage unless the failure is on BUYER'S side of the master meter in which event the repairs to said line are the responsibility of the BUYER.

In the event the SELLER announces emergency water rationing and a water use restriction policy for SELLER'S other customers outside the SELLER'S city limits the same restrictions shall apply to BUYER. The BUYER shall enforce the rationing and use restriction rules among its customers. NONCOMPLIANCE by the BUYER of this provision constitutes cause for SELLER to suspend or reduce delivery of water to BUYER. REPEATED violation of this provision shall be cause for SELLER to immediately terminate this agreement without notice.

5. TERMS OF SALE

A. BASE RATE. BUYER will pay to SELLER an amount for all treated water furnished by SELLER delivered by SELLER to BUYER'S connections (point of delivery) at the rate set out in appendix A of the Muskogee City Code.

B. EXCESS USAGE RATE. BUYER will pay to SELLER two times the amount of the "BASE RATE" (2 x base rate) per one hundred cubic feet of water usage over the MAXIMUM/MONTH usage which is 7,999,668 gallons or converted to units 10,694 units.

C. The SELLER at its sole discretion may adjust its rates at the same time that it adjusts its rates for its other customers located outside the city limits of SELLER. SELLER shall provide BUYER with a minimum of thirty (30) days notice before the effective date of the rate adjustment.

6. EASEMENTS AND RIGHT-OF-WAY

Prior to the effective date of this agreement BUYER and SELLER had in force and effect one or more agreements for the sale of potable water to BUYER. If additional connections to SELLER'S system are desired by BUYER, BUYER, at its own cost and expense, shall construct any necessary water line from SELLER'S system to SELLER'S city limits and said water line shall be constructed in accordance with Muskogee City Code. If an additional meter is required it shall be placed as set out in City Council Policy 8-1 at the SELLER'S City Limits. The BUYER shall pay SELLER all required tapping fees as required by the Muskogee City Code. If additional right-of-way or easements are required BUYER will, at BUYER'S expense, obtain and file of record, all additional right-of-way or easements. If said right-of-way or easements are located within the city limits of SELLER, BUYER shall dedicate such right-of-way or easements to the SELLER.

7. METERS AND METERING

Water delivered to the BUYER shall be metered in accordance with the provisions of the Muskogee City Code. BUYER shall install and maintain an approved preventive backflow device to eliminate any possibility of the BUYER'S system contaminating the SELLER'S water supply system. The tap, meter box, and backflow device shall be installed, at the BUYER'S expense, by a qualified plumber, licensed in the State of

Oklahoma, in accordance with the Muskogee City Code and inspected by the SELLER. The BUYER shall pay applicable charges for the water meter to the SELLER in accordance with the Muskogee City Code and said meter will be installed by the SELLER. The meter(s) shall be the property of the SELLER.

SELLER makes no representation to the satisfactory pressure and flow at the point of connection.

The meter(s) shall be read by the SELLER on a monthly basis. The SELLER shall submit a written statement of the monthly water charges to the BUYER. In the event a meter becomes defective or inoperable, a reasonable estimate of the water consumed will be made by SELLER. The estimated amount of water furnished, during the billing period during which the meter fails to register, will be deemed to be the greater of the amount of water delivered in the previous month or the corresponding month of the previous year. A statement based on this estimate will be accepted and paid by the BUYER.

8. PAYMENT

SELLER will bill the BUYER on or about the first business day of each month. The bill will set out the amount of water delivered to BUYER during the preceding billing period and the amount owed by the BUYER for that billing period. The Buyer shall pay the bill no later than the due date. Late payments shall bear an interest rate of ten percent (10%) per annum.

SELLER reserves the right to suspend or to terminate the delivery of water for nonpayment on the same terms that the SELLER applies to other customers. The suspension of water service shall be effective until BUYER pays all charges, interest, penalties and fees. Repeated failure of BUYER to pay the bill within the applicable time limit shall be cause to terminate the agreement.

9. CUSTOMERS AND SERVICE TERRITORY

BUYER agrees that BUYER shall not permit any other person or entity to connect to or obtain any water from the water system covered under this Agreement except BUYER'S customer members, see paragraph 3 above for restrictions. BUYER agrees not to sell any treated water to any bulk water user, town, city, private water association or water district. Violation of this provision shall cause the SELLER to immediately terminate the sale of water to BUYER without notice, and SELLER shall prepare statement for water used, and payment shall be made in compliance with Section 8, above. BUYER'S service territory is that territory approved by the Muskogee County Commissioners, the existing territory of Muskogee County Rural Water District # 10 as Shown on Exhibit A, attached hereto.

BUYER agrees that it will not serve or assert any exclusive right to serve any customer or territory, other than new customers of BUYER within the territory described in the above paragraph. If the Buyer does not have the present ability to serve all water

service needs of any new customer, including water requirements for fire protection and fire suppression and any reasonably anticipated future water service needs of its current water customers and territory Buyer shall negotiate the service of the new customer with the Seller which may include allowing the Seller to serve the new customer within the Buyer's territory. As used herein "present ability to serve" means that BUYER'S distribution system is in place and BUYER has sufficient water both by volume and pressure to provide the needs of the new customer which may include fire suppression requirements meeting the minimum standards of the Oklahoma Department of Environmental Quality.

BUYER agrees that it will not sell water, from whatever source obtained, to additional residential users, new or existing subdivisions, mobile home courts, other similar high-density developments, commercial or industrial users that are not located within BUYER'S approved service area as shown on exhibit A attached hereto and in existence at the time of executing this agreement.

BUYER agrees not to annex into its district territory any part of an area bounded by an area extending two (2) miles beyond the existing corporate limits of the SELLER except those areas currently within Buyers district territory .

10. ASSIGNMENT

The rights and privileges granted by the terms of this Agreement are not assignable by either party. In the event of any occurrence rendering the BUYER incapable of performing under this agreement any successor to BUYER shall be required to enter into a new agreement with SELLER within ninety days (90) of assuming SELLER'S customer members.

11. TERM

The term of this agreement is for the period from the date of execution through midnight June 30, 2019. This agreement will automatically be extended for additional one (1) year terms under the same identical terms and conditions as are set out herein. Any additional one year term will commence on a July 1st and end on a June 30th of the next calendar year unless either party gives written notice to the other one hundred eighty days (180) prior to the contracts next expiration date that the agreement will not be renewed.

12. TERMINATION

This Agreement shall terminate on the occurrence of any of the following:

- a. giving of the notice as provided in Section 11 above.
- b. the BUYER'S default in the payment of all or any amount billed by the SELLER for more than thirty (30) days or as provided in Section 8 above.
- c. the insolvency, assignment for the benefit of creditors or the filing of a petition in bankruptcy by or against BUYER.

- d. BUYERS default in the performance of any provision of this agreement where BUYER has been given notice and has not corrected the default within 10 business days.
- e. A change in state or federal law (including regulations) that alters the terms of this agreement or that changes the rights or obligations of the parties.
- f. as elsewhere set out in this agreement.
- g. SELLER's City Council declares by a duly adopted resolution that the water being furnished under this Agreement is required by SELLER for its own use and the use of its inhabitants. The determination by the City Council of the SELLER shall be final and is not subject to appeal.

13. RULES AND REGULATIONS

All improvements constructed by BUYER in the furtherance of this agreement shall conform to all applicable provisions of the Muskogee City Code, state statute and federal law.

14. TENANCIES

In the event that water service from the SELLER is terminated by either party, the BUYER agrees and covenants that it will release and discharge each, every and all tenancies or other right to use the property of the SELLER that may be granted to the BUYER to accomplish the purposes of this Agreement and will execute such written releases as may be required by the SELLER.

15. NO PROPERTY RIGHTS.

It is expressly understood and agreed by the parties that no provision of this Agreement is to be construed to grant to BUYER any property rights of any nature or kind whatsoever and particularly in SELLER'S water system or the waters stored therein.

16. NO THIRD PARTY BENEFICIARIES

This Agreement is solely between and for the benefit of the executing parties. No provision of this Agreement shall be construed to create third party beneficiaries or to create or establish rights or warranties expressly, implicitly or otherwise in favor of any individuals including but not limited to the customer members of the BUYER.

17. INDEMNITY

BUYER agrees to indemnify, defend and hold harmless the SELLER and any and all of its officers, employees and agents and representatives from any claims, obligations and liabilities resulting from the construction, maintenance, operation and existence of the taps, meter pits and meters, valves, necessary water lines, and any other improvement deemed necessary by the parties to carry out this agreement.

BUYER agrees to indemnify, defend and hold harmless the SELLER and any and all of its officers, employees, agents and representatives from any claims, suits, lawsuits, damages or injuries or any type brought by BUYER'S customers or members due to the inability of SELLER to supply water or water pressure.

Either party shall give the other party prompt and timely notice of any claim made arising out of this Agreement or the activities contemplated herein which in anyway, directly or indirectly, contingently or otherwise affects or might affect the other.

18. NOTICES

Notices shall be sent by first-class United States Mail postage prepaid, signed by the party giving such notice and addressed as follows:

To the SELLER City Manager
 City of Muskogee
 229 West Okmulgee
 Muskogee, OK 74401

To the BUYER Muskogee County Rural Water District #1
 P.O. Box 156
 Oktaha, OK 74450

19. AMENDMENT

No provision of this Agreement may be amended, waived or otherwise modified without the prior written consent of each party.

20. SURVIVAL

All promises, covenants, agreements, representations and warranties contained herein shall survive the execution and delivery and the subsequent termination of this Agreement and the transactions contemplated herein.

21. ENTIRE UNDERSTANDING

The Agreement contains the full, entire and integrated agreement, promises and understanding between the parties with respect to the covenants, promises and terms contained herein. No representations, warranties, provisions, covenants, agreements or understandings, whether written or oral and not contained herein or referred to shall be of any force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2018.

THE CITY OF MUSKOGEE, OKLAHOMA
A municipal corporation,

JOHN R. COBURN, MAYOR

ATTEST:

TAMMY L. TRACY, CITY CLERK

APPROVED as to form and legality for the City of Muskogee this ____ day of _____, 2018.

ROY D. TUCKER, City Attorney

Muskogee County Rural Water District #1

CHAIRMAN

SECRETARY

WATER PURCHASE AGREEMENT

THIS AGREEMENT made and entered into this ___ day of____, 2018, by and between the City of Muskogee, Oklahoma, a municipal corporation, hereinafter called the "SELLER," and Muskogee Rural Water District #1 hereinafter called "BUYER", for the sale of treated water to the BUYER from the SELLER'S water supply system. The terms and conditions of this agreement supersede and replace any all prior agreements between the parties. This Agreement is in accordance with the provisions of 11 O.S. 2001, Section 22-104 and the Charter of SELLER.

WHEREAS, SELLER owns, operates and maintains a municipal water system and currently produces treated water surplus to the needs of the SELLER and its inhabitants; and

WHEREAS, the BUYER is currently purchasing buy treated water from the SELLER for resale to its current and future members and the current agreement does not allow for sufficient growth of BUYER'S system; and

WHEREAS, the SELLER is willing to sell treated water to the BUYER for the limited purpose of such resale to BUYER'S members; and

WHEREAS, SELLER has treated water and possesses authority to sell the same outside the corporate limits as provided in 11 O.S., Section 22-104 and the Charter of the SELLER; and

WHEREAS, the SELLER'S entire water supply and delivery system is an important factor in SELLER'S ability to supply treated water to BUYER; and

WHEREAS, the SELLER'S entire water supply and delivery system is an important factor in SELLER'S ability to promote economic development for its citizens;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto, it is mutually agreed by and between the SELLER and BUYER as follows:

1. CONDITIONS OF SALE

SELLER will sell and BUYER will buy treated water from SELLER's water supply system in accordance with the terms and provisions of this Agreement and the Muskogee City Code, as now in existence or as hereafter amended. When the phrase Muskogee City Code is used in this agreement it shall include "as now in existence or as hereafter amended" without repeating it each time.

2. MONTHLY SUPPLY/OVERAGE

The maximum monthly supply of water furnished shall meet the reasonable requirements of BUYER which is as follows:

In Gallons per Month/Cubic Feet per Month/Units per Month

<u>Maximum/Month</u>	
7,999,668	gallons
1,069,400	cubic feet
10,694	units

Any amount used in excess of the amount shown in the column Maximum/Month in "units" will be considered as usage in excess of the BUYER'S allocation and will be billed at the established rate for excess usage set out in Section 5 of this agreement.

3. USAGE

The water purchased by the BUYER will be used exclusively for agricultural (watering of stock and not for irrigation other than a domestic garden), domestic residential and for those commercial customers being served by SELLER the effective date of this agreement. The use of such water shall be restricted similarly to the use of water within the corporate limits of the City of Muskogee in the following zoning districts; single family residential district (B), urban estate residential district (B-1A), offices and personal services district (E), local commercial district (E-1) and agricultural district (A) except that the uses described in Section 90-805 (4) a and b shall not be permitted. The above zoning district references are found in Chapter 90 of the Muskogee City Code, and the conditions shall be in effect during the term of this contract or any extensions thereof.

4. TEMPORARY RESTRICTIONS

The SELLER shall take such action as is reasonably necessary to furnish BUYER treated water. As set out in Section 82-206 of the Muskogee City Code the quantity of water is not and cannot be guaranteed. Temporary or partial failure to deliver water shall be remedied as soon as reasonably possible.

In the event of an extended shortage of water, whether caused by equipment failure or an inadequate supply of raw (untreated) water, the water supplied to BUYER shall be reduced or diminished in the same proportion as the supply to the SELLER'S other customers located outside of SELLER'S city limits, unless the cause is a failure of the water main serving BUYER. If such an event is isolated to the SELLER'S ability to supply only the BUYER, SELLER shall take such actions as are reasonably necessary to remedy the cause of such shortage unless the failure is on BUYER'S side of the master meter in which event the repairs to said line are the responsibility of the BUYER.

In the event the SELLER announces emergency water rationing and a water use restriction policy for SELLER'S other customers outside the SELLER'S city limits the same restrictions shall apply to BUYER. The BUYER shall enforce the rationing and use restriction rules among its customers. NONCOMPLIANCE by the BUYER of this provision constitutes cause for SELLER to suspend or reduce delivery of water to BUYER. REPEATED violation of this provision shall be cause for SELLER to immediately terminate this agreement without notice.

5. TERMS OF SALE

A. BASE RATE. BUYER will pay to SELLER an amount for all treated water furnished by SELLER delivered by SELLER to BUYER'S connections (point of delivery) at the rate set out in appendix A of the Muskogee City Code.

B. EXCESS USAGE RATE. BUYER will pay to SELLER two times the amount of the "BASE RATE" (2 x base rate) per one hundred cubic feet of water usage over the MAXIMUM/MONTH usage which is 7,999,668 gallons or converted to units 10,694 units.

C. The SELLER at its sole discretion may adjust its rates at the same time that it adjusts its rates for its other customers located outside the city limits of SELLER. SELLER shall provide BUYER with a minimum of thirty (30) days notice before the effective date of the rate adjustment.

6. EASEMENTS AND RIGHT-OF-WAY

Prior to the effective date of this agreement BUYER and SELLER had in force and effect one or more agreements for the sale of potable water to BUYER. If additional connections to SELLER'S system are desired by BUYER, BUYER, at its own cost and expense, shall construct any necessary water line from SELLER'S system to SELLER'S city limits and said water line shall be constructed in accordance with Muskogee City Code. If an additional meter is required it shall be placed as set out in City Council Policy 8-1 at the SELLER'S City Limits. The BUYER shall pay SELLER all required tapping fees as required by the Muskogee City Code. If additional right-of-way or easements are required BUYER will, at BUYER'S expense, obtain and file of record, all additional right-of-way or easements. If said right-of-way or easements are located within the city limits of SELLER, BUYER shall dedicate such right-of-way or easements to the SELLER.

7. METERS AND METERING

Water delivered to the BUYER shall be metered in accordance with the provisions of the Muskogee City Code. BUYER shall install and maintain an approved preventive backflow device to eliminate any possibility of the BUYER'S system contaminating the SELLER'S water supply system. The tap, meter box, and backflow device shall be installed, at the BUYER'S expense, by a qualified plumber, licensed in the State of

Oklahoma, in accordance with the Muskogee City Code and inspected by the SELLER. The BUYER shall pay applicable charges for the water meter to the SELLER in accordance with the Muskogee City Code and said meter will be installed by the SELLER. The meter(s) shall be the property of the SELLER.

SELLER makes no representation to the satisfactory pressure and flow at the point of connection.

The meter(s) shall be read by the SELLER on a monthly basis. The SELLER shall submit a written statement of the monthly water charges to the BUYER. In the event a meter becomes defective or inoperable, a reasonable estimate of the water consumed will be made by SELLER. The estimated amount of water furnished, during the billing period during which the meter fails to register, will be deemed to be the greater of the amount of water delivered in the previous month or the corresponding month of the previous year. A statement based on this estimate will be accepted and paid by the BUYER.

8. PAYMENT

SELLER will bill the BUYER on or about the first business day of each month. The bill will set out the amount of water delivered to BUYER during the preceding billing period and the amount owed by the BUYER for that billing period. The Buyer shall pay the bill no later than the due date. Late payments shall bear an interest rate of ten percent (10%) per annum.

SELLER reserves the right to suspend or to terminate the delivery of water for nonpayment on the same terms that the SELLER applies to other customers. The suspension of water service shall be effective until BUYER pays all charges, interest, penalties and fees. Repeated failure of BUYER to pay the bill within the applicable time limit shall be cause to terminate the agreement.

9. CUSTOMERS AND SERVICE TERRITORY

BUYER agrees that BUYER shall not permit any other person or entity to connect to or obtain any water from the water system covered under this Agreement except BUYER'S customer members, see paragraph 3 above for restrictions. BUYER agrees not to sell any treated water to any bulk water user, town, city, private water association or water district. Violation of this provision shall cause the SELLER to immediately terminate the sale of water to BUYER without notice, and SELLER shall prepare statement for water used, and payment shall be made in compliance with Section 8, above. BUYER'S service territory is that territory approved by the Muskogee County Commissioners, the existing territory of Muskogee County Rural Water District # 10 as Shown on Exhibit A, attached hereto.

BUYER agrees that it will not serve or assert any exclusive right to serve any customer or territory, other than new customers of BUYER within the territory described in the above paragraph. If the Buyer does not have the present ability to serve all water

service needs of any new customer, including water requirements for fire protection and fire suppression and any reasonably anticipated future water service needs of its current water customers and territory Buyer shall negotiate the service of the new customer with the Seller which may include allowing the Seller to serve the new customer within the Buyer's territory. As used herein "present ability to serve" means that BUYER'S distribution system is in place and BUYER has sufficient water both by volume and pressure to provide the needs of the new customer which may include fire suppression requirements meeting the minimum standards of the Oklahoma Department of Environmental Quality.

BUYER agrees that it will not sell water, from whatever source obtained, to additional residential users, new or existing subdivisions, mobile home courts, other similar high-density developments, commercial or industrial users that are not located within BUYER'S approved service area as shown on exhibit A attached hereto and in existence at the time of executing this agreement.

BUYER agrees not to annex into its district territory any part of an area bounded by an area extending two (2) miles beyond the existing corporate limits of the SELLER except those areas currently within Buyers district territory .

10. ASSIGNMENT

The rights and privileges granted by the terms of this Agreement are not assignable by either party. In the event of any occurrence rendering the BUYER incapable of performing under this agreement any successor to BUYER shall be required to enter into a new agreement with SELLER within ninety days (90) of assuming SELLER'S customer members.

11. TERM

The term of this agreement is for the period from the date of execution through midnight June 30, 2019. This agreement will automatically be extended for additional one (1) year terms under the same identical terms and conditions as are set out herein. Any additional one year term will commence on a July 1st and end on a June 30th of the next calendar year unless either party gives written notice to the other one hundred eighty days (180) prior to the contracts next expiration date that the agreement will not be renewed.

12. TERMINATION

This Agreement shall terminate on the occurrence of any of the following:

- a. giving of the notice as provided in Section 11 above.
- b. the BUYER'S default in the payment of all or any amount billed by the SELLER for more than thirty (30) days or as provided in Section 8 above.
- c. the insolvency, assignment for the benefit of creditors or the filing of a petition in bankruptcy by or against BUYER.

- d. BUYERS default in the performance of any provision of this agreement where BUYER has been given notice and has not corrected the default within 10 business days.
- e. A change in state or federal law (including regulations) that alters the terms of this agreement or that changes the rights or obligations of the parties.
- f. as elsewhere set out in this agreement.
- g. SELLER's City Council declares by a duly adopted resolution that the water being furnished under this Agreement is required by SELLER for its own use and the use of its inhabitants. The determination by the City Council of the SELLER shall be final and is not subject to appeal.

13. RULES AND REGULATIONS

All improvements constructed by BUYER in the furtherance of this agreement shall conform to all applicable provisions of the Muskogee City Code, state statute and federal law.

14. TENANCIES

In the event that water service from the SELLER is terminated by either party, the BUYER agrees and covenants that it will release and discharge each, every and all tenancies or other right to use the property of the SELLER that may be granted to the BUYER to accomplish the purposes of this Agreement and will execute such written releases as may be required by the SELLER.

15. NO PROPERTY RIGHTS.

It is expressly understood and agreed by the parties that no provision of this Agreement is to be construed to grant to BUYER any property rights of any nature or kind whatsoever and particularly in SELLER'S water system or the waters stored therein.

16. NO THIRD PARTY BENEFICIARIES

This Agreement is solely between and for the benefit of the executing parties. No provision of this Agreement shall be construed to create third party beneficiaries or to create or establish rights or warranties expressly, implicitly or otherwise in favor of any individuals including but not limited to the customer members of the BUYER.

17. INDEMNITY

BUYER agrees to indemnify, defend and hold harmless the SELLER and any and all of its officers, employees and agents and representatives from any claims, obligations and liabilities resulting from the construction, maintenance, operation and existence of the taps, meter pits and meters, valves, necessary water lines, and any other improvement deemed necessary by the parties to carry out this agreement.

BUYER agrees to indemnify, defend and hold harmless the SELLER and any and all of its officers, employees, agents and representatives from any claims, suits, lawsuits, damages or injuries or any type brought by BUYER'S customers or members due to the inability of SELLER to supply water or water pressure.

Either party shall give the other party prompt and timely notice of any claim made arising out of this Agreement or the activities contemplated herein which in anyway, directly or indirectly, contingently or otherwise affects or might affect the other.

18. NOTICES

Notices shall be sent by first-class United States Mail postage prepaid, signed by the party giving such notice and addressed as follows:

To the SELLER City Manager
 City of Muskogee
 229 West Okmulgee
 Muskogee, OK 74401

To the BUYER Muskogee County Rural Water District #1
 P.O. Box 156
 Oktaha, OK 74450

19. AMENDMENT

No provision of this Agreement may be amended, waived or otherwise modified without the prior written consent of each party.

20. SURVIVAL

All promises, covenants, agreements, representations and warranties contained herein shall survive the execution and delivery and the subsequent termination of this Agreement and the transactions contemplated herein.

21. ENTIRE UNDERSTANDING

The Agreement contains the full, entire and integrated agreement, promises and understanding between the parties with respect to the covenants, promises and terms contained herein. No representations, warranties, provisions, covenants, agreements or understandings, whether written or oral and not contained herein or referred to shall be of any force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2018.

THE CITY OF MUSKOGEE, OKLAHOMA
A municipal corporation,

JOHN R. COBURN, MAYOR

ATTEST:

TAMMY L. TRACY, CITY CLERK

APPROVED as to form and legality for the City of Muskogee this ____ day of _____, 2018.

ROY D. TUCKER, City Attorney

Muskogee County Rural Water District #1

CHAIRMAN

SECRETARY

WATER PURCHASE AGREEMENT

THIS AGREEMENT made and entered into this ___ day of____, 2018, by and between the City of Muskogee, Oklahoma, a municipal corporation, hereinafter called the "SELLER," and Muskogee Rural Water District #1 hereinafter called "BUYER", for the sale of treated water to the BUYER from the SELLER'S water supply system. The terms and conditions of this agreement supersede and replace any all prior agreements between the parties. This Agreement is in accordance with the provisions of 11 O.S. 2001, Section 22-104 and the Charter of SELLER.

WHEREAS, SELLER owns, operates and maintains a municipal water system and currently produces treated water surplus to the needs of the SELLER and its inhabitants; and

WHEREAS, the BUYER is currently purchasing buy treated water from the SELLER for resale to its current and future members and the current agreement does not allow for sufficient growth of BUYER'S system; and

WHEREAS, the SELLER is willing to sell treated water to the BUYER for the limited purpose of such resale to BUYER'S members; and

WHEREAS, SELLER has treated water and possesses authority to sell the same outside the corporate limits as provided in 11 O.S., Section 22-104 and the Charter of the SELLER; and

WHEREAS, the SELLER'S entire water supply and delivery system is an important factor in SELLER'S ability to supply treated water to BUYER; and

WHEREAS, the SELLER'S entire water supply and delivery system is an important factor in SELLER'S ability to promote economic development for its citizens;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto, it is mutually agreed by and between the SELLER and BUYER as follows:

1. CONDITIONS OF SALE

SELLER will sell and BUYER will buy treated water from SELLER's water supply system in accordance with the terms and provisions of this Agreement and the Muskogee City Code, as now in existence or as hereafter amended. When the phrase Muskogee City Code is used in this agreement it shall include "as now in existence or as hereafter amended" without repeating it each time.

2. MONTHLY SUPPLY/OVERAGE

The maximum monthly supply of water furnished shall meet the reasonable requirements of BUYER which is as follows:

In Gallons per Month/Cubic Feet per Month/Units per Month

<u>Maximum/Month</u>	
7,999,668	gallons
1,069,400	cubic feet
10,694	units

Any amount used in excess of the amount shown in the column Maximum/Month in "units" will be considered as usage in excess of the BUYER'S allocation and will be billed at the established rate for excess usage set out in Section 5 of this agreement.

3. USAGE

The water purchased by the BUYER will be used exclusively for agricultural (watering of stock and not for irrigation other than a domestic garden), domestic residential and for those commercial customers being served by SELLER the effective date of this agreement. The use of such water shall be restricted similarly to the use of water within the corporate limits of the City of Muskogee in the following zoning districts; single family residential district (B), urban estate residential district (B-1A), offices and personal services district (E), local commercial district (E-1) and agricultural district (A) except that the uses described in Section 90-805 (4) a and b shall not be permitted. The above zoning district references are found in Chapter 90 of the Muskogee City Code, and the conditions shall be in effect during the term of this contract or any extensions thereof.

4. TEMPORARY RESTRICTIONS

The SELLER shall take such action as is reasonably necessary to furnish BUYER treated water. As set out in Section 82-206 of the Muskogee City Code the quantity of water is not and cannot be guaranteed. Temporary or partial failure to deliver water shall be remedied as soon as reasonably possible.

In the event of an extended shortage of water, whether caused by equipment failure or an inadequate supply of raw (untreated) water, the water supplied to BUYER shall be reduced or diminished in the same proportion as the supply to the SELLER'S other customers located outside of SELLER'S city limits, unless the cause is a failure of the water main serving BUYER. If such an event is isolated to the SELLER'S ability to supply only the BUYER, SELLER shall take such actions as are reasonably necessary to remedy the cause of such shortage unless the failure is on BUYER'S side of the master meter in which event the repairs to said line are the responsibility of the BUYER.

In the event the SELLER announces emergency water rationing and a water use restriction policy for SELLER'S other customers outside the SELLER'S city limits the same restrictions shall apply to BUYER. The BUYER shall enforce the rationing and use restriction rules among its customers. NONCOMPLIANCE by the BUYER of this provision constitutes cause for SELLER to suspend or reduce delivery of water to BUYER. REPEATED violation of this provision shall be cause for SELLER to immediately terminate this agreement without notice.

5. TERMS OF SALE

A. BASE RATE. BUYER will pay to SELLER an amount for all treated water furnished by SELLER delivered by SELLER to BUYER'S connections (point of delivery) at the rate set out in appendix A of the Muskogee City Code.

B. EXCESS USAGE RATE. BUYER will pay to SELLER two times the amount of the "BASE RATE" (2 x base rate) per one hundred cubic feet of water usage over the MAXIMUM/MONTH usage which is 7,999,668 gallons or converted to units 10,694 units.

C. The SELLER at its sole discretion may adjust its rates at the same time that it adjusts its rates for its other customers located outside the city limits of SELLER. SELLER shall provide BUYER with a minimum of thirty (30) days notice before the effective date of the rate adjustment.

6. EASEMENTS AND RIGHT-OF-WAY

Prior to the effective date of this agreement BUYER and SELLER had in force and effect one or more agreements for the sale of potable water to BUYER. If additional connections to SELLER'S system are desired by BUYER, BUYER, at its own cost and expense, shall construct any necessary water line from SELLER'S system to SELLER'S city limits and said water line shall be constructed in accordance with Muskogee City Code. If an additional meter is required it shall be placed as set out in City Council Policy 8-1 at the SELLER'S City Limits. The BUYER shall pay SELLER all required tapping fees as required by the Muskogee City Code. If additional right-of-way or easements are required BUYER will, at BUYER'S expense, obtain and file of record, all additional right-of-way or easements. If said right-of-way or easements are located within the city limits of SELLER, BUYER shall dedicate such right-of-way or easements to the SELLER.

7. METERS AND METERING

Water delivered to the BUYER shall be metered in accordance with the provisions of the Muskogee City Code. BUYER shall install and maintain an approved preventive backflow device to eliminate any possibility of the BUYER'S system contaminating the SELLER'S water supply system. The tap, meter box, and backflow device shall be installed, at the BUYER'S expense, by a qualified plumber, licensed in the State of

Oklahoma, in accordance with the Muskogee City Code and inspected by the SELLER. The BUYER shall pay applicable charges for the water meter to the SELLER in accordance with the Muskogee City Code and said meter will be installed by the SELLER. The meter(s) shall be the property of the SELLER.

SELLER makes no representation to the satisfactory pressure and flow at the point of connection.

The meter(s) shall be read by the SELLER on a monthly basis. The SELLER shall submit a written statement of the monthly water charges to the BUYER. In the event a meter becomes defective or inoperable, a reasonable estimate of the water consumed will be made by SELLER. The estimated amount of water furnished, during the billing period during which the meter fails to register, will be deemed to be the greater of the amount of water delivered in the previous month or the corresponding month of the previous year. A statement based on this estimate will be accepted and paid by the BUYER.

8. PAYMENT

SELLER will bill the BUYER on or about the first business day of each month. The bill will set out the amount of water delivered to BUYER during the preceding billing period and the amount owed by the BUYER for that billing period. The Buyer shall pay the bill no later than the due date. Late payments shall bear an interest rate of ten percent (10%) per annum.

SELLER reserves the right to suspend or to terminate the delivery of water for nonpayment on the same terms that the SELLER applies to other customers. The suspension of water service shall be effective until BUYER pays all charges, interest, penalties and fees. Repeated failure of BUYER to pay the bill within the applicable time limit shall be cause to terminate the agreement.

9. CUSTOMERS AND SERVICE TERRITORY

BUYER agrees that BUYER shall not permit any other person or entity to connect to or obtain any water from the water system covered under this Agreement except BUYER'S customer members, see paragraph 3 above for restrictions. BUYER agrees not to sell any treated water to any bulk water user, town, city, private water association or water district. Violation of this provision shall cause the SELLER to immediately terminate the sale of water to BUYER without notice, and SELLER shall prepare statement for water used, and payment shall be made in compliance with Section 8, above. BUYER'S service territory is that territory approved by the Muskogee County Commissioners, the existing territory of Muskogee County Rural Water District # 10 as Shown on Exhibit A, attached hereto.

BUYER agrees that it will not serve or assert any exclusive right to serve any customer or territory, other than new customers of BUYER within the territory described in the above paragraph. If the Buyer does not have the present ability to serve all water

service needs of any new customer, including water requirements for fire protection and fire suppression and any reasonably anticipated future water service needs of its current water customers and territory Buyer shall negotiate the service of the new customer with the Seller which may include allowing the Seller to serve the new customer within the Buyer's territory. As used herein "present ability to serve" means that BUYER'S distribution system is in place and BUYER has sufficient water both by volume and pressure to provide the needs of the new customer which may include fire suppression requirements meeting the minimum standards of the Oklahoma Department of Environmental Quality.

BUYER agrees that it will not sell water, from whatever source obtained, to additional residential users, new or existing subdivisions, mobile home courts, other similar high-density developments, commercial or industrial users that are not located within BUYER'S approved service area as shown on exhibit A attached hereto and in existence at the time of executing this agreement.

BUYER agrees not to annex into its district territory any part of an area bounded by an area extending two (2) miles beyond the existing corporate limits of the SELLER except those areas currently within Buyers district territory .

10. ASSIGNMENT

The rights and privileges granted by the terms of this Agreement are not assignable by either party. In the event of any occurrence rendering the BUYER incapable of performing under this agreement any successor to BUYER shall be required to enter into a new agreement with SELLER within ninety days (90) of assuming SELLER'S customer members.

11. TERM

The term of this agreement is for the period from the date of execution through midnight June 30, 2019. This agreement will automatically be extended for additional one (1) year terms under the same identical terms and conditions as are set out herein. Any additional one year term will commence on a July 1st and end on a June 30th of the next calendar year unless either party gives written notice to the other one hundred eighty days (180) prior to the contracts next expiration date that the agreement will not be renewed.

12. TERMINATION

This Agreement shall terminate on the occurrence of any of the following:

- a. giving of the notice as provided in Section 11 above.
- b. the BUYER'S default in the payment of all or any amount billed by the SELLER for more than thirty (30) days or as provided in Section 8 above.
- c. the insolvency, assignment for the benefit of creditors or the filing of a petition in bankruptcy by or against BUYER.

- d. BUYERS default in the performance of any provision of this agreement where BUYER has been given notice and has not corrected the default within 10 business days.
- e. A change in state or federal law (including regulations) that alters the terms of this agreement or that changes the rights or obligations of the parties.
- f. as elsewhere set out in this agreement.
- g. SELLER's City Council declares by a duly adopted resolution that the water being furnished under this Agreement is required by SELLER for its own use and the use of its inhabitants. The determination by the City Council of the SELLER shall be final and is not subject to appeal.

13. RULES AND REGULATIONS

All improvements constructed by BUYER in the furtherance of this agreement shall conform to all applicable provisions of the Muskogee City Code, state statute and federal law.

14. TENANCIES

In the event that water service from the SELLER is terminated by either party, the BUYER agrees and covenants that it will release and discharge each, every and all tenancies or other right to use the property of the SELLER that may be granted to the BUYER to accomplish the purposes of this Agreement and will execute such written releases as may be required by the SELLER.

15. NO PROPERTY RIGHTS.

It is expressly understood and agreed by the parties that no provision of this Agreement is to be construed to grant to BUYER any property rights of any nature or kind whatsoever and particularly in SELLER'S water system or the waters stored therein.

16. NO THIRD PARTY BENEFICIARIES

This Agreement is solely between and for the benefit of the executing parties. No provision of this Agreement shall be construed to create third party beneficiaries or to create or establish rights or warranties expressly, implicitly or otherwise in favor of any individuals including but not limited to the customer members of the BUYER.

17. INDEMNITY

BUYER agrees to indemnify, defend and hold harmless the SELLER and any and all of its officers, employees and agents and representatives from any claims, obligations and liabilities resulting from the construction, maintenance, operation and existence of the taps, meter pits and meters, valves, necessary water lines, and any other improvement deemed necessary by the parties to carry out this agreement.

BUYER agrees to indemnify, defend and hold harmless the SELLER and any and all of its officers, employees, agents and representatives from any claims, suits, lawsuits, damages or injuries or any type brought by BUYER'S customers or members due to the inability of SELLER to supply water or water pressure.

Either party shall give the other party prompt and timely notice of any claim made arising out of this Agreement or the activities contemplated herein which in anyway, directly or indirectly, contingently or otherwise affects or might affect the other.

18. NOTICES

Notices shall be sent by first-class United States Mail postage prepaid, signed by the party giving such notice and addressed as follows:

To the SELLER City Manager
 City of Muskogee
 229 West Okmulgee
 Muskogee, OK 74401

To the BUYER Muskogee County Rural Water District #1
 P.O. Box 156
 Oktaha, OK 74450

19. AMENDMENT

No provision of this Agreement may be amended, waived or otherwise modified without the prior written consent of each party.

20. SURVIVAL

All promises, covenants, agreements, representations and warranties contained herein shall survive the execution and delivery and the subsequent termination of this Agreement and the transactions contemplated herein.

21. ENTIRE UNDERSTANDING

The Agreement contains the full, entire and integrated agreement, promises and understanding between the parties with respect to the covenants, promises and terms contained herein. No representations, warranties, provisions, covenants, agreements or understandings, whether written or oral and not contained herein or referred to shall be of any force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2018.

THE CITY OF MUSKOGEE, OKLAHOMA
A municipal corporation,

JOHN R. COBURN, MAYOR

ATTEST:

TAMMY L. TRACY, CITY CLERK

APPROVED as to form and legality for the City of Muskogee this ____ day of _____, 2018.

ROY D. TUCKER, City Attorney

Muskogee County Rural Water District #1

CHAIRMAN

SECRETARY

WATER PURCHASE AGREEMENT

THIS AGREEMENT made and entered into this ___ day of____, 2018, by and between the City of Muskogee, Oklahoma, a municipal corporation, hereinafter called the "SELLER," and Muskogee Rural Water District #6 hereinafter called "BUYER", for the sale of treated water to the BUYER from the SELLER'S water supply system. The terms and conditions of this agreement supersede and replace any all prior agreements between the parties. This Agreement is in accordance with the provisions of 11 O.S. 2001, Section 22-104 and the Charter of SELLER.

WHEREAS, SELLER owns, operates and maintains a municipal water system and currently produces treated water surplus to the needs of the SELLER and its inhabitants; and

WHEREAS, the BUYER is currently purchasing buy treated water from the SELLER for resale to its current and future members and the current agreement does not allow for sufficient growth of BUYER'S system; and

WHEREAS, the SELLER is willing to sell treated water to the BUYER for the limited purpose of such resale to BUYER'S members; and

WHEREAS, SELLER has treated water and possesses authority to sell the same outside the corporate limits as provided in 11 O.S., Section 22-104 and the Charter of the SELLER; and

WHEREAS, the SELLER'S entire water supply and delivery system is an important factor in SELLER'S ability to supply treated water to BUYER; and

WHEREAS, the SELLER'S entire water supply and delivery system is an important factor in SELLER'S ability to promote economic development for its citizens;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto, it is mutually agreed by and between the SELLER and BUYER as follows:

1. CONDITIONS OF SALE

SELLER will sell and BUYER will buy treated water from SELLER's water supply system in accordance with the terms and provisions of this Agreement and the Muskogee City Code, as now in existence or as hereafter amended. When the phrase Muskogee City Code is used in this agreement it shall include "as now in existence or as hereafter amended" without repeating it each time.

2. MONTHLY SUPPLY/OVERAGE

The maximum monthly supply of water furnished shall meet the reasonable requirements of BUYER which is as follows:

In Gallons per Month/Cubic Feet per Month/Units per Month

<u>Maximum/Month</u>	
13,470,000	gallons
1,800,667	cubic feet
18,012.8	units

Any amount used in excess of the amount shown in the column Maximum/Month in "units" will be considered as usage in excess of the BUYER'S allocation and will be billed at the established rate for excess usage set out in Section 5 of this agreement.

3. USAGE

The water purchased by the BUYER will be used exclusively for agricultural (watering of stock and not for irrigation other than a domestic garden), domestic residential and for those commercial customers being served by SELLER the effective date of this agreement. The use of such water shall be restricted similarly to the use of water within the corporate limits of the City of Muskogee in the following zoning districts; single family residential district (B), urban estate residential district (B-1A), offices and personal services district (E), local commercial district (E-1) and agricultural district (A) except that the uses described in Section 90-805 (4) a and b shall not be permitted. The above zoning district references are found in Chapter 90 of the Muskogee City Code, and the conditions shall be in effect during the term of this contract or any extensions thereof.

4. TEMPORARY RESTRICTIONS

The SELLER shall take such action as is reasonably necessary to furnish BUYER treated water. As set out in Section 82-206 of the Muskogee City Code the quantity of water is not and cannot be guaranteed. Temporary or partial failure to deliver water shall be remedied as soon as reasonably possible.

In the event of an extended shortage of water, whether caused by equipment failure or an inadequate supply of raw (untreated) water, the water supplied to BUYER shall be reduced or diminished in the same proportion as the supply to the SELLER'S other customers located outside of SELLER'S city limits, unless the cause is a failure of the water main serving BUYER. If such an event is isolated to the SELLER'S ability to supply only the BUYER, SELLER shall take such actions as are reasonably necessary to remedy the cause of such shortage unless the failure is on BUYER'S side of the master meter in which event the repairs to said line are the responsibility of the BUYER.

In the event the SELLER announces emergency water rationing and a water use restriction policy for SELLER'S other customers outside the SELLER'S city limits the same restrictions shall apply to BUYER. The BUYER shall enforce the rationing and use restriction rules among its customers. NONCOMPLIANCE by the BUYER of this provision constitutes cause for SELLER to suspend or reduce delivery of water to BUYER. REPEATED violation of this provision shall be cause for SELLER to immediately terminate this agreement without notice.

5. TERMS OF SALE

A. BASE RATE. BUYER will pay to SELLER an amount for all treated water furnished by SELLER delivered by SELLER to BUYER'S connections (point of delivery) at the rate set out in appendix A of the Muskogee City Code.

B. EXCESS USAGE RATE. BUYER will pay to SELLER two times the amount of the "BASE RATE" (2 x base rate) per one hundred cubic feet of water usage over the MAXIMUM/MONTH usage which is 13,470,000 gallons or converted to units 18,012.8 units.

C. The SELLER at its sole discretion may adjust its rates at the same time that it adjusts its rates for its other customers located outside the city limits of SELLER. SELLER shall provide BUYER with a minimum of thirty (30) days notice before the effective date of the rate adjustment.

6. EASEMENTS AND RIGHT-OF-WAY

Prior to the effective date of this agreement BUYER and SELLER had in force and effect one or more agreements for the sale of potable water to BUYER. If additional connections to SELLER'S system are desired by BUYER, BUYER, at its own cost and expense, shall construct any necessary water line from SELLER'S system to SELLER'S city limits and said water line shall be constructed in accordance with Muskogee City Code. If an additional meter is required it shall be placed as set out in City Council Policy 8-1 at the SELLER'S City Limits. The BUYER shall pay SELLER all required tapping fees as required by the Muskogee City Code. If additional right-of-way or easements are required BUYER will, at BUYER'S expense, obtain and file of record, all additional right-of-way or easements. If said right-of-way or easements are located within the city limits of SELLER, BUYER shall dedicate such right-of-way or easements to the SELLER.

7. METERS AND METERING

Water delivered to the BUYER shall be metered in accordance with the provisions of the Muskogee City Code. BUYER shall install and maintain an approved preventive backflow device to eliminate any possibility of the BUYER'S system contaminating the SELLER'S water supply system. The tap, meter box, and backflow device shall be

installed, at the BUYER'S expense, by a qualified plumber, licensed in the State of Oklahoma, in accordance with the Muskogee City Code and inspected by the SELLER. The BUYER shall pay applicable charges for the water meter to the SELLER in accordance with the Muskogee City Code and said meter will be installed by the SELLER. The meter(s) shall be the property of the SELLER.

SELLER makes no representation to the satisfactory pressure and flow at the point of connection.

The meter(s) shall be read by the SELLER on a monthly basis. The SELLER shall submit a written statement of the monthly water charges to the BUYER. In the event a meter becomes defective or inoperable, a reasonable estimate of the water consumed will be made by SELLER. The estimated amount of water furnished, during the billing period during which the meter fails to register, will be deemed to be the greater of the amount of water delivered in the previous month or the corresponding month of the previous year. A statement based on this estimate will be accepted and paid by the BUYER.

8. PAYMENT

SELLER will bill the BUYER on or about the first business day of each month. The bill will set out the amount of water delivered to BUYER during the preceding billing period and the amount owed by the BUYER for that billing period. The Buyer shall pay the bill no later than the due date. Late payments shall bear an interest rate of ten percent (10%) per annum.

SELLER reserves the right to suspend or to terminate the delivery of water for nonpayment on the same terms that the SELLER applies to other customers. The suspension of water service shall be effective until BUYER pays all charges, interest, penalties and fees. Repeated failure of BUYER to pay the bill within the applicable time limit shall be cause to terminate the agreement.

9. CUSTOMERS AND SERVICE TERRITORY

BUYER agrees that BUYER shall not permit any other person or entity to connect to or obtain any water from the water system covered under this Agreement except BUYER'S customer members, see paragraph 3 above for restrictions. BUYER agrees not to sell any treated water to any bulk water user, town, city, private water association or water district. Violation of this provision shall cause the SELLER to immediately terminate the sale of water to BUYER without notice, and SELLER shall prepare statement for water used, and payment shall be made in compliance with Section 8, above. BUYER'S service territory is that territory approved by the Muskogee County Commissioners, the existing territory of Muskogee County Rural Water District # 6 as Shown on Exhibit A, attached hereto.

BUYER agrees that it will not serve or assert any exclusive right to serve any customer or territory, other than new customers of BUYER within the territory described in

the above paragraph. If the Buyer does not have the present ability to serve all water service needs of any new customer, including water requirements for fire protection and fire suppression and any reasonably anticipated future water service needs of its current water customers and territory Buyer shall negotiate the service of the new customer with the Seller which may include allowing the Seller to serve the new customer within the Buyer's territory. As used herein "present ability to serve" means that BUYER'S distribution system is in place and BUYER has sufficient water both by volume and pressure to provide the needs of the new customer which may include fire suppression requirements meeting the minimum standards of the Oklahoma Department of Environmental Quality.

BUYER agrees that it will not sell water, from whatever source obtained, to additional residential users, new or existing subdivisions, mobile home courts, other similar high-density developments, commercial or industrial users that are not located within BUYER'S approved service area as shown on exhibit A attached hereto and in existence at the time of executing this agreement.

BUYER agrees not to annex into its district territory any part of an area bounded by an area extending two (2) miles beyond the existing corporate limits of the SELLER except those areas currently within Buyers district territory .

10. ASSIGNMENT

The rights and privileges granted by the terms of this Agreement are not assignable by either party. In the event of any occurrence rendering the BUYER incapable of performing under this agreement any successor to BUYER shall be required to enter into a new agreement with SELLER within ninety days (90) of assuming SELLER'S customer members.

11. TERM

The term of this agreement is for the period from the date of execution through midnight June 30, 2019. This agreement will automatically be extended for additional one (1) year terms under the same identical terms and conditions as are set out herein. Any additional one year term will commence on a July 1st and end on a June 30th of the next calendar year unless either party gives written notice to the other one hundred eighty days (180) prior to the contracts next expiration date that the agreement will not be renewed.

12. TERMINATION

This Agreement shall terminate on the occurrence of any of the following:

- a. giving of the notice as provided in Section 11 above.
- b. the BUYER'S default in the payment of all or any amount billed by the SELLER for more than thirty (30) days or as provided in Section 8 above.

- c. the insolvency, assignment for the benefit of creditors or the filing of a petition in bankruptcy by or against BUYER.
- d. BUYERS default in the performance of any provision of this agreement where BUYER has been given notice and has not corrected the default within 10 business days.
- e. A change in state or federal law (including regulations) that alters the terms of this agreement or that changes the rights or obligations of the parties.
- f. as elsewhere set out in this agreement.
- g. SELLER's City Council declares by a duly adopted resolution that the water being furnished under this Agreement is required by SELLER for its own use and the use of its inhabitants. The determination by the City Council of the SELLER shall be final and is not subject to appeal.

13. RULES AND REGULATIONS

All improvements constructed by BUYER in the furtherance of this agreement shall conform to all applicable provisions of the Muskogee City Code, state statute and federal law.

14. TENANCIES

In the event that water service from the SELLER is terminated by either party, the BUYER agrees and covenants that it will release and discharge each, every and all tenancies or other right to use the property of the SELLER that may be granted to the BUYER to accomplish the purposes of this Agreement and will execute such written releases as may be required by the SELLER.

15. NO PROPERTY RIGHTS.

It is expressly understood and agreed by the parties that no provision of this Agreement is to be construed to grant to BUYER any property rights of any nature or kind whatsoever and particularly in SELLER'S water system or the waters stored therein.

16. NO THIRD PARTY BENEFICIARIES

This Agreement is solely between and for the benefit of the executing parties. No provision of this Agreement shall be construed to create third party beneficiaries or to create or establish rights or warranties expressly, implicitly or otherwise in favor of any individuals including but not limited to the customer members of the BUYER.

17. INDEMNITY

BUYER agrees to indemnify, defend and hold harmless the SELLER and any and all of its officers, employees and agents and representatives from any claims, obligations and liabilities resulting from the construction, maintenance, operation and existence of the taps,

meter pits and meters, valves, necessary water lines, and any other improvement deemed necessary by the parties to carry out this agreement.

BUYER agrees to indemnify, defend and hold harmless the SELLER and any and all of its officers, employees, agents and representatives from any claims, suits, lawsuits, damages or injuries or any type brought by BUYER'S customers or members due to the inability of SELLER to supply water or water pressure.

Either party shall give the other party prompt and timely notice of any claim made arising out of this Agreement or the activities contemplated herein which in anyway, directly or indirectly, contingently or otherwise affects or might affect the other.

18. NOTICES

Notices shall be sent by first-class United States Mail postage prepaid, signed by the party giving such notice and addressed as follows:

To the SELLER City Manager
 City of Muskogee
 229 West Okmulgee
 Muskogee, OK 74401

To the BUYER #6 Wainwright
 Muskogee Country Rural Water District #6
 P.O. Box 135
 Wainwright, OK 74468

19. AMENDMENT

No provision of this Agreement may be amended, waived or otherwise modified without the prior written consent of each party.

20. SURVIVAL

All promises, covenants, agreements, representations and warranties contained herein shall survive the execution and delivery and the subsequent termination of this Agreement and the transactions contemplated herein.

21. ENTIRE UNDERSTANDING

The Agreement contains the full, entire and integrated agreement, promises and understanding between the parties with respect to the covenants, promises and terms contained herein. No representations, warranties, provisions, covenants, agreements or understandings, whether written or oral and not contained herein or referred to shall be of any force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2018.

THE CITY OF MUSKOGEE, OKLAHOMA
A municipal corporation,

JOHN R. COBURN, MAYOR

ATTEST:

TAMMY L. TRACY, CITY CLERK

APPROVED as to form and legality for the City of Muskogee this ____ day of _____, 2018.

ROY D. TUCKER, City Attorney

Muskogee County Rural Water District #6

KENNETH LANE, CHAIRMAN

SECRETARY

WATER PURCHASE AGREEMENT

THIS AGREEMENT made and entered into this ____ day of _____, 2018, by and between the City of Muskogee, Oklahoma, a municipal corporation, hereinafter called the "SELLER," and Muskogee Rural Water District #9 hereinafter called "BUYER", for the sale of treated water to the BUYER from the SELLER'S water supply system. The terms and conditions of this agreement supersede and replace any all prior agreements between the parties. This Agreement is in accordance with the provisions of 11 O.S. 2001, Section 22-104 and the Charter of SELLER.

WHEREAS, SELLER owns, operates and maintains a municipal water system and currently produces treated water surplus to the needs of the SELLER and its inhabitants; and

WHEREAS, the BUYER is currently purchasing buy treated water from the SELLER for resale to its current and future members and the current agreement does not allow for sufficient growth of BUYER'S system; and

WHEREAS, the SELLER is willing to sell treated water to the BUYER for the limited purpose of such resale to BUYER'S members; and

WHEREAS, SELLER has treated water and possesses authority to sell the same outside the corporate limits as provided in 11 O.S., Section 22-104 and the Charter of the SELLER; and

WHEREAS, the SELLER'S entire water supply and delivery system is an important factor in SELLER'S ability to supply treated water to BUYER; and

WHEREAS, the SELLER'S entire water supply and delivery system is an important factor in SELLER'S ability to promote economic development for its citizens;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto, it is mutually agreed by and between the SELLER and BUYER as follows:

1. CONDITIONS OF SALE

SELLER will sell and BUYER will buy treated water from SELLER's water supply system in accordance with the terms and provisions of this Agreement and the Muskogee City Code, as now in existence or as hereafter amended. When the phrase Muskogee City Code is used in this agreement it shall include "as now in existence or as hereafter amended" without repeating it each time.

2. MONTHLY SUPPLY/OVERAGE

The maximum monthly supply of water furnished shall meet the reasonable requirements of BUYER which is as follows:

In Gallons per Month/Cubic Feet per Month/Units per Month

<u>Maximum/Month</u>	
2,393,600	gallons
320,000	cubic feet
3,200	units

One Unit equals 100 cubic feet or 748 gallons

Any amount used in excess of the amount shown in the column Maximum/Month in "units" will be considered as usage in excess of the BUYER'S allocation and will be billed at the established rate for excess usage set out in Section 5 of this agreement.

3. USAGE

The water purchased by the BUYER will be used exclusively for agricultural (watering of stock and not for irrigation other than a domestic garden), domestic residential and for those commercial customers being served by SELLER the effective date of this agreement. The use of such water shall be restricted similarly to the use of water within the corporate limits of the City of Muskogee in the following zoning districts; single family residential district (B), urban estate residential district (B-1A), offices and personal services district (E), local commercial district (E-1) and agricultural district (A) except that the uses described in Section 90-805 (4) a and b shall not be permitted. The above zoning district references are found in Chapter 90 of the Muskogee City Code, and the conditions shall be in effect during the term of this contract or any extensions thereof.

4. TEMPORARY RESTRICTIONS

The SELLER shall take such action as is reasonably necessary to furnish BUYER treated water. As set out in Section 82-206 of the Muskogee City Code the quantity of water is not and cannot be guaranteed. Temporary or partial failure to deliver water shall be remedied as soon as reasonably possible.

In the event of an extended shortage of water, whether caused by equipment failure or an inadequate supply of raw (untreated) water, the water supplied to BUYER shall be reduced or diminished in the same proportion as the supply to the SELLER'S other customers located outside of SELLER'S city limits, unless the cause is a failure of the water main serving BUYER. If such an event is isolated to the SELLER'S ability to supply only the BUYER, SELLER shall take such actions as are reasonably necessary

to remedy the cause of such shortage unless the failure is on BUYER'S side of the master meter in which event the repairs to said line are the responsibility of the BUYER.

In the event the SELLER announces emergency water rationing and a water use restriction policy for SELLER'S other customers outside the SELLER'S city limits the same restrictions shall apply to BUYER. The BUYER shall enforce the rationing and use restriction rules among its customers. NONCOMPLIANCE by the BUYER of this provision constitutes cause for SELLER to suspend or reduce delivery of water to BUYER. REPEATED violation of this provision shall be cause for SELLER to immediately terminate this agreement without notice.

5. TERMS OF SALE

A. BASE RATE. BUYER will pay to SELLER an amount for all treated water furnished by SELLER delivered by SELLER to BUYER'S connections (point of delivery) at the rate set out in appendix A of the Muskogee City Code.

B. EXCESS USAGE RATE. BUYER will pay to SELLER two times the amount of the "BASE RATE" (2 x base rate) per one hundred cubic feet of water usage over the MAXIMUM/MONTH usage which is 2,393,600 gallons or converted to units 3,200 units.

C. The SELLER at its sole discretion may adjust its rates at the same time that it adjusts its rates for its other customers located outside the city limits of SELLER. SELLER shall provide BUYER with a minimum of thirty (30) days notice before the effective date of the rate adjustment.

6. EASEMENTS AND RIGHT-OF-WAY

Prior to the effective date of this agreement BUYER and SELLER had in force and effect one or more agreements for the sale of potable water to BUYER. If additional connections to SELLER'S system are desired by BUYER, BUYER, at its own cost and expense, shall construct any necessary water line from SELLER'S system to SELLER'S city limits and said water line shall be constructed in accordance with Muskogee City Code. If an additional meter is required it shall be placed as set out in City Council Policy 8-1 at the SELLER'S City Limits. The BUYER shall pay SELLER all required tapping fees as required by the Muskogee City Code. If additional right-of-way or easements are required BUYER will, at BUYER'S expense, obtain and file of record, all additional right-of-way or easements. If said right-of-way or easements are located within the city limits of SELLER, BUYER shall dedicate such right-of-way or easements to the SELLER.

7. METERS AND METERING

Water delivered to the BUYER shall be metered in accordance with the provisions of the Muskogee City Code. BUYER shall install and maintain an approved preventive backflow device to eliminate any possibility of the BUYER'S system

contaminating the SELLER'S water supply system. The tap, meter box, and backflow device shall be installed, at the BUYER'S expense, by a qualified plumber, licensed in the State of Oklahoma, in accordance with the Muskogee City Code and inspected by the SELLER. The BUYER shall pay applicable charges for the water meter to the SELLER in accordance with the Muskogee City Code and said meter will be installed by the SELLER. The meter(s) shall be the property of the SELLER.

SELLER makes no representation to the satisfactory pressure and flow at the point of connection.

The meter(s) shall be read by the SELLER on a monthly basis. The SELLER shall submit a written statement of the monthly water charges to the BUYER. In the event a meter becomes defective or inoperable, a reasonable estimate of the water consumed will be made by SELLER. The estimated amount of water furnished, during the billing period during which the meter fails to register, will be deemed to be the greater of the amount of water delivered in the previous month or the corresponding month of the previous year. A statement based on this estimate will be accepted and paid by the BUYER.

8. PAYMENT

SELLER will bill the BUYER on or about the first business day of each month. The bill will set out the amount of water delivered to BUYER during the preceding billing period and the amount owed by the BUYER for that billing period. The Buyer shall pay the bill no later than the due date. Late payments shall bear an interest rate of ten percent (10%) per annum.

SELLER reserves the right to suspend or to terminate the delivery of water for nonpayment on the same terms that the SELLER applies to other customers. The suspension of water service shall be effective until BUYER pays all charges, interest, penalties and fees. Repeated failure of BUYER to pay the bill within the applicable time limit shall be cause to terminate the agreement.

9. CUSTOMERS AND SERVICE TERRITORY

BUYER agrees that BUYER shall not permit any other person or entity to connect to or obtain any water from the water system covered under this Agreement except BUYER'S customer members, see paragraph 3 above for restrictions. BUYER agrees not to sell any treated water to any bulk water user, town, city, private water association or water district. Violation of this provision shall cause the SELLER to immediately terminate the sale of water to BUYER without notice, and SELLER shall prepare statement for water used, and payment shall be made in compliance with Section 8, above. BUYER'S service territory is that territory approved by the Muskogee County Commissioners, the existing territory of Muskogee County Rural Water District # 9 as Shown on Exhibit A, attached hereto.

BUYER agrees that it will not serve or assert any exclusive right to serve any customer or territory, other than new customers of BUYER within the territory described in the above paragraph. If the Buyer does not have the present ability to serve all water service needs of any new customer, including water requirements for fire protection and fire suppression and any reasonably anticipated future water service needs of its current water customers and territory Buyer shall negotiate the service of the new customer with the Seller which may include allowing the Seller to serve the new customer within the Buyer's territory. As used herein "present ability to serve" means that BUYER'S distribution system is in place and BUYER has sufficient water both by volume and pressure to provide the needs of the new customer which may include fire suppression requirements meeting the minimum standards of the Oklahoma Department of Environmental Quality.

BUYER agrees that it will not sell water, from whatever source obtained, to additional residential users, new or existing subdivisions, mobile home courts, other similar high-density developments, commercial or industrial users that are not located within BUYER'S approved service area as shown on exhibit A attached hereto and in existence at the time of executing this agreement.

BUYER agrees not to annex into its district territory any part of an area bounded by an area extending two (2) miles beyond the existing corporate limits of the SELLER except those areas currently within Buyers district territory .

10. ASSIGNMENT

The rights and privileges granted by the terms of this Agreement are not assignable by either party. In the event of any occurrence rendering the BUYER incapable of performing under this agreement any successor to BUYER shall be required to enter into a new agreement with SELLER within ninety days (90) of assuming SELLER'S customer members.

11. TERM

The term of this agreement is for the period from the date of execution through midnight June 30, 2019. This agreement will automatically be extended for additional one (1) year terms under the same identical terms and conditions as are set out herein. Any additional one year term will commence on a July 1st and end on a June 30th of the next calendar year unless either party gives written notice to the other one hundred eighty days (180) prior to the contracts next expiration date that the agreement will not be renewed.

12. TERMINATION

This Agreement shall terminate on the occurrence of any of the following:

- a. giving of the notice as provided in Section 11 above.

- b. the BUYER'S default in the payment of all or any amount billed by the SELLER for more than thirty (30) days or as provided in Section 8 above.
- c. the insolvency, assignment for the benefit of creditors or the filing of a petition in bankruptcy by or against BUYER.
- d. BUYER'S default in the performance of any provision of this agreement where BUYER has been given notice and has not corrected the default within 10 business days.
- e. A change in state or federal law (including regulations) that alters the terms of this agreement or that changes the rights or obligations of the parties.
- f. as elsewhere set out in this agreement.
- g. SELLER's City Council declares by a duly adopted resolution that the water being furnished under this Agreement is required by SELLER for its own use and the use of its inhabitants. The determination by the City Council of the SELLER shall be final and is not subject to appeal.

13. RULES AND REGULATIONS

All improvements constructed by BUYER in the furtherance of this agreement shall conform to all applicable provisions of the Muskogee City Code, state statute and federal law.

14. TENANCIES

In the event that water service from the SELLER is terminated by either party, the BUYER agrees and covenants that it will release and discharge each, every and all tenancies or other right to use the property of the SELLER that may be granted to the BUYER to accomplish the purposes of this Agreement and will execute such written releases as may be required by the SELLER.

15. NO PROPERTY RIGHTS.

It is expressly understood and agreed by the parties that no provision of this Agreement is to be construed to grant to BUYER any property rights of any nature or kind whatsoever and particularly in SELLER'S water system or the waters stored therein.

16. NO THIRD PARTY BENEFICIARIES

This Agreement is solely between and for the benefit of the executing parties. No provision of this Agreement shall be construed to create third party beneficiaries or to create or establish rights or warranties expressly, implicitly or otherwise in favor of any individuals including but not limited to the customer members of the BUYER.

17. INDEMNITY

BUYER agrees to indemnify, defend and hold harmless the SELLER and any and all of its officers, employees and agents and representatives from any claims, obligations and liabilities resulting from the construction, maintenance, operation and existence of the taps, meter pits and meters, valves, necessary water lines, and any other improvement deemed necessary by the parties to carry out this agreement.

BUYER agrees to indemnify, defend and hold harmless the SELLER and any and all of its officers, employees, agents and representatives from any claims, suits, lawsuits, damages or injuries or any type brought by BUYER'S customers or members due to the inability of SELLER to supply water or water pressure.

Either party shall give the other party prompt and timely notice of any claim made arising out of this Agreement or the activities contemplated herein which in anyway, directly or indirectly, contingently or otherwise affects or might affect the other.

18. NOTICES

Notices shall be sent by first-class United States Mail postage prepaid, signed by the party giving such notice and addressed as follows:

To the SELLER City Manager
 City of Muskogee
 229 West Okmulgee
 Muskogee, OK 74401

To the BUYER Muskogee County Rural Water District #9
 1221 W. Harris Road
 Muskogee, OK 74401

19. AMENDMENT

No provision of this Agreement may be amended, waived or otherwise modified without the prior written consent of each party.

20. SURVIVAL

All promises, covenants, agreements, representations and warranties contained herein shall survive the execution and delivery and the subsequent termination of this Agreement and the transactions contemplated herein.

21. ENTIRE UNDERSTANDING

The Agreement contains the full, entire and integrated agreement, promises and understanding between the parties with respect to the covenants, promises and terms contained herein. No representations, warranties, provisions, covenants, agreements

or understandings, whether written or oral and not contained herein or referred to shall be of any force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2018.

THE CITY OF MUSKOGEE, OKLAHOMA
A municipal corporation,

JOHN R. COBURN, MAYOR

ATTEST:

TAMMY L. TRACY, CITY CLERK

APPROVED as to form and legality for the City of Muskogee this ____ day of _____, 2018.

ROY D. TUCKER, City Attorney

Muskogee County Rural Water District #9

Winston Hix, CHAIRMAN

SECRETARY

WATER PURCHASE AGREEMENT

THIS AGREEMENT made and entered into this ___ day of ___, 2018, by and between the City of Muskogee, Oklahoma, a municipal corporation hereinafter called the "SELLER," and the Town of Haskell and/or the Haskell Public Works Authority hereinafter called "BUYER", for the sale of treated water to the BUYER from the SELLER'S water supply system. The terms and conditions of this agreement supersede and replace any all prior agreements between the parties. This Agreement is in accordance with the provisions of 11 O.S. 2001, Section 22-104 and the Charter of SELLER.

WHEREAS, SELLER owns, operates and maintains a municipal water system and currently produces treated water surplus to the needs of the SELLER and its inhabitants; and

WHEREAS, the BUYER is currently purchasing buy treated water from the SELLER for resale to its current and future customers; and

WHEREAS, the SELLER is willing to sell treated water to the BUYER for the limited purpose of such resale to BUYER'S customers; and

WHEREAS, SELLER has treated water and possesses authority to sell the same outside the corporate limits as provided in 11 O.S., Section 22-104 and the Charter of the SELLER; and

WHEREAS, the SELLER'S entire water supply and delivery system is an important factor in SELLER'S ability to supply treated water to BUYER; and

WHEREAS, the SELLER'S entire water supply and delivery system is an important factor in SELLER'S ability to promote economic development for its citizens;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto, it is mutually agreed by and between the SELLER and BUYER as follows:

1. CONDITIONS OF SALE

SELLER will sell and BUYER will buy treated water from SELLER's water supply system in accordance with the terms and provisions of this Agreement and the Muskogee City Code, as now in existence or as hereafter amended. When the phrase Muskogee City Code is used in this agreement it shall include "as now in existence or as hereafter amended" without repeating it each time.

2. MONTHLY SUPPLY/OVERAGE

The maximum monthly supply of water furnished shall meet the reasonable requirements of BUYER which is as follows:

In Gallons per Month/Cubic Feet per Month/Units per Month

Maximum/Month

19,500,360 gallons

2,607,000 cubic feet

26,070 units

One unit is the equivalent of 748 gallons or 100 cubic feet.

Any amount used in excess of the amount shown in the column Maximum/Month in “units” will be considered as usage in excess of the BUYER’S allocation and will be billed at the established rate for excess usage set out in Section 5 of this agreement.

3. USAGE

The water purchased by the BUYER will be used exclusively by its municipal customers located within the service area of the Town of Haskell, Oklahoma and/or the Haskell Public Works Authority. At the time of the execution of this agreement the town of Haskell is selling bulk water to the Town of Boynton. The Town of Haskell is permitted to continue with its arrangement with the Town of Boynton or Boynton Public Works Authority.

4. TEMPORARY RESTRICTIONS

The SELLER shall take such action as is reasonably necessary to furnish BUYER treated water. As set out in Section 82-206 of the Muskogee City Code the quantity of water is not and cannot be guaranteed. Temporary or partial failure to deliver water shall be remedied as soon as reasonably possible.

In the event of an extended shortage of water, whether caused by equipment failure or an inadequate supply of raw (untreated) water, the water supplied to BUYER shall be reduced or diminished in the same proportion as the supply to the SELLER’S other customers located outside of SELLER’S city limits, unless the cause is a failure of the water main serving BUYER. If such an event is isolated to the SELLER’S ability to supply only the BUYER, SELLER shall take such actions as are reasonably necessary to remedy the cause of such shortage unless the failure is on BUYER’S side of the master meter in which event the repairs to said line are the responsibility of the BUYER.

In the event the SELLER announces emergency water rationing and a water use restriction policy for SELLER’S other customers outside the SELLER’S city limits the same restrictions shall apply to BUYER. The BUYER shall enforce the rationing and use restriction rules among its customers. NONCOMPLIANCE by the BUYER of this provision constitutes cause for SELLER to suspend or reduce delivery of water to BUYER. REPEATED violation of this provision shall be cause for SELLER to immediately terminate this agreement without notice.

5. TERMS OF SALE

A. **BASE RATE.** BUYER will pay to SELLER an amount for all treated water furnished by SELLER delivered by SELLER to BUYER’S connections (point of delivery) at the rate set out in appendix A of the Muskogee City Code.

B. **EXCESS USAGE RATE.** BUYER will pay to SELLER two times the amount of the “BASE RATE” (2 x base rate) per one hundred cubic feet of water usage over the MAXIMUM/MONTH usage which is 19,500,360 gallons or converted to units 26,070 units.

C. The SELLER at its sole discretion may adjust its rates at the same time that it adjusts its rates for its other customers located outside the city limits of SELLER. SELLER shall provide BUYER with a minimum of thirty (30) days notice before the effective date of the rate adjustment.

6. EASEMENTS AND RIGHT-OF-WAY

Prior to the effective date of this agreement BUYER and SELLER had in force and effect one or more agreements for the sale of potable water to BUYER. If additional connections to SELLER'S system are desired by BUYER, BUYER, at its own cost and expense, shall construct any necessary water line from SELLER'S system to SELLER'S city limits and said water line shall be constructed in accordance with Muskogee City Code. If an additional meter is required it shall be placed as set out in City Council Policy 8-1 at the SELLER'S City Limits. The BUYER shall pay SELLER all required tapping fees as required by the Muskogee City Code. If additional right-of-way or easements are required BUYER will, at BUYER'S expense, obtain and file of record, all additional right-of-way or easements. If said right-of-way or easements are located within the city limits of SELLER, BUYER shall dedicate such right-of-way or easements to the SELLER.

7. METERS AND METERING

Water delivered to the BUYER shall be metered in accordance with the provisions of the Muskogee City Code.

If a new or additional meter is required BUYER shall install and maintain an approved preventive backflow device to eliminate any possibility of the BUYER'S system contaminating the SELLER'S water supply system. The tap, meter box, and backflow device shall be installed, at the BUYER'S expense, by a qualified plumber, licensed in the State of Oklahoma, in accordance with the Muskogee City Code and inspected by the SELLER.

The BUYER shall pay applicable charges for the water meter to the SELLER in accordance with the Muskogee City Code and said meter will be installed by the SELLER. The meter(s) shall be the property of the SELLER.

SELLER makes no representation to the satisfactory pressure and flow at the point of connection.

The meter(s) shall be read by the SELLER on a monthly basis. The SELLER shall submit a written statement of the monthly water charges to the BUYER. In the event a meter becomes defective or inoperable, a reasonable estimate of the water consumed will be made by SELLER. The estimated amount of water furnished, during the billing period during which the meter fails to register, will be deemed to be the greater of the amount of water delivered in the previous month or the corresponding month of the previous year. A statement based on this estimate will be accepted and paid by the BUYER.

8. PAYMENT

SELLER will bill the BUYER on or about the first business day of each month. The bill will set out the amount of water delivered to BUYER during the preceding billing period and the amount owed by the BUYER for that billing period. The Buyer shall pay the bill no later than the due date. Late payments shall bear an interest rate of ten percent (10%) per annum.

SELLER reserves the right to suspend or to terminate the delivery of water for nonpayment on the same terms that the SELLER applies to other customers. The suspension of water service shall be effective until BUYER pays all charges, interest, penalties and fees. Repeated failure of BUYER to pay the bill within the applicable time limit shall be cause to terminate the agreement.

9. CUSTOMERS AND SERVICE TERRITORY

BUYER agrees that BUYER shall not permit any other person or entity to connect to or obtain any water from the water system covered under this Agreement except BUYER'S customers, see paragraph 3 above for restrictions. BUYER agrees not to sell any treated water to any bulk water user, town, city, private water association or water district except the Town of Boynton as provided in paragraph 3 above. Violation of this provision shall cause the SELLER to immediately terminate the sale of water to BUYER without notice, and SELLER shall prepare statement for water used, and payment shall be made in compliance with Section 8, above.

BUYER agrees that it will not serve or assert any exclusive right to serve any customer or territory, other than new customers of BUYER within the territory described in paragraph 3. If the Buyer does not have the present ability to serve all water service needs of any new customer, including water requirements for fire protection and fire suppression and any reasonably anticipated future water service needs of its current water customers and territory Buyer shall negotiate the service of the new customer with the Seller which may include allowing the Seller to serve the new customer within the Buyer's territory. As used herein "present ability to serve" means that BUYER'S distribution system is in place and BUYER has sufficient water both by volume and pressure to provide the needs of the new customer which may include fire suppression requirements meeting the minimum standards of the Oklahoma Department of Environmental Quality.

10. ASSIGNMENT

The rights and privileges granted by the terms of this Agreement are not assignable by either party. In the event of any occurrence rendering the BUYER incapable of performing under this agreement any successor to BUYER shall be required to enter into a new agreement with SELLER within ninety days (90) of assuming SELLER'S customer members.

11. TERM

The term of this agreement is for the period from July 1, 2018 through midnight June 30, 2019. This agreement will automatically be extended for additional one (1) year terms under the same identical terms and conditions as are set out herein. Any additional one year term will commence on a July 1st and end on a June 30th of the next calendar year unless either party gives written notice to the other one (1) year prior to the contract's next expiration date that the agreement will not be renewed.

12. TERMINATION

This Agreement shall terminate on the occurrence of any of the following:

- a. giving of the notice as provided in Section 11 above.
- b. the BUYER'S default in the payment of all or any amount billed by the SELLER for more than thirty (30) days or as provided in Section 8 above.

- c. the insolvency, assignment for the benefit of creditors or the filing of a petition in bankruptcy by or against BUYER.
- d. BUYERS default in the performance of any provision of this agreement where BUYER has been given notice and has not corrected the default within thirty (30) business days.
- e. A change in state or federal law (including regulations) that alters the terms of this agreement or that changes the rights or obligations of the parties.
- f. as elsewhere set out in this agreement.
- g. SELLER's City Council declares by a duly adopted resolution that the water being furnished under this Agreement is required by SELLER for its own use and the use of its inhabitants. The determination by the City Council of the SELLER shall be final and is not subject to appeal.

13. RULES AND REGULATIONS

If Buyer is required to construct improvements on Sellers side of the meter and meter box as required in paragraph 7, above or if buyer is required to extend a water main to a new meter location all improvements that will become property of Seller constructed by BUYER in the furtherance of this agreement shall conform to all applicable provisions of the Muskogee City Code, state statute and federal law.

14. TENANCIES

In the event that water service from the SELLER is terminated by either party, the BUYER agrees and covenants that it will release and discharge each, every and all tenancies or other right to use the property of the SELLER that may be granted to the BUYER to accomplish the purposes of this Agreement and will execute such written releases as may be required by the SELLER.

15. NO PROPERTY RIGHTS.

It is expressly understood and agreed by the parties that no provision of this Agreement is to be construed to grant to BUYER any property rights of any nature or kind whatsoever and particularly in SELLER'S water system or the waters stored therein.

16. NO THIRD PARTY BENEFICIARIES

This Agreement is solely between and for the benefit of the executing parties. No provision of this Agreement shall be construed to create third party beneficiaries or to create or establish rights or warranties expressly, implicitly or otherwise in favor of any individuals including but not limited to the customer members of the BUYER.

17. INDEMNITY

To the extent permitted by law, BUYER agrees to indemnify, defend and hold harmless the SELLER and any and all of its officers, employees and agents and representatives from any claims, obligations and liabilities resulting from the construction, maintenance, operation and existence of the taps, meter pits and meters, valves, necessary water lines, and any other improvement deemed necessary by the parties to carry out this agreement to the extent permitted by the Oklahoma Governmental Tort Claims Act.

To the extent permitted by law, BUYER agrees to indemnify, defend and hold harmless the SELLER and any and all of its officers, employees, agents and representatives from any claims, suits, lawsuits, damages or injuries or any type brought by BUYER'S customers or members due to the inability of SELLER to supply water or water pressure to the extent permitted by the Oklahoma Governmental Tort Claims Act.

Either party shall give the other party prompt and timely notice of any claim made arising out of this Agreement or the activities contemplated herein which in anyway, directly or indirectly, contingently or otherwise affects or might affect the other.

18. NOTICES

Notices shall be sent by first-class United States Mail postage prepaid, signed by the party giving such notice and addressed as follows:

To the SELLER City Manager
 City of Muskogee
 229 West Okmulgee
 Muskogee, OK 74401

To the BUYER Town Clerk
 Town of Haskell
 P.O. Box 9
 Haskell, OK 74436

19. AMENDMENT

No provision of this Agreement may be amended, waived or otherwise modified without the prior written consent of each party.

20. SURVIVAL

All promises, covenants, agreements, representations and warranties contained herein shall survive the execution and delivery and the subsequent termination of this Agreement and the transactions contemplated herein.

21. ENTIRE UNDERSTANDING

The Agreement contains the full, entire and integrated agreement, promises and understanding between the parties with respect to the covenants, promises and terms contained herein. No representations, warranties, provisions, covenants, agreements or understandings, whether written or oral and not contained herein or referred to shall be of any force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2018.

THE CITY OF MUSKOGEE, OKLAHOMA
A municipal corporation,

JOHN R. COBURN, MAYOR

ATTEST:

TAMMY L. TRACY, CITY CLERK

APPROVED as to form and legality for the City of Muskogee this ____ day of _____, 2018.

ROY D. TUCKER, CITY ATTORNEY

TOWN OF HASKELL, OKLAHOMA
HASKELL PUBLIC WORKS AUTHORITY

MAYOR

ATTEST

TOWN CLERK

Jeffrey M. Stephens, Attorney for the Authority

WATER PURCHASE AGREEMENT

THIS AGREEMENT made and entered into this ___ day of____, 2018, by and between the City of Muskogee, Oklahoma, a municipal corporation, hereinafter called the "SELLER," and Muskogee Rural Water District #1 hereinafter called "BUYER", for the sale of treated water to the BUYER from the SELLER'S water supply system. The terms and conditions of this agreement supersede and replace any all prior agreements between the parties. This Agreement is in accordance with the provisions of 11 O.S. 2001, Section 22-104 and the Charter of SELLER.

WHEREAS, SELLER owns, operates and maintains a municipal water system and currently produces treated water surplus to the needs of the SELLER and its inhabitants; and

WHEREAS, the BUYER is currently purchasing buy treated water from the SELLER for resale to its current and future members and the current agreement does not allow for sufficient growth of BUYER'S system; and

WHEREAS, the SELLER is willing to sell treated water to the BUYER for the limited purpose of such resale to BUYER'S members; and

WHEREAS, SELLER has treated water and possesses authority to sell the same outside the corporate limits as provided in 11 O.S., Section 22-104 and the Charter of the SELLER; and

WHEREAS, the SELLER'S entire water supply and delivery system is an important factor in SELLER'S ability to supply treated water to BUYER; and

WHEREAS, the SELLER'S entire water supply and delivery system is an important factor in SELLER'S ability to promote economic development for its citizens;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto, it is mutually agreed by and between the SELLER and BUYER as follows:

1. CONDITIONS OF SALE

SELLER will sell and BUYER will buy treated water from SELLER's water supply system in accordance with the terms and provisions of this Agreement and the Muskogee City Code, as now in existence or as hereafter amended. When the phrase Muskogee City Code is used in this agreement it shall include "as now in existence or as hereafter amended" without repeating it each time.

2. MONTHLY SUPPLY/OVERAGE

The maximum monthly supply of water furnished shall meet the reasonable requirements of BUYER which is as follows:

In Gallons per Month/Cubic Feet per Month/Units per Month

<u>Maximum/Month</u>	
7,999,668	gallons
1,069,400	cubic feet
10,694	units

Any amount used in excess of the amount shown in the column Maximum/Month in "units" will be considered as usage in excess of the BUYER'S allocation and will be billed at the established rate for excess usage set out in Section 5 of this agreement.

3. USAGE

The water purchased by the BUYER will be used exclusively for agricultural (watering of stock and not for irrigation other than a domestic garden), domestic residential and for those commercial customers being served by SELLER the effective date of this agreement. The use of such water shall be restricted similarly to the use of water within the corporate limits of the City of Muskogee in the following zoning districts; single family residential district (B), urban estate residential district (B-1A), offices and personal services district (E), local commercial district (E-1) and agricultural district (A) except that the uses described in Section 90-805 (4) a and b shall not be permitted. The above zoning district references are found in Chapter 90 of the Muskogee City Code, and the conditions shall be in effect during the term of this contract or any extensions thereof.

4. TEMPORARY RESTRICTIONS

The SELLER shall take such action as is reasonably necessary to furnish BUYER treated water. As set out in Section 82-206 of the Muskogee City Code the quantity of water is not and cannot be guaranteed. Temporary or partial failure to deliver water shall be remedied as soon as reasonably possible.

In the event of an extended shortage of water, whether caused by equipment failure or an inadequate supply of raw (untreated) water, the water supplied to BUYER shall be reduced or diminished in the same proportion as the supply to the SELLER'S other customers located outside of SELLER'S city limits, unless the cause is a failure of the water main serving BUYER. If such an event is isolated to the SELLER'S ability to supply only the BUYER, SELLER shall take such actions as are reasonably necessary to remedy the cause of such shortage unless the failure is on BUYER'S side of the master meter in which event the repairs to said line are the responsibility of the BUYER.

In the event the SELLER announces emergency water rationing and a water use restriction policy for SELLER'S other customers outside the SELLER'S city limits the same restrictions shall apply to BUYER. The BUYER shall enforce the rationing and use restriction rules among its customers. NONCOMPLIANCE by the BUYER of this provision constitutes cause for SELLER to suspend or reduce delivery of water to BUYER. REPEATED violation of this provision shall be cause for SELLER to immediately terminate this agreement without notice.

5. TERMS OF SALE

A. BASE RATE. BUYER will pay to SELLER an amount for all treated water furnished by SELLER delivered by SELLER to BUYER'S connections (point of delivery) at the rate set out in appendix A of the Muskogee City Code.

B. EXCESS USAGE RATE. BUYER will pay to SELLER two times the amount of the "BASE RATE" (2 x base rate) per one hundred cubic feet of water usage over the MAXIMUM/MONTH usage which is 7,999,668 gallons or converted to units 10,694 units.

C. The SELLER at its sole discretion may adjust its rates at the same time that it adjusts its rates for its other customers located outside the city limits of SELLER. SELLER shall provide BUYER with a minimum of thirty (30) days notice before the effective date of the rate adjustment.

6. EASEMENTS AND RIGHT-OF-WAY

Prior to the effective date of this agreement BUYER and SELLER had in force and effect one or more agreements for the sale of potable water to BUYER. If additional connections to SELLER'S system are desired by BUYER, BUYER, at its own cost and expense, shall construct any necessary water line from SELLER'S system to SELLER'S city limits and said water line shall be constructed in accordance with Muskogee City Code. If an additional meter is required it shall be placed as set out in City Council Policy 8-1 at the SELLER'S City Limits. The BUYER shall pay SELLER all required tapping fees as required by the Muskogee City Code. If additional right-of-way or easements are required BUYER will, at BUYER'S expense, obtain and file of record, all additional right-of-way or easements. If said right-of-way or easements are located within the city limits of SELLER, BUYER shall dedicate such right-of-way or easements to the SELLER.

7. METERS AND METERING

Water delivered to the BUYER shall be metered in accordance with the provisions of the Muskogee City Code. BUYER shall install and maintain an approved preventive backflow device to eliminate any possibility of the BUYER'S system contaminating the SELLER'S water supply system. The tap, meter box, and backflow device shall be installed, at the BUYER'S expense, by a qualified plumber, licensed in the State of

Oklahoma, in accordance with the Muskogee City Code and inspected by the SELLER. The BUYER shall pay applicable charges for the water meter to the SELLER in accordance with the Muskogee City Code and said meter will be installed by the SELLER. The meter(s) shall be the property of the SELLER.

SELLER makes no representation to the satisfactory pressure and flow at the point of connection.

The meter(s) shall be read by the SELLER on a monthly basis. The SELLER shall submit a written statement of the monthly water charges to the BUYER. In the event a meter becomes defective or inoperable, a reasonable estimate of the water consumed will be made by SELLER. The estimated amount of water furnished, during the billing period during which the meter fails to register, will be deemed to be the greater of the amount of water delivered in the previous month or the corresponding month of the previous year. A statement based on this estimate will be accepted and paid by the BUYER.

8. PAYMENT

SELLER will bill the BUYER on or about the first business day of each month. The bill will set out the amount of water delivered to BUYER during the preceding billing period and the amount owed by the BUYER for that billing period. The Buyer shall pay the bill no later than the due date. Late payments shall bear an interest rate of ten percent (10%) per annum.

SELLER reserves the right to suspend or to terminate the delivery of water for nonpayment on the same terms that the SELLER applies to other customers. The suspension of water service shall be effective until BUYER pays all charges, interest, penalties and fees. Repeated failure of BUYER to pay the bill within the applicable time limit shall be cause to terminate the agreement.

9. CUSTOMERS AND SERVICE TERRITORY

BUYER agrees that BUYER shall not permit any other person or entity to connect to or obtain any water from the water system covered under this Agreement except BUYER'S customer members, see paragraph 3 above for restrictions. BUYER agrees not to sell any treated water to any bulk water user, town, city, private water association or water district. Violation of this provision shall cause the SELLER to immediately terminate the sale of water to BUYER without notice, and SELLER shall prepare statement for water used, and payment shall be made in compliance with Section 8, above. BUYER'S service territory is that territory approved by the Muskogee County Commissioners, the existing territory of Muskogee County Rural Water District # 10 as Shown on Exhibit A, attached hereto.

BUYER agrees that it will not serve or assert any exclusive right to serve any customer or territory, other than new customers of BUYER within the territory described in the above paragraph. If the Buyer does not have the present ability to serve all water

service needs of any new customer, including water requirements for fire protection and fire suppression and any reasonably anticipated future water service needs of its current water customers and territory Buyer shall negotiate the service of the new customer with the Seller which may include allowing the Seller to serve the new customer within the Buyer's territory. As used herein "present ability to serve" means that BUYER'S distribution system is in place and BUYER has sufficient water both by volume and pressure to provide the needs of the new customer which may include fire suppression requirements meeting the minimum standards of the Oklahoma Department of Environmental Quality.

BUYER agrees that it will not sell water, from whatever source obtained, to additional residential users, new or existing subdivisions, mobile home courts, other similar high-density developments, commercial or industrial users that are not located within BUYER'S approved service area as shown on exhibit A attached hereto and in existence at the time of executing this agreement.

BUYER agrees not to annex into its district territory any part of an area bounded by an area extending two (2) miles beyond the existing corporate limits of the SELLER except those areas currently within Buyers district territory .

10. ASSIGNMENT

The rights and privileges granted by the terms of this Agreement are not assignable by either party. In the event of any occurrence rendering the BUYER incapable of performing under this agreement any successor to BUYER shall be required to enter into a new agreement with SELLER within ninety days (90) of assuming SELLER'S customer members.

11. TERM

The term of this agreement is for the period from the date of execution through midnight June 30, 2019. This agreement will automatically be extended for additional one (1) year terms under the same identical terms and conditions as are set out herein. Any additional one year term will commence on a July 1st and end on a June 30th of the next calendar year unless either party gives written notice to the other one hundred eighty days (180) prior to the contracts next expiration date that the agreement will not be renewed.

12. TERMINATION

This Agreement shall terminate on the occurrence of any of the following:

- a. giving of the notice as provided in Section 11 above.
- b. the BUYER'S default in the payment of all or any amount billed by the SELLER for more than thirty (30) days or as provided in Section 8 above.
- c. the insolvency, assignment for the benefit of creditors or the filing of a petition in bankruptcy by or against BUYER.

- d. BUYERS default in the performance of any provision of this agreement where BUYER has been given notice and has not corrected the default within 10 business days.
- e. A change in state or federal law (including regulations) that alters the terms of this agreement or that changes the rights or obligations of the parties.
- f. as elsewhere set out in this agreement.
- g. SELLER's City Council declares by a duly adopted resolution that the water being furnished under this Agreement is required by SELLER for its own use and the use of its inhabitants. The determination by the City Council of the SELLER shall be final and is not subject to appeal.

13. RULES AND REGULATIONS

All improvements constructed by BUYER in the furtherance of this agreement shall conform to all applicable provisions of the Muskogee City Code, state statute and federal law.

14. TENANCIES

In the event that water service from the SELLER is terminated by either party, the BUYER agrees and covenants that it will release and discharge each, every and all tenancies or other right to use the property of the SELLER that may be granted to the BUYER to accomplish the purposes of this Agreement and will execute such written releases as may be required by the SELLER.

15. NO PROPERTY RIGHTS.

It is expressly understood and agreed by the parties that no provision of this Agreement is to be construed to grant to BUYER any property rights of any nature or kind whatsoever and particularly in SELLER'S water system or the waters stored therein.

16. NO THIRD PARTY BENEFICIARIES

This Agreement is solely between and for the benefit of the executing parties. No provision of this Agreement shall be construed to create third party beneficiaries or to create or establish rights or warranties expressly, implicitly or otherwise in favor of any individuals including but not limited to the customer members of the BUYER.

17. INDEMNITY

BUYER agrees to indemnify, defend and hold harmless the SELLER and any and all of its officers, employees and agents and representatives from any claims, obligations and liabilities resulting from the construction, maintenance, operation and existence of the taps, meter pits and meters, valves, necessary water lines, and any other improvement deemed necessary by the parties to carry out this agreement.

BUYER agrees to indemnify, defend and hold harmless the SELLER and any and all of its officers, employees, agents and representatives from any claims, suits, lawsuits, damages or injuries or any type brought by BUYER'S customers or members due to the inability of SELLER to supply water or water pressure.

Either party shall give the other party prompt and timely notice of any claim made arising out of this Agreement or the activities contemplated herein which in anyway, directly or indirectly, contingently or otherwise affects or might affect the other.

18. NOTICES

Notices shall be sent by first-class United States Mail postage prepaid, signed by the party giving such notice and addressed as follows:

To the SELLER City Manager
 City of Muskogee
 229 West Okmulgee
 Muskogee, OK 74401

To the BUYER Muskogee County Rural Water District #1
 P.O. Box 156
 Oktaha, OK 74450

19. AMENDMENT

No provision of this Agreement may be amended, waived or otherwise modified without the prior written consent of each party.

20. SURVIVAL

All promises, covenants, agreements, representations and warranties contained herein shall survive the execution and delivery and the subsequent termination of this Agreement and the transactions contemplated herein.

21. ENTIRE UNDERSTANDING

The Agreement contains the full, entire and integrated agreement, promises and understanding between the parties with respect to the covenants, promises and terms contained herein. No representations, warranties, provisions, covenants, agreements or understandings, whether written or oral and not contained herein or referred to shall be of any force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2018.

THE CITY OF MUSKOGEE, OKLAHOMA
A municipal corporation,

JOHN R. COBURN, MAYOR

ATTEST:

TAMMY L. TRACY, CITY CLERK

APPROVED as to form and legality for the City of Muskogee this ____ day of _____, 2018.

ROY D. TUCKER, City Attorney

Muskogee County Rural Water District #1

CHAIRMAN

SECRETARY

WATER PURCHASE AGREEMENT

THIS AGREEMENT made and entered into this ___ day of____, 2018, by and between the City of Muskogee, Oklahoma, a municipal corporation, hereinafter called the "SELLER," and Muskogee Rural Water District #1 hereinafter called "BUYER", for the sale of treated water to the BUYER from the SELLER'S water supply system. The terms and conditions of this agreement supersede and replace any all prior agreements between the parties. This Agreement is in accordance with the provisions of 11 O.S. 2001, Section 22-104 and the Charter of SELLER.

WHEREAS, SELLER owns, operates and maintains a municipal water system and currently produces treated water surplus to the needs of the SELLER and its inhabitants; and

WHEREAS, the BUYER is currently purchasing buy treated water from the SELLER for resale to its current and future members and the current agreement does not allow for sufficient growth of BUYER'S system; and

WHEREAS, the SELLER is willing to sell treated water to the BUYER for the limited purpose of such resale to BUYER'S members; and

WHEREAS, SELLER has treated water and possesses authority to sell the same outside the corporate limits as provided in 11 O.S., Section 22-104 and the Charter of the SELLER; and

WHEREAS, the SELLER'S entire water supply and delivery system is an important factor in SELLER'S ability to supply treated water to BUYER; and

WHEREAS, the SELLER'S entire water supply and delivery system is an important factor in SELLER'S ability to promote economic development for its citizens;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto, it is mutually agreed by and between the SELLER and BUYER as follows:

1. CONDITIONS OF SALE

SELLER will sell and BUYER will buy treated water from SELLER's water supply system in accordance with the terms and provisions of this Agreement and the Muskogee City Code, as now in existence or as hereafter amended. When the phrase Muskogee City Code is used in this agreement it shall include "as now in existence or as hereafter amended" without repeating it each time.

2. MONTHLY SUPPLY/OVERAGE

The maximum monthly supply of water furnished shall meet the reasonable requirements of BUYER which is as follows:

In Gallons per Month/Cubic Feet per Month/Units per Month

<u>Maximum/Month</u>	
7,999,668	gallons
1,069,400	cubic feet
10,694	units

Any amount used in excess of the amount shown in the column Maximum/Month in "units" will be considered as usage in excess of the BUYER'S allocation and will be billed at the established rate for excess usage set out in Section 5 of this agreement.

3. USAGE

The water purchased by the BUYER will be used exclusively for agricultural (watering of stock and not for irrigation other than a domestic garden), domestic residential and for those commercial customers being served by SELLER the effective date of this agreement. The use of such water shall be restricted similarly to the use of water within the corporate limits of the City of Muskogee in the following zoning districts; single family residential district (B), urban estate residential district (B-1A), offices and personal services district (E), local commercial district (E-1) and agricultural district (A) except that the uses described in Section 90-805 (4) a and b shall not be permitted. The above zoning district references are found in Chapter 90 of the Muskogee City Code, and the conditions shall be in effect during the term of this contract or any extensions thereof.

4. TEMPORARY RESTRICTIONS

The SELLER shall take such action as is reasonably necessary to furnish BUYER treated water. As set out in Section 82-206 of the Muskogee City Code the quantity of water is not and cannot be guaranteed. Temporary or partial failure to deliver water shall be remedied as soon as reasonably possible.

In the event of an extended shortage of water, whether caused by equipment failure or an inadequate supply of raw (untreated) water, the water supplied to BUYER shall be reduced or diminished in the same proportion as the supply to the SELLER'S other customers located outside of SELLER'S city limits, unless the cause is a failure of the water main serving BUYER. If such an event is isolated to the SELLER'S ability to supply only the BUYER, SELLER shall take such actions as are reasonably necessary to remedy the cause of such shortage unless the failure is on BUYER'S side of the master meter in which event the repairs to said line are the responsibility of the BUYER.

In the event the SELLER announces emergency water rationing and a water use restriction policy for SELLER'S other customers outside the SELLER'S city limits the same restrictions shall apply to BUYER. The BUYER shall enforce the rationing and use restriction rules among its customers. NONCOMPLIANCE by the BUYER of this provision constitutes cause for SELLER to suspend or reduce delivery of water to BUYER. REPEATED violation of this provision shall be cause for SELLER to immediately terminate this agreement without notice.

5. TERMS OF SALE

A. BASE RATE. BUYER will pay to SELLER an amount for all treated water furnished by SELLER delivered by SELLER to BUYER'S connections (point of delivery) at the rate set out in appendix A of the Muskogee City Code.

B. EXCESS USAGE RATE. BUYER will pay to SELLER two times the amount of the "BASE RATE" (2 x base rate) per one hundred cubic feet of water usage over the MAXIMUM/MONTH usage which is 7,999,668 gallons or converted to units 10,694 units.

C. The SELLER at its sole discretion may adjust its rates at the same time that it adjusts its rates for its other customers located outside the city limits of SELLER. SELLER shall provide BUYER with a minimum of thirty (30) days notice before the effective date of the rate adjustment.

6. EASEMENTS AND RIGHT-OF-WAY

Prior to the effective date of this agreement BUYER and SELLER had in force and effect one or more agreements for the sale of potable water to BUYER. If additional connections to SELLER'S system are desired by BUYER, BUYER, at its own cost and expense, shall construct any necessary water line from SELLER'S system to SELLER'S city limits and said water line shall be constructed in accordance with Muskogee City Code. If an additional meter is required it shall be placed as set out in City Council Policy 8-1 at the SELLER'S City Limits. The BUYER shall pay SELLER all required tapping fees as required by the Muskogee City Code. If additional right-of-way or easements are required BUYER will, at BUYER'S expense, obtain and file of record, all additional right-of-way or easements. If said right-of-way or easements are located within the city limits of SELLER, BUYER shall dedicate such right-of-way or easements to the SELLER.

7. METERS AND METERING

Water delivered to the BUYER shall be metered in accordance with the provisions of the Muskogee City Code. BUYER shall install and maintain an approved preventive backflow device to eliminate any possibility of the BUYER'S system contaminating the SELLER'S water supply system. The tap, meter box, and backflow device shall be installed, at the BUYER'S expense, by a qualified plumber, licensed in the State of

Oklahoma, in accordance with the Muskogee City Code and inspected by the SELLER. The BUYER shall pay applicable charges for the water meter to the SELLER in accordance with the Muskogee City Code and said meter will be installed by the SELLER. The meter(s) shall be the property of the SELLER.

SELLER makes no representation to the satisfactory pressure and flow at the point of connection.

The meter(s) shall be read by the SELLER on a monthly basis. The SELLER shall submit a written statement of the monthly water charges to the BUYER. In the event a meter becomes defective or inoperable, a reasonable estimate of the water consumed will be made by SELLER. The estimated amount of water furnished, during the billing period during which the meter fails to register, will be deemed to be the greater of the amount of water delivered in the previous month or the corresponding month of the previous year. A statement based on this estimate will be accepted and paid by the BUYER.

8. PAYMENT

SELLER will bill the BUYER on or about the first business day of each month. The bill will set out the amount of water delivered to BUYER during the preceding billing period and the amount owed by the BUYER for that billing period. The Buyer shall pay the bill no later than the due date. Late payments shall bear an interest rate of ten percent (10%) per annum.

SELLER reserves the right to suspend or to terminate the delivery of water for nonpayment on the same terms that the SELLER applies to other customers. The suspension of water service shall be effective until BUYER pays all charges, interest, penalties and fees. Repeated failure of BUYER to pay the bill within the applicable time limit shall be cause to terminate the agreement.

9. CUSTOMERS AND SERVICE TERRITORY

BUYER agrees that BUYER shall not permit any other person or entity to connect to or obtain any water from the water system covered under this Agreement except BUYER'S customer members, see paragraph 3 above for restrictions. BUYER agrees not to sell any treated water to any bulk water user, town, city, private water association or water district. Violation of this provision shall cause the SELLER to immediately terminate the sale of water to BUYER without notice, and SELLER shall prepare statement for water used, and payment shall be made in compliance with Section 8, above. BUYER'S service territory is that territory approved by the Muskogee County Commissioners, the existing territory of Muskogee County Rural Water District # 10 as Shown on Exhibit A, attached hereto.

BUYER agrees that it will not serve or assert any exclusive right to serve any customer or territory, other than new customers of BUYER within the territory described in the above paragraph. If the Buyer does not have the present ability to serve all water

service needs of any new customer, including water requirements for fire protection and fire suppression and any reasonably anticipated future water service needs of its current water customers and territory Buyer shall negotiate the service of the new customer with the Seller which may include allowing the Seller to serve the new customer within the Buyer's territory. As used herein "present ability to serve" means that BUYER'S distribution system is in place and BUYER has sufficient water both by volume and pressure to provide the needs of the new customer which may include fire suppression requirements meeting the minimum standards of the Oklahoma Department of Environmental Quality.

BUYER agrees that it will not sell water, from whatever source obtained, to additional residential users, new or existing subdivisions, mobile home courts, other similar high-density developments, commercial or industrial users that are not located within BUYER'S approved service area as shown on exhibit A attached hereto and in existence at the time of executing this agreement.

BUYER agrees not to annex into its district territory any part of an area bounded by an area extending two (2) miles beyond the existing corporate limits of the SELLER except those areas currently within Buyers district territory .

10. ASSIGNMENT

The rights and privileges granted by the terms of this Agreement are not assignable by either party. In the event of any occurrence rendering the BUYER incapable of performing under this agreement any successor to BUYER shall be required to enter into a new agreement with SELLER within ninety days (90) of assuming SELLER'S customer members.

11. TERM

The term of this agreement is for the period from the date of execution through midnight June 30, 2019. This agreement will automatically be extended for additional one (1) year terms under the same identical terms and conditions as are set out herein. Any additional one year term will commence on a July 1st and end on a June 30th of the next calendar year unless either party gives written notice to the other one hundred eighty days (180) prior to the contracts next expiration date that the agreement will not be renewed.

12. TERMINATION

This Agreement shall terminate on the occurrence of any of the following:

- a. giving of the notice as provided in Section 11 above.
- b. the BUYER'S default in the payment of all or any amount billed by the SELLER for more than thirty (30) days or as provided in Section 8 above.
- c. the insolvency, assignment for the benefit of creditors or the filing of a petition in bankruptcy by or against BUYER.

- d. BUYERS default in the performance of any provision of this agreement where BUYER has been given notice and has not corrected the default within 10 business days.
- e. A change in state or federal law (including regulations) that alters the terms of this agreement or that changes the rights or obligations of the parties.
- f. as elsewhere set out in this agreement.
- g. SELLER's City Council declares by a duly adopted resolution that the water being furnished under this Agreement is required by SELLER for its own use and the use of its inhabitants. The determination by the City Council of the SELLER shall be final and is not subject to appeal.

13. RULES AND REGULATIONS

All improvements constructed by BUYER in the furtherance of this agreement shall conform to all applicable provisions of the Muskogee City Code, state statute and federal law.

14. TENANCIES

In the event that water service from the SELLER is terminated by either party, the BUYER agrees and covenants that it will release and discharge each, every and all tenancies or other right to use the property of the SELLER that may be granted to the BUYER to accomplish the purposes of this Agreement and will execute such written releases as may be required by the SELLER.

15. NO PROPERTY RIGHTS.

It is expressly understood and agreed by the parties that no provision of this Agreement is to be construed to grant to BUYER any property rights of any nature or kind whatsoever and particularly in SELLER'S water system or the waters stored therein.

16. NO THIRD PARTY BENEFICIARIES

This Agreement is solely between and for the benefit of the executing parties. No provision of this Agreement shall be construed to create third party beneficiaries or to create or establish rights or warranties expressly, implicitly or otherwise in favor of any individuals including but not limited to the customer members of the BUYER.

17. INDEMNITY

BUYER agrees to indemnify, defend and hold harmless the SELLER and any and all of its officers, employees and agents and representatives from any claims, obligations and liabilities resulting from the construction, maintenance, operation and existence of the taps, meter pits and meters, valves, necessary water lines, and any other improvement deemed necessary by the parties to carry out this agreement.

BUYER agrees to indemnify, defend and hold harmless the SELLER and any and all of its officers, employees, agents and representatives from any claims, suits, lawsuits, damages or injuries or any type brought by BUYER'S customers or members due to the inability of SELLER to supply water or water pressure.

Either party shall give the other party prompt and timely notice of any claim made arising out of this Agreement or the activities contemplated herein which in anyway, directly or indirectly, contingently or otherwise affects or might affect the other.

18. NOTICES

Notices shall be sent by first-class United States Mail postage prepaid, signed by the party giving such notice and addressed as follows:

To the SELLER City Manager
 City of Muskogee
 229 West Okmulgee
 Muskogee, OK 74401

To the BUYER Muskogee County Rural Water District #1
 P.O. Box 156
 Oktaha, OK 74450

19. AMENDMENT

No provision of this Agreement may be amended, waived or otherwise modified without the prior written consent of each party.

20. SURVIVAL

All promises, covenants, agreements, representations and warranties contained herein shall survive the execution and delivery and the subsequent termination of this Agreement and the transactions contemplated herein.

21. ENTIRE UNDERSTANDING

The Agreement contains the full, entire and integrated agreement, promises and understanding between the parties with respect to the covenants, promises and terms contained herein. No representations, warranties, provisions, covenants, agreements or understandings, whether written or oral and not contained herein or referred to shall be of any force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2018.

THE CITY OF MUSKOGEE, OKLAHOMA
A municipal corporation,

JOHN R. COBURN, MAYOR

ATTEST:

TAMMY L. TRACY, CITY CLERK

APPROVED as to form and legality for the City of Muskogee this ____ day of _____, 2018.

ROY D. TUCKER, City Attorney

Muskogee County Rural Water District #1

CHAIRMAN

SECRETARY

WATER PURCHASE AGREEMENT

THIS AGREEMENT made and entered into this ___ day of____, 2018, by and between the City of Muskogee, Oklahoma, a municipal corporation, hereinafter called the "SELLER," and Muskogee Rural Water District #1 hereinafter called "BUYER", for the sale of treated water to the BUYER from the SELLER'S water supply system. The terms and conditions of this agreement supersede and replace any all prior agreements between the parties. This Agreement is in accordance with the provisions of 11 O.S. 2001, Section 22-104 and the Charter of SELLER.

WHEREAS, SELLER owns, operates and maintains a municipal water system and currently produces treated water surplus to the needs of the SELLER and its inhabitants; and

WHEREAS, the BUYER is currently purchasing buy treated water from the SELLER for resale to its current and future members and the current agreement does not allow for sufficient growth of BUYER'S system; and

WHEREAS, the SELLER is willing to sell treated water to the BUYER for the limited purpose of such resale to BUYER'S members; and

WHEREAS, SELLER has treated water and possesses authority to sell the same outside the corporate limits as provided in 11 O.S., Section 22-104 and the Charter of the SELLER; and

WHEREAS, the SELLER'S entire water supply and delivery system is an important factor in SELLER'S ability to supply treated water to BUYER; and

WHEREAS, the SELLER'S entire water supply and delivery system is an important factor in SELLER'S ability to promote economic development for its citizens;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto, it is mutually agreed by and between the SELLER and BUYER as follows:

1. CONDITIONS OF SALE

SELLER will sell and BUYER will buy treated water from SELLER's water supply system in accordance with the terms and provisions of this Agreement and the Muskogee City Code, as now in existence or as hereafter amended. When the phrase Muskogee City Code is used in this agreement it shall include "as now in existence or as hereafter amended" without repeating it each time.

2. MONTHLY SUPPLY/OVERAGE

The maximum monthly supply of water furnished shall meet the reasonable requirements of BUYER which is as follows:

In Gallons per Month/Cubic Feet per Month/Units per Month

<u>Maximum/Month</u>	
7,999,668	gallons
1,069,400	cubic feet
10,694	units

Any amount used in excess of the amount shown in the column Maximum/Month in "units" will be considered as usage in excess of the BUYER'S allocation and will be billed at the established rate for excess usage set out in Section 5 of this agreement.

3. USAGE

The water purchased by the BUYER will be used exclusively for agricultural (watering of stock and not for irrigation other than a domestic garden), domestic residential and for those commercial customers being served by SELLER the effective date of this agreement. The use of such water shall be restricted similarly to the use of water within the corporate limits of the City of Muskogee in the following zoning districts; single family residential district (B), urban estate residential district (B-1A), offices and personal services district (E), local commercial district (E-1) and agricultural district (A) except that the uses described in Section 90-805 (4) a and b shall not be permitted. The above zoning district references are found in Chapter 90 of the Muskogee City Code, and the conditions shall be in effect during the term of this contract or any extensions thereof.

4. TEMPORARY RESTRICTIONS

The SELLER shall take such action as is reasonably necessary to furnish BUYER treated water. As set out in Section 82-206 of the Muskogee City Code the quantity of water is not and cannot be guaranteed. Temporary or partial failure to deliver water shall be remedied as soon as reasonably possible.

In the event of an extended shortage of water, whether caused by equipment failure or an inadequate supply of raw (untreated) water, the water supplied to BUYER shall be reduced or diminished in the same proportion as the supply to the SELLER'S other customers located outside of SELLER'S city limits, unless the cause is a failure of the water main serving BUYER. If such an event is isolated to the SELLER'S ability to supply only the BUYER, SELLER shall take such actions as are reasonably necessary to remedy the cause of such shortage unless the failure is on BUYER'S side of the master meter in which event the repairs to said line are the responsibility of the BUYER.

In the event the SELLER announces emergency water rationing and a water use restriction policy for SELLER'S other customers outside the SELLER'S city limits the same restrictions shall apply to BUYER. The BUYER shall enforce the rationing and use restriction rules among its customers. NONCOMPLIANCE by the BUYER of this provision constitutes cause for SELLER to suspend or reduce delivery of water to BUYER. REPEATED violation of this provision shall be cause for SELLER to immediately terminate this agreement without notice.

5. TERMS OF SALE

A. BASE RATE. BUYER will pay to SELLER an amount for all treated water furnished by SELLER delivered by SELLER to BUYER'S connections (point of delivery) at the rate set out in appendix A of the Muskogee City Code.

B. EXCESS USAGE RATE. BUYER will pay to SELLER two times the amount of the "BASE RATE" (2 x base rate) per one hundred cubic feet of water usage over the MAXIMUM/MONTH usage which is 7,999,668 gallons or converted to units 10,694 units.

C. The SELLER at its sole discretion may adjust its rates at the same time that it adjusts its rates for its other customers located outside the city limits of SELLER. SELLER shall provide BUYER with a minimum of thirty (30) days notice before the effective date of the rate adjustment.

6. EASEMENTS AND RIGHT-OF-WAY

Prior to the effective date of this agreement BUYER and SELLER had in force and effect one or more agreements for the sale of potable water to BUYER. If additional connections to SELLER'S system are desired by BUYER, BUYER, at its own cost and expense, shall construct any necessary water line from SELLER'S system to SELLER'S city limits and said water line shall be constructed in accordance with Muskogee City Code. If an additional meter is required it shall be placed as set out in City Council Policy 8-1 at the SELLER'S City Limits. The BUYER shall pay SELLER all required tapping fees as required by the Muskogee City Code. If additional right-of-way or easements are required BUYER will, at BUYER'S expense, obtain and file of record, all additional right-of-way or easements. If said right-of-way or easements are located within the city limits of SELLER, BUYER shall dedicate such right-of-way or easements to the SELLER.

7. METERS AND METERING

Water delivered to the BUYER shall be metered in accordance with the provisions of the Muskogee City Code. BUYER shall install and maintain an approved preventive backflow device to eliminate any possibility of the BUYER'S system contaminating the SELLER'S water supply system. The tap, meter box, and backflow device shall be installed, at the BUYER'S expense, by a qualified plumber, licensed in the State of

Oklahoma, in accordance with the Muskogee City Code and inspected by the SELLER. The BUYER shall pay applicable charges for the water meter to the SELLER in accordance with the Muskogee City Code and said meter will be installed by the SELLER. The meter(s) shall be the property of the SELLER.

SELLER makes no representation to the satisfactory pressure and flow at the point of connection.

The meter(s) shall be read by the SELLER on a monthly basis. The SELLER shall submit a written statement of the monthly water charges to the BUYER. In the event a meter becomes defective or inoperable, a reasonable estimate of the water consumed will be made by SELLER. The estimated amount of water furnished, during the billing period during which the meter fails to register, will be deemed to be the greater of the amount of water delivered in the previous month or the corresponding month of the previous year. A statement based on this estimate will be accepted and paid by the BUYER.

8. PAYMENT

SELLER will bill the BUYER on or about the first business day of each month. The bill will set out the amount of water delivered to BUYER during the preceding billing period and the amount owed by the BUYER for that billing period. The Buyer shall pay the bill no later than the due date. Late payments shall bear an interest rate of ten percent (10%) per annum.

SELLER reserves the right to suspend or to terminate the delivery of water for nonpayment on the same terms that the SELLER applies to other customers. The suspension of water service shall be effective until BUYER pays all charges, interest, penalties and fees. Repeated failure of BUYER to pay the bill within the applicable time limit shall be cause to terminate the agreement.

9. CUSTOMERS AND SERVICE TERRITORY

BUYER agrees that BUYER shall not permit any other person or entity to connect to or obtain any water from the water system covered under this Agreement except BUYER'S customer members, see paragraph 3 above for restrictions. BUYER agrees not to sell any treated water to any bulk water user, town, city, private water association or water district. Violation of this provision shall cause the SELLER to immediately terminate the sale of water to BUYER without notice, and SELLER shall prepare statement for water used, and payment shall be made in compliance with Section 8, above. BUYER'S service territory is that territory approved by the Muskogee County Commissioners, the existing territory of Muskogee County Rural Water District # 10 as Shown on Exhibit A, attached hereto.

BUYER agrees that it will not serve or assert any exclusive right to serve any customer or territory, other than new customers of BUYER within the territory described in the above paragraph. If the Buyer does not have the present ability to serve all water

service needs of any new customer, including water requirements for fire protection and fire suppression and any reasonably anticipated future water service needs of its current water customers and territory Buyer shall negotiate the service of the new customer with the Seller which may include allowing the Seller to serve the new customer within the Buyer's territory. As used herein "present ability to serve" means that BUYER'S distribution system is in place and BUYER has sufficient water both by volume and pressure to provide the needs of the new customer which may include fire suppression requirements meeting the minimum standards of the Oklahoma Department of Environmental Quality.

BUYER agrees that it will not sell water, from whatever source obtained, to additional residential users, new or existing subdivisions, mobile home courts, other similar high-density developments, commercial or industrial users that are not located within BUYER'S approved service area as shown on exhibit A attached hereto and in existence at the time of executing this agreement.

BUYER agrees not to annex into its district territory any part of an area bounded by an area extending two (2) miles beyond the existing corporate limits of the SELLER except those areas currently within Buyers district territory .

10. ASSIGNMENT

The rights and privileges granted by the terms of this Agreement are not assignable by either party. In the event of any occurrence rendering the BUYER incapable of performing under this agreement any successor to BUYER shall be required to enter into a new agreement with SELLER within ninety days (90) of assuming SELLER'S customer members.

11. TERM

The term of this agreement is for the period from the date of execution through midnight June 30, 2019. This agreement will automatically be extended for additional one (1) year terms under the same identical terms and conditions as are set out herein. Any additional one year term will commence on a July 1st and end on a June 30th of the next calendar year unless either party gives written notice to the other one hundred eighty days (180) prior to the contracts next expiration date that the agreement will not be renewed.

12. TERMINATION

This Agreement shall terminate on the occurrence of any of the following:

- a. giving of the notice as provided in Section 11 above.
- b. the BUYER'S default in the payment of all or any amount billed by the SELLER for more than thirty (30) days or as provided in Section 8 above.
- c. the insolvency, assignment for the benefit of creditors or the filing of a petition in bankruptcy by or against BUYER.

- d. BUYERS default in the performance of any provision of this agreement where BUYER has been given notice and has not corrected the default within 10 business days.
- e. A change in state or federal law (including regulations) that alters the terms of this agreement or that changes the rights or obligations of the parties.
- f. as elsewhere set out in this agreement.
- g. SELLER's City Council declares by a duly adopted resolution that the water being furnished under this Agreement is required by SELLER for its own use and the use of its inhabitants. The determination by the City Council of the SELLER shall be final and is not subject to appeal.

13. RULES AND REGULATIONS

All improvements constructed by BUYER in the furtherance of this agreement shall conform to all applicable provisions of the Muskogee City Code, state statute and federal law.

14. TENANCIES

In the event that water service from the SELLER is terminated by either party, the BUYER agrees and covenants that it will release and discharge each, every and all tenancies or other right to use the property of the SELLER that may be granted to the BUYER to accomplish the purposes of this Agreement and will execute such written releases as may be required by the SELLER.

15. NO PROPERTY RIGHTS.

It is expressly understood and agreed by the parties that no provision of this Agreement is to be construed to grant to BUYER any property rights of any nature or kind whatsoever and particularly in SELLER'S water system or the waters stored therein.

16. NO THIRD PARTY BENEFICIARIES

This Agreement is solely between and for the benefit of the executing parties. No provision of this Agreement shall be construed to create third party beneficiaries or to create or establish rights or warranties expressly, implicitly or otherwise in favor of any individuals including but not limited to the customer members of the BUYER.

17. INDEMNITY

BUYER agrees to indemnify, defend and hold harmless the SELLER and any and all of its officers, employees and agents and representatives from any claims, obligations and liabilities resulting from the construction, maintenance, operation and existence of the taps, meter pits and meters, valves, necessary water lines, and any other improvement deemed necessary by the parties to carry out this agreement.

BUYER agrees to indemnify, defend and hold harmless the SELLER and any and all of its officers, employees, agents and representatives from any claims, suits, lawsuits, damages or injuries or any type brought by BUYER'S customers or members due to the inability of SELLER to supply water or water pressure.

Either party shall give the other party prompt and timely notice of any claim made arising out of this Agreement or the activities contemplated herein which in anyway, directly or indirectly, contingently or otherwise affects or might affect the other.

18. NOTICES

Notices shall be sent by first-class United States Mail postage prepaid, signed by the party giving such notice and addressed as follows:

To the SELLER City Manager
 City of Muskogee
 229 West Okmulgee
 Muskogee, OK 74401

To the BUYER Muskogee County Rural Water District #1
 P.O. Box 156
 Oktaha, OK 74450

19. AMENDMENT

No provision of this Agreement may be amended, waived or otherwise modified without the prior written consent of each party.

20. SURVIVAL

All promises, covenants, agreements, representations and warranties contained herein shall survive the execution and delivery and the subsequent termination of this Agreement and the transactions contemplated herein.

21. ENTIRE UNDERSTANDING

The Agreement contains the full, entire and integrated agreement, promises and understanding between the parties with respect to the covenants, promises and terms contained herein. No representations, warranties, provisions, covenants, agreements or understandings, whether written or oral and not contained herein or referred to shall be of any force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2018.

THE CITY OF MUSKOGEE, OKLAHOMA
A municipal corporation,

JOHN R. COBURN, MAYOR

ATTEST:

TAMMY L. TRACY, CITY CLERK

APPROVED as to form and legality for the City of Muskogee this ____ day of _____, 2018.

ROY D. TUCKER, City Attorney

Muskogee County Rural Water District #1

CHAIRMAN

SECRETARY

Regular City Council

20.

Meeting Date: 06/25/2018
Submitted For: Kelly Plunkett, Personnel
Initiator: Kelly Plunkett, Director of Human Resources
Department: Personnel
Staff Information Source: Kelly Plunkett

Information

AGENDA ITEM TITLE:

Approval of amended Council Policy 3-2-1, Classification Titles and Descriptions, or take other necessary action. (Kelly Plunkett)

BACKGROUND:

As required by City Charter, Article IV, Section 4:03, City Council Policy 3-2-1 sets forth a uniform set of rules and regulations covering titles and classifications. This revised policy establishes the provisions for classifying positions not only within the non-unionized group of employees of the City but for all non-uniformed employees (AFSCME and General Employees).

RECOMMENDED ACTION:

Recommend approval of City Council Policy 3-2-1, Classification Titles and Descriptions.

Fiscal Impact

Attachments

3-2-1

City Council Policy 3-2-1

DISTRIBUTION: City Manager, All Departments

SUBJECT: **Classification Titles and Descriptions**

PURPOSE: As required by City Charter, this policy establishes the provisions for classifying positions within the non-uniformed group of employees of the City of Muskogee.

BACKGROUND: Most occupations change over time, but the fundamental duties, responsibilities and qualifications required generally remain the same. Therefore, careful application of appropriate, established classification standards and guidance should result in correct classification decisions.

POLICY/

PROCEDURES: **Classification Titles and Descriptions**

A. Classification Titles

A classification title is a descriptive name for tasks, duties, and responsibilities assigned to one or more individuals whose positions have the same nature of work performed at the same level. Classification titles are assigned to each classification description and describe the nature and level of work performed.

B. Classification Descriptions

A classification description is a structured document assigning work to a given position as it is expected to be performed after customary orientation and training. The classification description contains a purpose of the classification, essential tasks, reporting relationships, qualifications, and working environment.

C. The Classification Process

1. The classification process includes developing an accurate and adequate position description and determining the appropriate job title and grade level for the position being evaluated.
2. Determining the proper classification of a job requires an understanding of assigned duties, responsibilities, and qualification requirements, as well as the knowledge and ability to locate, select, understand and apply specific classification standards, criteria, and precedents to the position being evaluated. Care is needed to clearly identify and understand job requirements and the classification system to objectively and accurately classify positions.

3. Classification descriptions will be written by the Human Resources Department, after consultation with the appropriate department to determine all proper and required components of the position.
4. After the classification description is written and subsequently approved by the appropriate Department Director, the position will then be measured by the Human Resources Director for an appropriate grade. The fundamental factors measured in the grading process are based on:
 - a. Know how-the total of every kind of knowledge and skill required for acceptable job performance measured in practical/technical knowledge, planning, organizing and integrating knowledge, and communicating and influencing skills.
 - b. Problem solving-the intensity of the mental process which employs know-how to identify, define and resolve problems measured in a thinking environment (freedom to think), and thinking challenge.
 - c. Accountability-the effect of the job on end results measured in freedom to act, nature of the impact on end results, and the magnitude (area of impact) on end results.
5. After completion of each of the classification components, the classification description will be forwarded to the City Manager, or designee, for final approval.
6. Classification titles, descriptions and/or grades may be added or modified at any time as deemed appropriate by the City Manager or his/her designee.

D. Classification Changes/Reclassifications

1. Reclassifications shall be different than promotions. Reclassification shall be defined as a change in a classification and/or pay grade resulting from the following processes:
 - a. The present classification, title and/or pay grade does not adequately reflect the responsibilities of the position in relation to other City positions.
 - b. There is another classification and/or pay grade which is or can be more reflective of the position as evaluated from the standpoint of duties, responsibilities and requirements.
 - c. Those job elements which would justify a different classification and/or pay grade have come about gradually rather than through an abrupt reassignment or organizational change.

2. Prior to implementation of a revised classification title, grade or position description revision, the Human Resources Director or designee shall notify and discuss with the City Manager, or designee, the affected classification criteria and language.
3. Reclassifications shall be subject to approval by the City Manager or his/her designee.

REFERENCES: City of Muskogee Charter

EFFECTIVE DATE: _____, 2018

RESCISSION: This policy rescinds and supersedes Council Policy 3-2-1 dated November 14, 2016.

RESPONSIBILITY DEPARTMENT: Human Resources

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA, THIS ____ DAY OF _____, 2018.

John R. Coburn, Mayor

ATTEST:

Tammy L. Tracy, City Clerk
(SEAL)

APPROVED as to form and legality this _____ day of _____, 2018.

Roy D. Tucker
City Attorney

Regular City Council**21.**

Meeting Date: 06/25/2018

Submitted For: Tammy Tracy, City Clerk

Initiator: Tammy Tracy, City Clerk

Department: City Clerk

Staff Information Source:

Information**AGENDA ITEM TITLE:**

Approval of the appointment of Janey Cagle Boyston to serve a two (2) year term on the City of Muskogee Foundation Board, beginning August 1, 2018, and ending July 31, 2020, replacing Patrick Cale, or take other necessary action. (Councilor Wayne Johnson)

BACKGROUND:

Mr. Cale appointed to the City of Muskogee Foundation Board on August 1, 2016. His term will expire July 31, 2018.

RECOMMENDED ACTION:

Recommend approval.

Fiscal Impact**Attachments**Janey Cagle Boydston

APPLICATION FOR APPOINTMENT TO A BOARD OR COMMISSION



**CITY OF MUSKOGEE
CITY COUNCIL**

**APPLICATION FOR CITY COUNCIL APPOINTMENT TO A BOARD
OR COMMISSION**

Application Instructions:

- Complete the entire application form (copies of the form are acceptable).
- Applicants are strongly encouraged to attach a current resume or biography.
- Specifically list the names of the boards or commissions to which you are applying (multiple selections are allowed). Paperwork cannot be appropriately processed unless specific boards or commissions are listed.
- Return application along with your resume to:
Office of the City Clerk, 229 W. Okmulgee, Muskogee, OK 74403 or by fax 918-684-6395.
- This form can be obtained electronically at <http://www.cityofmuskogee.com>, or by calling the City Clerk's Office at: (918) 684-6270.

Board(s) or Commission(s) for which you would like to be considered:

City of Muskogee Foundation Board

Your Full

Legal Name:

Janey Cagle Boydston

Your

Preferred Name:

Janey Boydston

Business Name:

Retired

Home Address:

Job Title/Employment Date:

Volunteer

City Zip:

Muskogee, Ok 74403

Business Address:

Cagle's Flowers

Ward:

1 2 3 4

Business Address:

3304 S. Harris Road

Home Phone:

Business Phone:

(918) 683-3233

Cell Phone:

Fax:

(918) 683-3235

Home Email:

Business Email:

caglesflowers@suddenlinkmail.com

Are you registered to vote in City of Muskogee Elections?

Yes No

Are you a citizen of the United States?

Yes No

Personal Information:

The Mayor and Council desire a broad representation of backgrounds on boards and commissions.

Education (high school, name and location of college or university, year graduated, and degree):

Muskogee Central High School (1951)

Current employment (job description, employment date, supervisor):

Cagley Flowers - Volunteer

Previous employment or experience:

Professional Licenses Held (if applicable):

Professional References (name, title, contact phone number):

Memberships in professional or civic organizations (please include offices held and dates of terms):

Muskogee Rotary Club (President sometime in the 1990's)

Military Service Record (including awards, decorations, etc.):

Have you ever been elected or appointed to any public office, board or commission in the City of Muskogee? No ☐ Yes ☒ (If yes, please list with dates served)

*Muskogee City Council - 2000 to 2008 and 2015 to present
Other various commissions, councils, boards and
committees over the years -*

Do you currently hold a public office? Public offices include elected or appointed officials of a municipality (it does not have to be Muskogee it could be any town or city), elected or appointed official of any county or the state or federal government, are a trustee of a public trust, are employed by any entity as a police officer, fire fighter, deputy sheriff, assistant district attorney or similar position or the member of a school board or appointed official of a school system or any other public or similar position.

yes - Muskogee City Council

Do you have any financial or other interests that might present a conflict of interest, or the appearance of such a conflict, if you were to be appointed to the position for which you have applied? No ☒ Yes ☐ (If yes, please explain)

APPLICATION FOR APPOINTMENT TO A BOARD OR COMMISSION

Please list any special interests or characteristics which might be important to serve on a Board or Commission:

RELEASE OF INFORMATION

I authorize the use of any information contained in the **APPOINTMENTS APPLICATION** to verify my statements made in the Application. I authorize my past employers, all references, and any other persons to answer all questions asked concerning my ability, character, reputation and previous education or employment record. I release all such persons from any liability or damages on account of having furnished such information. I consent to such investigations as Tammy Tracy, City Clerk or her authorized representatives may make regarding law enforcement records and my general background.

I certify under penalty of perjury under the laws of the State of Oklahoma, that the above information is true, complete and correct to the best of my knowledge.

Jane Boydston
Signature of Nominee

6-7-18
Date

Submitted by the Mayor for approval by the City Council this _____ day of _____, 20____

Signature of Sponsor

Regular City Council

22.

Meeting Date: 06/25/2018

Submitted For: Tammy Tracy, City Clerk

Initiator: Tammy Tracy, City Clerk

Department: City Clerk

Staff Information Source:

Information

AGENDA ITEM TITLE:

Approval of the appointment of William Barnes to serve a three (3) year term on the War Memorial Trust Authority beginning July 1, 2018, and ending on August 31, 2021, or take other necessary action. (Mayor Bob Coburn)

BACKGROUND:

Mr. Barnes will be filling a vacant seat on the War Memorial Trust Authority Board. His seat will be one of the three non-resident positions.

RECOMMENDED ACTION:

Approval of appointment

Fiscal Impact

Attachments

William Barnes

APPLICATION FOR APPOINTMENT TO A BOARD OR COMMISSION



**CITY OF MUSKOGEE
CITY COUNCIL**

**APPLICATION FOR CITY COUNCIL APPOINTMENT TO A BOARD
OR COMMISSION**

Application Instructions:

- Complete the entire application form (copies of the form are acceptable).
- Applicants are strongly encouraged to attach a current resume or biography.
- Specifically list the names of the boards or commissions to which you are applying (multiple selections are allowed). Paperwork cannot be appropriately processed unless specific boards or commissions are listed.
- Return application along with your resume to:
Office of the City Clerk, 229 W. Okmulgee, Muskogee, OK 74403 or by fax 918-684-6395.
- This form can be obtained electronically at <http://www.cityofmuskogee.com>, or by calling the City Clerk's Office at: (918) 684-6270.

Board(s) or Commission(s) for which you would like to be considered:

Muskogee War Memorial Board

Your Full
Legal Name: William Barnes

Your
Preferred Name: _____

Business Name: Office of Congressman Mullin **Home Address:** _____

Job Title/Employment Date: Veterans and Field Representative **City Zip:** 74451

Business Address: 3109 Azalea Park Drive, Muskogee OK 74401 **Ward:** 1 2 3 4

Home Phone: _____

Business Phone: (918) 687-2533 **Cell Phone:** _____

Fax: (918) 686-0128 **Home Email:** _____

Business Email: william.barnes@mail.house.gov

Are you registered to vote in City of Muskogee Elections? Yes Yes No

Are you a citizen of the United States? Yes Yes No

Personal Information:

The Mayor and Council desire a broad representation of backgrounds on boards and commissions.

Education (high school, name and location of college or university, year graduated, and degree):

Chouteau High School, Chouteau Oklahoma graduated 1991

South Eastern Oklahoma State University graduated with bachelors in Political Science minor in History in 2016

APPLICATION FOR APPOINTMENT TO A BOARD OR COMMISSION

Current employment (job description, employment date, supervisor):

Veterans and Field Representative for Office of Congressman Markwayne Mullin CD-2, hire date: February 2013

My duties include covering six counties in Oklahoma's District two as a Field Representative and thirteen counties as a Veterans Representative.

Supervisor is Congressman Markwayne Mullin, description of duties included in resume.

Previous employment or experience:

description of military service and previous employment included in resume. I am however retired from the US Army.

Professional Licenses Held (if applicable):

Professional References (name, title, contact phone number):

Tim Smith (918) 577-8738 American Legion Commander Ft. Gibson, City Counselor city of Ft. Gibson

Michael Stopp (918) 853-1494 Chief of Staff Congressman Markwayne Mullin

Jalme Stout (918) 869-8930 Muskogee City Counselor

Memberships in professional or civic organizations (please include offices held and dates of terms):

Member of American Legion Post Post 20 (Frank Gladd) Ft. Gibson, OK

Military Service Record (including awards, decorations, etc.):

Military service information included in resume

Have you ever been elected or appointed to any public office, board or commission in the City of Muskogee? No ☒ Yes (If yes, please list with dates served)

Muskogee Chamber Veterans Board late 2014 to late 2016 (dates are non-specific due to records being misplaced)

Jack C. Montgomery VA Hospital, Veterans Commission Board 2014 to 2016 (I served on the initial and second board)

Do you currently hold a public office? Public offices include elected or appointed officials of a municipality (it does not have to be Muskogee it could be any town or city), elected or appointed official of any county or the state or federal government, are a trustee of a public trust, are employed by any entity as a police officer, fire fighter, deputy sheriff, assistant district attorney or similar position or the member of a school board or appointed official of a school system or any other public or similar position.

No

Do you have any financial or other interests that might present a conflict of interest, or the appearance of such a conflict, if you were to be appointed to the position for which you have applied? No ☒ Yes (If yes, please explain)

APPLICATION FOR APPOINTMENT TO A BOARD OR COMMISSION

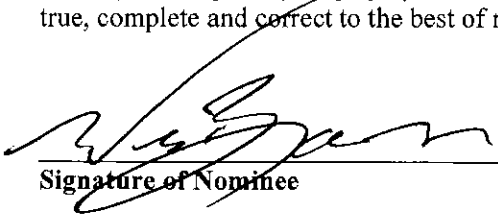
Please list any special interests or characteristics which might be important to serve on a Board or Commission:

I have contacts and relationships with a multitude of Veterans Service Organization and groups throughout the Second Congressional District of Oklahoma both due to my work for the Congressional office as a veterans advocate and as a disabled veteran myself

RELEASE OF INFORMATION

I authorize the use of any information contained in the **APPOINTMENTS APPLICATION** to verify my statements made in the Application. I authorize my past employers, all references, and any other persons to answer all questions asked concerning my ability, character, reputation and previous education or employment record. I release all such persons from any liability or damages on a ccount of having furnished such information. I consent to such investigations as Tammy Tracy, City Clerk or her authorized representatives may make regarding law enforcement records and my general background.

I certify under penalty of perjury under the laws of the State of Oklahoma, that the above information is true, complete and correct to the best of my knowledge.


Signature of Nominee

4/5/18
Date

Submitted by the Mayor for approval by the City Council this _____ day of _____, 20____

Signature of Sponsor

Sgt. William Barnes USA Ret.

580-889-0096

P.O. Box 902
Park Hill, Ok 74451
Infantry73@yahoo.com

Objectives

To be an asset to the VA and help the organization grow stronger and more efficient. To be able to assist in addressing the needs of our Veterans.

Education

Graduated from Southeastern Oklahoma State University December 2015
Bachelor Degree in Political Science, Minor in History

- Honor Society
- Deans Honor Roll
- Presidential Honor Roll

Experience

July 2014-Present: Veterans, Field and Military Affairs Representative for
Congressman Markwayne Mullin,
Additional duties include: Veterans Casework Manager, Muskogee Office.

U.S. House of Representatives | Congressman Markwayne Mullin Address: 3109 Azalea Park
Drive Muskogee, Ok 74401

My responsibilities and duties to the Congressman are as follows: In my Veterans
Representative role I attend all meetings and functions that the Congressman cannot attend in

relation to any Veterans issues within my thirteen county area, Tulsa and Oklahoma City are additional parts of the state that I cover when applicable. Participation in meetings at both Oklahoma and Arkansas VA facilities, fall under my purview, as well as, the Governors Veterans Council. These meetings and others are held on a monthly basis. Quarterly VA MAC meetings, as well as, Legislative meetings in Muskogee OK, Fayetteville Ark, and the Oklahoma City VA Hospital can also be included in this list. Interacting with the personnel of these facilities and those of all the various Veterans Service Organizations is a large part of accomplishing my duties. As such I am in almost constant contact with the staff of the various Service Organizations and attend the special events they hold throughout the year on a regular basis. For example; Saturday Breakfast with the American Legion, Morning Coffee with the Marine Corp League, as well as, visiting new types of Veterans outreach such as the Coffee Bunker in Tulsa.

While attending the aforementioned meetings and events, it is a part of my role to speak on behalf of the Congressman as need be and as a major charge to report back and relay what new or pertinent information was revealed in the form of a written brief. I am responsible for assisting all veterans who come to the Congressman's Office with their needs and issues, whether they encompass, education, health or benefits. To accomplish this I meet with the Veteran and begin an initial file. While speaking with the Veteran I examine the information and verify what the exact issue is and who I need to contact to affect the situation in a positive manner. Upon reiterating what the Veteran hopes to achieve in a clearer, more precise manner, I then send the information to the Agency or Organization that can best address the issue. At this point I monitor the case ensuring that the amount of time spent awaiting a response is kept to a minimum and that the case is receiving the attention it deserves. Once I receive a response, I

then retype the information regarding the situation and the Veteran onto Congressional letterhead to ensure that the Veteran understands clearly and concisely what has been done on their behalf and how their dilemma is being addressed. If the Veteran has a extremely complicated problem that requires additional information or research, I seek out the misplaced or missing information on their behalf and ensure that the correct paperwork or documentation gets into the right hands at the correct entity to best help the case along.

In my Field Representative role I attend local county meetings throughout the month including the County Commissioner meetings in each of my four counties that I possess in this role. If any constituent of my Counties; Muskogee, Cherokee, Okmulgee and Okfuskee report an issue in their area, it is among my duties to attend to those issues by interacting with members of the necessary State and Federal Agencies. In the scope of this role I also deal with members of the Legislature of the State of Oklahoma and their staff on an almost weekly basis. Where my job concerns the Colleges of Oklahoma and Business Leaders of our State, I attend Legislative meetings to either give briefings on the current status of legislation which will affect them in their specific endeavors, or attend briefing where they give current status and updates on various programs that they are embarking upon and how they will affect Oklahoma and the Nation. Following this type of meeting it is in my duties to write clear and concise reports on the subject and detail the information in such a way as it is short, complete and to the point.

In my capacity as the Representative for the Congressman in matters concerning the Military my duties are as follows: Attending all functions and briefings at the Congressman's behest when he is unable to attend. Funerals, meetings, briefings, site inspections and so on. My duties in this area are all encompassing and have grown as time has passed since my initial

hiring by the Congressman, also in this area I deal extensively with other Congressional and Senatorial Offices and their staff.

Over the scope of my employment with Congressman Markwayne Mullin's Office, it has been my personal pleasure to set up, from start to finish, a number of Veterans and Congressional Town Halls. These special events come from quarterly meetings in which analyze specific issues being encountered in the Congressional District and formulate new and innovative ways to address those problems. In this role, once a decision is made on how to approach the dilemma, my mission begins with finding and securing the proper forum, alerting correlating groups and individuals, informing the press and media of our intentions and keeping communication open and flowing between the various organizations in regards to the meetings, thus coordinating the movements of all necessary groups, up and until completion.

Interactions between myself and all Federal and State, Senatorial and Congressional Offices happen on a daily if not weekly basis and inevitably include corresponding together on issues in a meaningful way, trading information on topics and working together to solve issues pertinent to America's Veterans. I have found that my status as a Veteran, let alone a Disabled Veteran, has been invaluable where it pertains to garnering the trust of other service members no matter the Military Branch in which they served. It has allowed me valuable insight into the needs of my fellow Veterans and what they have come to expect from the Offices and Agencies that serve them.

Insofar as personal growth and volunteer work: I currently sit on the Jack C. Montgomery Veteran and Family Advisory Council. I have been on this council since its inception and during my time on the council I have worked in tandem with council members and others attempting to create new approaches to addressing the needs of our Veterans and their families. We have also

attempted to affect, in a positive way, the needs of the hospital itself. I also sit on the Muskogee Veterans Advisory Council and have been with that group since its inception as well. The Muskogee VAC was created to address the needs of the Veterans in Muskogee County and seeks to provide, through the Muskogee Chamber of Commerce, a way to reach out and provide help to the Veterans of that County.

In my current position it is necessary that I have a current understanding and knowledge of all current; laws, regulations, standards and policies as they relate to Veterans. It is incumbent upon me to have excellent and proven skills where it concerns; preparing papers and reports, as well as, organizing the information in those reports and delivering briefings on what I have collected or investigated. My ability to communicate both orally and in writing is and has to be above par to superb, as the range of people that I interact with can vary in the course of one day from co-workers to the Office of the Inspector General and beyond.

I am the initial contact point and serve as the reception point for all Congressional, Veterans and field cases. I manage these action items from beginning to end, as every case that comes into the Congressman's Office is deemed an action item and must be responded to and answered. It is in the course of these duties that I engage in clear written and verbal communication with the parties involved and address the specific concerns that were brought to us for assistance. In my position serving the Congressman it is incumbent upon me to build and foster relationships across a myriad of agencies that include Federal and State Agencies, Veterans Service Organizations, Veterans and their families. This ability to work with others is, in my view, the most productive aspect and most important personal trait as it impacts my current position.

August 2012-December 2015

Student at Southeastern Oklahoma State University, Durant Ok.

July 2004-April 2007

U.S. Army: Sergeant Recon Platoon (Primary) Squad Designated Marksman
(Secondary) Camp Bucca (Iraq) 2004-2005

Responsibilities included overall base security. Identification of possible threats to mission and base personnel. Reduction of said threat as permitted within theater of operations. Gathering of intelligence in pursuit of enemies of the United States of America. Training and Readiness of the Soldiers, Sailors, Marines and Airmen under my direct command. With Secondary duties carried out as mission dictated.

I was medically evacuated from the battle field in July of 2005, I underwent surgeries to correct my injuries that lasted until 2007. My injuries were deemed too extensive to justify my continued enlistment in the United States Army. I was medically retired with an Honorable discharge. Upon reaching the highest state of recovery possible, I entered into Southeastern Oklahoma State University in pursuit of a degree and possibly new career.

2002-2003 (Egypt) U.S. Army: Specialist Infantry Platoon Weapons Squad

Responsibilities: Site Security, Mission Planning, Troop Placement, Weapons Specialist, Soldier Temp and Readiness Training. Responsibilities also included overall mission security to and from secure sites. Cooperated in the planning and dispensation of fellow soldiers at ready positions, as well as training said soldiers in mission oriented tasks. With specialization in heavy weapons placement, use and training.

Current DD-214 may not list all time served in the Military, total time served was 9 years, seven months.

Skills

- Efficient in Typing, MS Word and Excel.
- Demonstrating creativity, initiative, good judgment and the ability to express thoughts clearly and simply.
- Effectively identify and resolve problems using available resources.
- Excellent communication skills, reliable working independently as well as in a team effort; learn new skills rapidly.
- Proficient in the use of the I.Q. System currently in use within Congressman Mullins Office. This platform is used to enter, track, maintain and systemize the Congressional Inquiries and Veterans Cases that come into the office.

Meeting Date: 06/25/2018

Initiator: Gary Garvin, Planning Director

Information

AGENDA ITEM TITLE:

Hold a Public Hearing and take action on the approval of Ordinance No. 4049-A rezoning the property located at 11 Beckman Drive, more particularly described in the Ordinance from "R-1" Single-Family Residential to "R-A" Agriculture Residential, and if approved, authorize Staff to revise the Official Zoning Map of the City to reflect said change, or take other necessary action. (Gary D. Garvin)

LEGAL DESCRIPTION:

A PART OF THE NW1/4 OF THE NE1/4 OF SECTION 19, T15N, R18E, MUSKOGEE COUNTY, OKLAHOMA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF THE NW1/4 NE1/4 OF SECTION 19, T15N, R18E, MUSKOGEE COUNTY, OKLAHOMA; THENCE DUE SOUTH ALONG THE EAST BOUNDARY OF SAID NW1/4 NE1/4 A DISTANCE OF 1321.75 FEET TO A POINT; THENCE N89°48'00"W A DISTANCE OF 300.94 FEET TO THE POINT OF BEGINNING; THENCE N89°48'00"W A DISTANCE OF 362.84 FEET TO A POINT; THENCE DUE NORTH A DISTANCE OF 195.99 FEET TO A POINT; THENCE N63°34'00"E A DISTANCE OF 66.10 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 219.47 FEET A DISTANCE OF 101.43 FEET TO A POINT OF TANGENCY; THENCE S89°48'00"E A DISTANCE OF 0.00; THENCE DUE SOUTH A DISTANCE OF 40.0 FEET TO A POINT; THENCE S89°48'00"E A DISTANCE OF 195.74 FEET TO A POINT; THENCE S00°12'00"E A DISTANCE OF 0.00 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 50 FEET A DISTANCE OF 32.35 FEET TO A POINT; THENCE S36°52'10"E A DISTANCE OF 0.00 FEET TO THE POINT OF TANGENCY; THENCE DUE SOUTH A DISTANCE OF 178.75 FEET TO THE POINT OF BEGINNING.

BACKGROUND:

The applicants, James and Chelsi Wallingford, are requesting to rezone the property located at 11 Beckman Drive from "R-1" Single-Family Residential to "R-A" Agriculture Residential to allow a garden, large shop and livestock on the property.

The Comprehensive Plan/Land Use Map, adopted by the City of Muskogee, indicates residential within this area. Therefore, the request to rezone to "R-A" Agriculture Residential complies with the Comprehensive Plan and Land Use Map.

Notices have been sent to the property owners within 300 foot radius, as required, and published in the paper twenty (20) days prior to the Public Hearing. A Public Hearing will be held on the following days:

June 18, 2018 at 9:00 a.m.: City of Muskogee Planning & Zoning Commission

June 18, 2018, 2017 at 5:30 p.m.: Public Works Committee

June 25, 2018 at 5:30 p.m. Muskogee City Council Meeting

RECOMMENDED STAFF ACTION:

Approve the Ordinance rezoning the property from "R-1" Single-Family Residential to "R-A" Agriculture Residential, and authorize staff to revise the Official Zoning Map of the City to reflect said change.

Fiscal Impact

Attachments

Ord 4049-A Rezoning
Site Plan/Notice - Wallingford

ORDINANCE NO. 4049-A

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF MUSKOGEE AS PROVIDED BY CHAPTER 90, SECTION 01-03, OF THE MUSKOGEE CITY CODE, SEPTEMBER 2014, BY RE-ZONING PROPERTY LOCATED AT 11 BECKMAN DRIVE, CITY OF MUSKOGEE, LOCATED IN THE NORTHEAST QUARTER (NE1/4) OF SECTION 19, TOWNSHIP 15 NORTH, RANGE 18 EAST, MUSKOGEE COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE OFFICIAL PLAT THEROF, MUSKOGEE COUNTY, OKLAHOMA, CONTAINING 1.79 ACRES MORE OR LESS, AND PROVIDING FOR SEVERABILITY. THE PROPERTY IS MORE PARTICULARLY DESCRIBED AS:

A PART OF THE NW1/4 OF THE NE1/4 OF SECTION 19, T15N, R18E, MUSKOGEE COUNTY, OKLAHOMA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF THE NW1/4 NE1/4 OF SECTION 19, T15N, R18E, MUSKOGEE COUNTY, OKLAHOMA; THENCE DUE SOUTH ALONG THE EAST BOUNDARY OF SAID NW1/4 NE1/4 A DISTANCE OF 1321.75 FEET TO A POINT; THENCE N89°48'00"W A DISTANCE OF 300.94 FEET TO THE POINT OF BEGINNING; THENCE N89°48'00"W A DISTANCE OF 362.84 FEET TO A POINT; THENCE DUE NORTH A DISTANCE OF 195.99 FEET TO A POINT; THENCE N63°34'00"E A DISTANCE OF 66.10 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 219.47 FEET A DISTANCE OF 101.43 FEET TO A POINT OF TANGENCY; THENCE S89°48'00"E A DISTANCE OF 0.00; THENCE DUE SOUTH A DISTANCE OF 40.0 FEET TO A POINT; THENCE S89°48'00"E A DISTANCE OF 195.74 FEET TO A POINT; THENCE S00°12'00"E A DISTANCE OF 0.00 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 50 FEET A DISTANCE OF 32.35 FEET TO A POINT; THENCE S36°52'10"E A DISTANCE OF 0.00 FEET TO THE POINT OF TANGENCY; THENCE DUE SOUTH A DISTANCE OF 178.75 FEET TO THE POINT OF BEGINNING.

(James and Chelsi Wallingford, Applicant)

FROM "R-1" SINGLE-FAMILY RESIDENTIAL DISTRICT

TO

"R-A" RESIDENTIAL AGRICULTURE DISTRICT

WHEREAS, the City of Muskogee Planning and Zoning Commission, in a meeting held JUNE 18, 2018, did recommend the approval of the rezoning of the property set out above in the title of the Ordinance, and did authorize the director of the Commission to advise the Council of the City of Muskogee of this recommendation,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, OKLAHOMA,

Section 1

THAT, the official zoning map of the City of Muskogee as provided by Chapter 90, Section 01-03, of the Muskogee City Code, September 2014, is hereby amended by changing the District Classification by rezoning; A PART OF THE NW1/4 OF THE NE1/4 OF SECTION 19, T15N, R18E, MUSKOGEE COUNTY, OKLAHOMA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF THE NW1/4 NE1/4 OF SECTION 19, T15N, R18E, MUSKOGEE COUNTY, OKLAHOMA; THENCE DUE SOUTH ALONG THE EAST BOUNDARY OF SAID NW1/4 NE1/4 A DISTANCE OF 1321.75 FEET TO A POINT; THENCE N89°48'00"W A DISTANCE OF 300.94 FEET TO THE POINT OF BEGINNING; THENCE N89°48'00"W A DISTANCE OF 362.84 FEET TO A POINT; THENCE DUE NORTH A DISTANCE OF 195.99 FEET TO A POINT; THENCE N63°34'00"E A DISTANCE OF 66.10 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 219.47 FEET A DISTANCE OF 101.43 FEET TO A POINT OF TANGENCY; THENCE S89°48'00"E A DISTANCE OF 0.00; THENCE DUE SOUTH A DISTANCE OF 40.0 FEET TO A POINT; THENCE S89°48'00"E A DISTANCE OF 195.74 FEET TO A POINT; THENCE S00°12'00"E A DISTANCE OF 0.00 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 50 FEET A DISTANCE OF 32.35 FEET TO A POINT; THENCE S36°52'10"E A DISTANCE OF 0.00 FEET TO THE POINT OF TANGENCY; THENCE DUE SOUTH A DISTANCE OF 178.75 FEET TO THE POINT OF BEGINNING., MUSKOGEE COUNTY, STATE OF OKLAHOMA FROM "R-1" SINGLE-FAMILY RESIDENTIAL DISTRICT TO "R-A" RESIDENTIAL AGRICULTURE DISTRICT.

AND that this change be so ordered and declared by the City Council.

Section 2

THAT, the City Clerk is authorized and directed to show such change on the zoning map record.

Section 3

REPEALER. All other ordinances or parts of ordinances in direct conflict herewith are repealed to the extent of the conflict only.

Section 4

SEVERABILITY. Should any part, section, subsection, sentence, provision, clause, or phrase hereof be held invalid, void, or unconstitutional for any reason, such holding shall not render invalid, void, or unconstitutional any other section, subsection, sentence, provision, clause, or phrase of this Ordinance, and the same are deemed severable for this purpose.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY
OF MUSKOGEE, OKLAHOMA, THIS 25TH DAY OF JUNE 2018.

JOHN R. COBURN, MAYOR

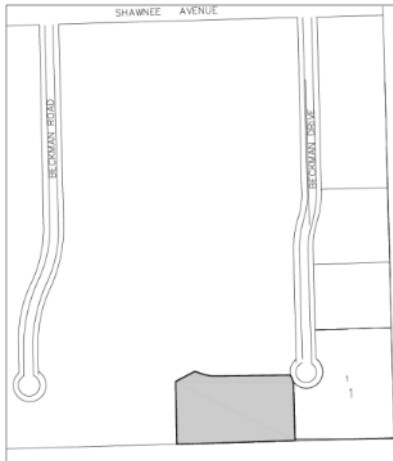
ATTEST:

TAMMY L. TRACY, CITY CLERK
(SEAL)

APPROVED as to form and legality this ____ day of _____, 2018.

ROY D. TUCKER, CITY ATTORNEY

Public Hearing Notice



Proposal: To rezone property located at 11 Beckman Drive, from “R-1” Single-Family Residential District to “R-A” Agriculture Residential District. The property is more particularly described as:

A part of the NW1/4 of the NE1/4 of Section 19, T15N, R18E, Muskogee County, Oklahoma, more particularly described as follows: Commencing at the NE corner of the NW1/4 NE1/4 of Section 19, T15N, R18E, Muskogee County, Oklahoma; thence due South along the East boundary of said NW1/4 NE1/4 a distance of 1321.75 feet to a point; thence N89°48'00"W a distance of 300.94 feet to the Point of Beginning; thence N89°48'00"W a distance of 362.84 feet to a point; thence due North a distance of 195.99 feet to a point; thence N63°34'00"E a distance of 66.10 feet to a point of curvature; thence along a curve to the Right having a radius of 219.47 feet a distance of 101.43 feet to a point of tangency; thence S89°48'00"E a distance of 0.00; thence due South a distance of 40.0 feet to a point; thence S89°48'00"E a distance of 195.74 feet to a point; thence S00°12'00"E a distance of 0.00 feet to a point of curvature; thence along a curve to the left having a radius of 50 feet a distance of 32.35 feet to a point; thence S36°52'10"E a distance of 0.00 feet to the point of tangency; thence due South a distance of 178.75 feet to the Point of Beginning.

Applicant: James and Chelsi Wallingford

This notice is provided to property owners within 300 feet of the above site to inform them of the following public hearings regarding the above proposal:

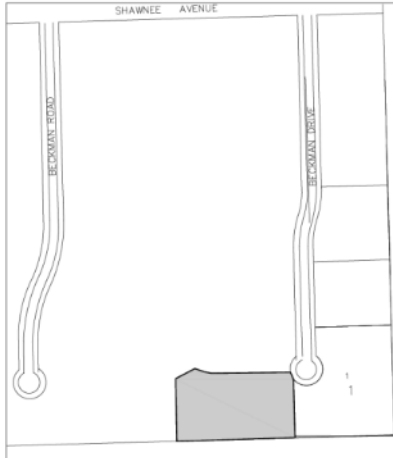
June 18, 2018 at 9:00 a.m.: City of Muskogee Planning & Zoning Commission

June 18, 2018 at 5:30 p.m.: City of Muskogee Public Works Committee

June 25, 2018 at 5:30 p.m.: City Council

All of the public hearings will be held in the Council Chambers, 3rd Floor of the City Municipal Building, 3rd Street and Okmulgee, Muskogee, Oklahoma. The purpose of the public hearing is to discuss the above proposal. You are welcome to attend the meeting and express your opinion. If you have questions about the proposal, or need additional information prior to the public

hearing, please contact the Planning Department at 918.684-6232.



(James and Chelsi Wallingford, Applicant)

PUBLIC NOTICE

Notice is hereby given that on June 18, 2018, at 9:00 a.m., in the Council Chambers of the Municipal Building, Muskogee, Oklahoma, a public hearing will be conducted by the City of Muskogee Planning & Zoning Commission, on June 18, 2018, at 5:30 p.m., by the Public Works Committee, and on June 25, 2018, at 5:30 p.m., by the City Council to consider an application to rezone property located at 11 Beckman Drive, from “R-1” *Single-Family Residential* District to “R-A” Residential Agriculture District. The property is more particularly described as:

A part of the NW1/4 of the NE1/4 of Section 19, T15N, R18E, Muskogee County, Oklahoma, more particularly described as follows: Commencing at the NE corner of the NW1/4 NE1/4 of Section 19, T15N, R18E, Muskogee County, Oklahoma; thence due South along the East boundary of said NW1/4 NE1/4 a distance of 1321.75 feet to a point; thence N89°48'00"W a distance of 300.94 feet to the Point of Beginning; thence N89°48'00"W a distance of 362.84 feet to a point; thence due North a distance of 195.99 feet to a point; thence N63°34'00"E a distance of 66.10 feet to a point of curvature; thence along a curve to the Right having a radius of 219.47 feet a distance of 101.43 feet to a point of tangency; thence S89°48'00"E a distance of 0.00; thence due South a distance of 40.0 feet to a point; thence S89°48'00"E a distance of 195.74 feet to a point; thence S00°12'00"E a distance of 0.00 feet to a point of curvature; thence along a curve to the left having a radius of 50 feet a distance of 32.35 feet to a point; thence S36°52'10"E a distance of 0.00 feet to the point of tangency; thence due South a distance of 178.75 feet to the Point of Beginning.

And for taking any other actions as authorized by law, of which all interested persons will take notice.

Mark Luttrull, Chairman
City of Muskogee Planning & Zoning Commission

Regular City Council**24.**

Meeting Date: 06/25/2018

Submitted For: Gary Garvin

Initiator: Tish Callahan,
Planning Asst.

Department: Planning

Staff Information Source:

Information**AGENDA ITEM TITLE:**

Hold a Public Hearing to discuss the Community Development Block Grant 2018 Application for \$103,887.00 under the Oklahoma Department of Commerce Small Cities Set Aside Grant Fund Program, and take other necessary action. (Gary Garvin)

BACKGROUND:

The City of Muskogee is applying to the Oklahoma Department of Commerce (ODOC) Community Development Block Grant Small Cities Set Aside funding assistance program. The State of Oklahoma has funds available to units of local government to undertake viable community development activities that primarily benefit persons defined as low and moderate income. Community development has been identified as a City priority need and a tentative decision has been made to renew funding from the ODOC for \$103,887 for grant year 2018 to provide funding for demolition, clearance, removal of junk and debris and/or abandoned inoperative vehicles within the qualifying geographic areas of the City of Muskogee. The public hearing is to enable comments on the specific project activity that is proposed and to provide a clear explanation of the probable impact on the city and residents, should the project be funded.

RECOMMENDED ACTION:

Open a Public Hearing.

Fiscal Impact**Attachments****PUBLIC HEARING NOTICE 2018**

TO BE PUBLISHED AS A LEGAL NOTICE IN THE MUSKOGEE DAILY
PHOENIX ON June 15, 2018

**PUBLIC HEARING
CDBG FY 2018**

The City of Muskogee is considering applying to the Oklahoma Department of Commerce (ODOC) Community Development Block Grant Community Development funding assistance. The State of Oklahoma has funds available to units of local government to undertake viable community development activities that primarily benefit persons defined as low and moderate income.

Community development has been identified as a City priority need and a tentative decision has been made to renew funding from the ODOC for \$103,887 in 2018.

The purpose of this public hearing is to enable comments on the specific project activities that are proposed and to provide a clear explanation of the probable impact on the City and residents, should the project be funded.

More specific details regarding eligible activities and program requirements will be provided at the public hearing on **Monday, June 25, 2018 at 5:30 p.m. during the Muskogee City Council meeting to be held at Muskogee City Hall, 229 West Okmulgee, Council Chambers, 3rd Floor.**

Any questions prior to the public hearing can be directed to the City of Muskogee Planning Department (918) 684-6232.

Regular City Council**25.**

Meeting Date: 06/25/2018
Submitted For: Mike Stewart, Assistant City Manager
Initiator: Robin Orman, Office Administrator
Department: Assistant City Manager
Staff Information Source:

Information**AGENDA ITEM TITLE:**

Receive year-end report from the Oklahoma Music Hall of Fame and Museum for FY 2017-2018, as well as consider approval to renew the Cooperative Agreement with the Oklahoma Music Hall of Fame and Museum, Inc., providing for funding for FY 2018-2019, and take other necessary action. (Mike Stewart)

BACKGROUND:

The City and the Oklahoma Music Hall of Fame have been in partnership for a number of years. This renewal provides for a continuation of the funding level at \$55,000.00.

RECOMMENDED ACTION:

Approve the proposed amended agreement between the City and the Oklahoma Music Hall of Fame and Museum, Inc in the amount of \$55,000.00.

Fiscal Impact**FUNDING SOURCE:**

\$55,000.00 to be funded by the Hotel/Motel tax fund

Attachments

2019 Cooperative Agreement

THE CITY OF MUSKOGEE, OKLAHOMA AND THE OKLAHOMA MUSIC HALL OF FAME AND MUSEUM, INC. COOPERATIVE AGREEMENT

THIS AGREEMENT is entered into this _____ day of _____, 2018, by and between the City of Muskogee, Oklahoma (hereinafter "City") and the Oklahoma Music Hall of Fame and Museum, Inc. (hereinafter, "OMHOF"), a private not for profit Oklahoma Corporation.

WHEREAS, by lease the City by lease dated April 28, 2003, and amended on June 28, 2011, leased to OMHOF until June 30, 2022, the property located at 401 South 3rd Street, Muskogee to be operated as the Oklahoma Music Hall of Fame, and

WHEREAS, the City has as one of its stated public purposes an interest in promoting the cultural and tourism development of the greater Muskogee community, and

WHEREAS, the purposes of entering into this agreement are to assist in provision of funding for: (1) the administration and operation of the OMHOF to ensure that its related services and facilities continue to attract the attention of the public as a state wide facility dedicated to the preservation of the music history of Muskogee and the State of Oklahoma; (2) to work toward the long term financial stability of the OMHOF; and (3) to create a cooperative partnership between the City and the OMHOF aimed at achieving these goals and objectives, and

WHEREAS, the Council of the City of Muskogee, Oklahoma, has determined that continued operation of OMHOF fulfills the public purpose of the City in promoting economic, cultural and tourism development of the community,

NOW THEREFORE, in consideration of the mutual promises and other good and valuable consideration exchanged herein, the parties hereby acknowledge and agree as follows:

SECTION I. Intent and Purpose

The intent and purpose of this Agreement is for the City to contract the services of the OMHOF so that the OMHOF can effectively implement cultural and tourism development of the greater Muskogee community. OMHOF shall utilize the funds provided in this agreement to operate the Oklahoma Music Hall of Fame.

OMHOF shall work toward the achievement of the following public service objectives:

- a. Public awareness and education as to the existence of the Oklahoma Music Hall of Fame;
- b. Encouragement of visitor development, membership expansion, and expansion as a method of broadening the existing tax base, providing local opportunities and defraying the cost of the operation of the Oklahoma Music Hall of Fame.

In pursuance of the above, OMHOF shall prepare and transmit to the City, a quarterly report no later than 30 days after the end of each quarter, said report to detail the activities of OMHOF, to include visitor information, in servicing the public objectives herein before set forth. Achievement of these objectives will be a factor in determining whether additional funding beyond the term of this agreement will be provided by the City. If OMHOF seek funding in the future it must present its proposed annual operating budget by April 1st to be reviewed through the customary budget procedures of the City.

It is understood and agreed that the services contracted for hereby are designed and intended for the purpose of accomplishing objectives which redound to the benefit of the community area as a whole in consideration of the public health, safety and general welfare.

It is further understood that OMHOF will actively seek funding through other sources to supplement City payments to eventually self-sustain this endeavor.

SECTION II. Creation of Independent Contract

OMHOF agrees to act as an Independent Contractor of the City in implementing said Agreement in compliance with all Laws and Statutes applicable to the accounting, reporting, recording, and retention of all revenues and expenditures of funds including to the extent applicable: the Municipal Budget Act, Title 11, Oklahoma Statutes, Chapter 17; the Oklahoma Open Meetings Act, Title 25, Oklahoma Statutes, § 301 et seq; and the Oklahoma Open Records Act, Title 51, Oklahoma Statutes, § 24A.1 et seq. OMHOF will report and document revenues and expenditures to insure the City's ability to comply with the above statutes.

SECTION III. Services to be performed by OMHOF

OMHOF shall consistent with the terms of this agreement, encourage, develop, promote, and foster cultural activities and tourism which would benefit the City of Muskogee, Oklahoma.

SECTION IV. Definitions

The following definitions are included for purposes of applying and interpreting the various provisions of this Agreement between the parties.

Cultural Development. Cultural Development activities are those activities designed to create, attract and enhance the culture and music history of the City, the greater Muskogee area and the State of Oklahoma.

Invoice. Means, for the purposes of this agreement, a statement from OMHOF of the amount due pursuant to the terms of this agreement.

Tourism Development. Tourism Development activities are those activities designed to enhance the tourism potential of Muskogee, including marketing activities reasonably related to enhancing the tourism activity and marketing of the history of the community that create positive impact for the community.

SECTION V. Budgeting of Funds

a. OMHOF shall on April 1st, submit an annual budget for approval by the City. The budget will be submitted in three (3) categories —Cultural Development, Tourism Development and Administrative Costs. For Fiscal Year 2018/2019. The City council of the city of Muskogee hereby approves an appropriation of Fifty-Five Thousand Dollars (\$55,000)

b. City Council agrees to allocate funds to OMHOF not to exceed in the amount specified in the City's approved Budget for the services to be performed under this Agreement from the appropriate funding sources of the City, said compensation to be made at least as often as monthly. An invoice submitted to the City must be presented in writing and verified in the manner provided by law.

c. Funds for each calendar month of FY 2018-2019 shall be paid pursuant to the provisions of Section V (b) above.

d. The City Treasurer will be responsible for monitoring compliance with the terms of this Agreement, and will promptly report in writing possible non-compliance to the City Manager, so that necessary corrections can be made.

e. All revenue not expended by June 30 of the contract year, which OMHOF received from the City for services performed under this Agreement, shall be returned to the City by July 15 of the next fiscal year during the term of this Agreement.

SECTION VI. Accountability.

OMHOF shall maintain integrity of the tax revenues at all times and a general accounting ledger for these funds in a manner sufficient to enable City to comply with appropriate governmental accounting standards.

SECTION VII. Reporting.

The City reserves the right to review the books and records of the OMHOF to insure compliance with the approved budget.

b. Reports. OMHOF shall furnish the City Council a report summarizing accomplishments in sufficient detail of year to date activities to allow a determination of value received and goals met by OMHOF as a means of measuring success and return on investment. The reports shall be briefed no later than the second regular Council meeting of the month of May.

c. Accounting Report. Annually the OMHOF shall furnish to the City Treasurer a copy of the yearend compiled financial statements.

SECTION VIII. Maintenance and Disposition of Records.

a. OMHOF Responsibilities. The OMHOF shall maintain a record of revenues, expenditures, accounts, and transactions fully supported by invoices and appropriate documentation to show that expenditures were made in accordance with the terms of this

agreement and the approved budget. These records shall be maintained in accordance with generally accepted accounting procedures. Copies of all required documents shall be furnished to the City upon request.

b. City Responsibilities. All records received from the OMHOF shall be maintained as records of the City with disposition of the records to be as required by law or special resolution of the City Council.

SECTION IX. Administration.

a. OMHOF agrees to employ qualified and competent personnel to implement the intent of this Agreement, and OMHOF agrees to provide all the management and administrative services necessary to present a viable Oklahoma Music Hall of Fame. Expenses directly attributable to the services provided by OMHOF pursuant to this Agreement shall be allocated as part of the budget process. Expenses which are attributable, directly or indirectly, solely to OMHOF member services, or other OMHOF functions outside the scope or purpose of services within the scope of this Agreement shall be allocated to OMHOF funds and not the funds provided herein.

b. OMHOF further agrees to grant City staff access to OMHOF files, and other information services and data relative to cultural and tourism activities necessary to implement the intent of this Agreement.

SECTION X. Insurance

OMHOF agrees to carry public liability insurance with an insurance company or companies authorized for business in the State of Oklahoma, with said companies to have at least an "A" rating by A.M. Best Company, insuring OMHOF and City against liability for injuries to persons (including wrongful death) and damage to property, with liability limits of not less than \$1,000,000.00 for any one accident involving injury to one or more persons, and not less than \$1,000,000.00 for property damage resulting from any one claimant. OMHOF shall also carry a policy of workers compensation insurance covering all employees of OMHOF with limits as required by state statute.

OMHOF agrees that any and all employees working for OMHOF as a result of this agreement shall be employees of the OMHOF and in no way shall be considered as employees of the City. In this connection should any liability arise under the Worker's Compensation Act of the State of Oklahoma due to injury of an employee, officer, agent, or volunteer of OMHOF, the same shall be the sole responsibility of OMHOF. It is further agreed that the City shall be held totally harmless of any liabilities created by the OMHOF, its officers, agents, or its employees.

SECTION XI. Right of Review

OMHOF understands and agrees that the purpose of this agreement is to serve the general public; therefore, City shall have the right to review proposals and plans developed by OMHOF in carrying out the activities described herein. In case of disagreement between the parties with respect to the provisions of this section, the disagreement shall be resolved by the official act of the governing body of each party.

SECTION XII. Term of Agreement; Termination of Agreement

This agreement shall be for a one (1) fiscal year commencing on the 1st day of July, 2018 and terminating on the 30th day of June of the next succeeding fiscal year. This agreement shall automatically renew for succeeding fiscal years if the City Council of the City of Muskogee provides funding:

Either party may terminate said agreement upon ninety (90) days written notice by one party to the other party, said notice to be sent to:

- a. City Manager
City of Muskogee
P. O. Box 1927
Muskogee, Oklahoma 74402
- b. Chairman
OMHOF
401 S. 3rd Street
Muskogee, Oklahoma 74401

SECTION XIII. Non-transferable

OMHOF agrees not to assign or otherwise transfer this Agreement or rights therein contained without prior written approval of City.

SECTION XIV. Non-discrimination

In connection with the performance of services under this Agreement, OMHOF agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, disability or ancestry. OMHOF further agrees to take affirmative action to insure that employees are provided equal opportunity in employment, promotion, transfer, rates of pay or other forms of compensation and selection for training.

SECTION XV. Waiver

The waiver by the City of any breach of any term, condition, or covenant herein contained shall not be deemed a waiver of any subsequent breach of the same, or any other term, condition or covenant.

SECTION XVI. Independent Contractor

The officers and employees of OMHOF shall be independent contractors of the City and shall not be considered for any purpose, the officers and employees of the City.

SECTION XVII. Open Meeting and Public Records

As OMHOF administrators funds received under this agreement, it shall through its boards and agencies, conduct itself in accordance with the Oklahoma Open Meetings Act and retain and manage all related records in accordance with the Oklahoma Open Records Act.

SECTION XVIII. Miscellaneous Provision.

OMHOF agrees that it shall include the following credit line on all printed promotional and program materials and on the agency's website: "With assistance from the City of Muskogee."

SECTION XVIII. Entire Agreement

This Agreement contains the entire Agreement between the parties and no other oral or written agreement shall be binding or obligating upon the parties. This Agreement supersedes all prior agreements, contracts and understandings whether written or otherwise between the parties relating to the subject matter of this Agreement. All changes to this Agreement must be in writing, signed by both parties.

IN WITNESS WHEREOF, the parties hereto affix their hands and seals the day and year first above written.

CITY OF MUSKOGEE, OKLAHOMA
A Municipal Corporation

JOHN R. COBURN, Mayor

Attest

TAMMY L. TRACY, City Clerk

Approved as to form and legality as to the City of Muskogee this ____ day of _____, 2018.

ROY D. TUCKER, City Attorney

OMHOF OF OKLAHOMA MUSIC, INC.
An Oklahoma Non-Profit Corporation

CHAIRMAN

Regular City Council**25.**

Meeting Date: 06/25/2018
Submitted For: Mike Stewart, Assistant City Manager
Initiator: Robin Orman, Office Administrator
Department: Assistant City Manager
Staff Information Source:

Information**AGENDA ITEM TITLE:**

Receive year-end report from Three Rivers Museum as to the financial condition, projects status, and progress towards achieving the public service objectives of heightening cultural diversity and area history and encouraging visitor development, as well as consider approval to renew the Cooperative Agreement for FY 2018-2019, or take other necessary action. (Mike Stewart)

BACKGROUND:

The City of Muskogee provided funding to Three Rivers Museum under an annual contract for \$50,000.00 for FY 2017-2018. That contract includes a provision for presenting a summary of their accomplishments to the City Council. This report is to highlight the activities and achievements of the Three Rivers Museum. Typically, the City sets aside \$50,000 to fund a Cooperative Agreement with the Three Rivers Museum to continue its activities. The funding for a renewal of the museum contract for FY 2018-2019 was approved as part of the overall city budget in the amount of \$50,000.00.

RECOMMENDED ACTION:

Receive report.

Fiscal Impact**Attachments**

Three Rivers Museum Renewal

THE CITY OF MUSKOGEE, OKLAHOMA AND THE THREE RIVERS MUSEUM OF MUSKOGEE, OKLAHOMA INC. COOPERATIVE AGREEMENT

THIS AGREEMENT is entered into this ____ day of _____, 2018, by and between the City of Muskogee, Oklahoma (hereinafter "City") and the Three Rivers Museum of Muskogee, Oklahoma, Inc. (hereinafter "Museum") a private not-for-profit Oklahoma Corporation.

WHEREAS, the City by lease dated July 1, 2010, leased to Museum for a period of ten (10) years the property located at 220 Elgin, Muskogee to be operated as a museum, and

WHEREAS, the City has as one of its stated public purposes an interest in promoting the cultural and tourism development of the greater Muskogee community, and

WHEREAS, the purposes of entering into this agreement are to assist in provision of funding for: (1) the administration and operation of the Museum to ensure that its related services and facilities continue to attract the attention of the public as a regional museum dedicated to the preservation of the history of Muskogee, Oklahoma and the region it serves; (2) to work toward the long term financial stability of the museum; and (3) to create a cooperative partnership between the City and the Museum aimed at achieving these goals and objectives, and

WHEREAS, the Council of the City of Muskogee, Oklahoma, has determined that continued operation of the museum fulfills the public purpose of the City in promoting economic, cultural and tourism development of the community,

NOW THEREFORE, in consideration of the mutual promises and other good and valuable consideration exchanged herein, the parties hereby acknowledge and agree as follows:

SECTION I. Intent and Purpose

The intent and purpose of this Agreement is for the City to contract the services of the Museum so that the Museum can effectively implement cultural and tourism development of the greater Muskogee community.

Three Rivers Museum shall utilize the funds provided in this agreement to employ personnel to operate the Museum.

The Three Rivers Museum shall work toward the achievement of the following public service objectives:

- a. Public awareness and education as to the existence of the Museum, its goals in heightening cultural diversity and area history;

- b. Encouragement of visitor development, membership expansion, and expansion as a method of broadening the existing tax base, providing local opportunities and defraying the cost of the operation of the Museum

In pursuance of the above, Three Rivers Museum shall prepare and transmit to the City, a quarterly report no later than 30 days after the end of each quarter, said report to detail the activities of Three Rivers Museum, to include visitor information, in servicing the public objectives herein before set forth. Achievement of these objectives will be a factor in determining whether additional funding beyond the term of this agreement will be provided by the City. If the Lessee seeks funding in the future it must present its proposed annual operating budget by February 1st to be reviewed through the customary budget procedures of the City.

It is understood and agreed that the services contracted for hereby are designed and intended for the purpose of accomplishing objectives which redound to the benefit of the community area as a whole in consideration of the public health, safety and general welfare.

It is further understood that the Three Rivers Museum will actively seek funding through other sources to supplement City payments to eventually self-sustain this endeavor.

SECTION II. Creation of Independent Contract

The Museum agrees to act as an Independent Contractor of the City in implementing said Agreement in compliance with all Laws and Statutes applicable to the accounting, reporting, recording, and retention of all revenues and expenditures of funds including to the extent applicable: the Municipal Budget Act, Title 11, Oklahoma Statutes, Chapter 17; the Oklahoma Open Meetings Act, Title 25, Oklahoma Statutes § 301 et seq; and the Oklahoma Open Records Act, Title 51, Oklahoma Statutes, § 24A.1 et seq. The Museum will report and document revenues and expenditures to insure the City's ability to comply with the above statutes.

SECTION III. Services to be performed by Museum

The Museum shall consistent with the terms of this agreement, encourage, develop, promote, and foster cultural activities and tourism which would benefit the City of Muskogee, Oklahoma.

SECTION IV. Definitions

The following definitions are included for purposes of applying and interpreting the various provisions of this Agreement between the parties.

Cultural Development. Cultural Development activities are those activities designed to create, attract and enhance the culture and history of the City and the greater Muskogee area.

Invoice. Means, for the purposes of this agreement, a statement from the Museum of the amount due pursuant to the terms of this agreement.

Tourism Development. Tourism Development activities are those activities designed to enhance the tourism potential of Muskogee, including marketing activities reasonably related to enhancing the tourism activity and marketing of the history of the community that create positive impact for the community.

SECTION V. Budgeting of Funds

- a. The Museum shall, sixty (60) days prior to the beginning of the City's next fiscal year, submit an annual budget for approval by the City. The budget will be submitted in three (3) categories – Cultural Development, Tourism Development and Administrative Costs. The Budget for fiscal year 2017-2018 has been submitted and approved in the amount of **Fifty Thousand Dollars and 00/100 (\$50,000.00)**.
- b. City Council agrees to allocate funds to the Museum not to exceed in the amount specified in the City's approved Budget for the services to be performed under this Agreement from the appropriate funding sources of the City, said compensation to be made at least as often as bi-annually. An invoice submitted to the City must be presented in writing and verified in the manner provided by law.
- c. Funds for each biannual payment of FY 2018-2019 shall be paid pursuant to the provisions of Section V b above.
- d. The City Treasure will be responsible for monitoring compliance with the terms of this Agreement, and will promptly report in writing possible non-compliance to the City Manager, so that necessary corrections can be made.
- e. All revenue not expended by June 30 of the contract year, which the Museum received from the City for services performed under this Agreement, shall be returned to the City by July 15 of the next fiscal year during the term of this Agreement.

SECTION VI. Accountability

The Museum shall maintain integrity of the tax revenues at all times and a general accounting ledger for these funds in a manner sufficient to enable City to comply with appropriate governmental accounting standards.

SECTION VII. Reporting

- a. Reports. The Museum shall furnish the City Council a report summarizing accomplishments in sufficient detail of year to date activities to allow a determination of value received and goals met by the Museum as a means of measuring success and return on investment. The reports shall be briefed no later than the second regular Council meeting of the month of November and the second regular Council Meeting of the month of May.
- b. Accounting Report. Annually the Museum shall furnish to the City Treasurer a copy of the yearend compiled financial statements.

SECTION VIII. Maintenance and Disposition of Records

- a. **Museum Responsibilities.** The Museum shall maintain a record of revenues, expenditures, accounts, and transactions fully supported by invoices and appropriate documentation to show that expenditures were made in accordance with the terms of this agreement and the approved budget. These records shall be maintained in accordance with generally accepted accounting procedures (GAAP). Copies of all required documents shall be furnished to the City upon request.
- b. **City Responsibilities.** All records received from the Museum shall be maintained as records of the City with disposition of the records to be as required by law or special resolution of the City Council.

SECTION IX. Administration

- a. The Museum agrees to employ qualified and competent personnel to implement the intent of this Agreement, and Museum agrees to provide all the management and administrative services necessary to present a viable museum. Expenses directly attributable to the services provided by the Museum pursuant to this Agreement shall be allocated as part of the budget process. Expenses which are attributable, directly or indirectly, solely to Museum member services, or other Museum functions outside the scope of purpose of services within the scope of this Agreement shall be allocated to Museum funds and not the funds provided herein.
- b. Museum further agrees to grant City staff access to Museum's files, and other information services and data relative to cultural and tourism activities necessary to implement the intent of this Agreement.

SECTION X. Insurance

Museum agrees to carry public liability insurance with an insurance company or companies authorized for business in the State of Oklahoma, with said companies to have at least an "A" rating by A.M. Best Company, insuring Museum and City against liability for injuries to persons (including wrongful death) and damage to property, with liability limits of not less than \$1,000,000.00 for any one accident involving injury to one or more persons, and not less than \$1,000,000.00 for property damage resulting from any one claimant. Museum shall also carry a policy of workers compensation insurance covering all employees of Museum with limits as required by state statute.

The Museum agrees that any and all employees working for the Museum as a result of this agreement shall be employees of the Three Rivers Museum and in no way shall be considered as employees of the City. In this connection should any liability arise under the Worker's Compensation Act of the State of Oklahoma due to injury of an employee, officer, agent, or volunteer of Three Rivers Museum, the same shall be the sole responsibility of Three Rivers Museum. It is further agreed that the City shall be held totally harmless of any liabilities created by the Three Rivers Museum, its officers, agents, or its employees.

SECTION XI. Right of Review

Museum understands and agrees that the purpose of this agreement is to serve the general public; therefore, City shall have the right to review proposals and plans developed by the Museum in carrying out the activities described herein. In case of disagreement between the parties with respect to the provisions of this section, the disagreement shall be resolved by the official act of the governing body of each part.

SECTION XII. Term of Agreement; Termination of Agreement

This agreement shall be for a one(1) year period commencing on July 1, 2017 and ending at midnight on June 30, 2018, unless this agreement is terminated prior to the expiration date subject to the following condition:

Upon ninety (90) days written notice by one party to the other party, said notice to be sent to:

- a. City Manager
City of Muskogee
PO Box 1927
Muskogee, OK 74402
- b. Chairman
Three Rivers Museum of Muskogee, Oklahoma, Inc.
220 Elgin
Muskogee, OK 74401

SECTION XIII. Non=transferable

Museum agrees not to assign or otherwise transfer this Agreement or rights therein contained without prior written approval of the City.

SECTION XIV. Non-discrimination

In connection with the performance services under this Agreement, the Museum agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, disability, or ancestry. The Museum further agrees to take affirmative action to insure that employees are provided equal opportunity in employment, promotion, transfer, rates of pay or other forms of compensation and selection for training.

SECTION XVI. Miscellaneous Provisions

The officers and employees of Museum shall not be considered for any purpose, the officers and employees of the City.

SECTION XVII. Open Meetings and Public Records

As Museum administrators funds received under this agreement, it shall through its boards and agencies, conduct itself in accordance with the Oklahoma Open Meetings Act and retain and manage all related records in accordance with the Oklahoma Open Records Act.

IN WITNESS WHEREOF, the parties hereto affix their hands and seals the day and year first above written.

CITY OF MUSKOGEE, OKLAHOMA

A Municipal Corporation

JOHN R. COBURN, Mayor

Attest

TAMMY L. TRACY, City Clerk

Approved as to form and legality as to the City of Muskogee this ____ day of _____, 2018.

ROY TUCKER, City Attorney

**THREE RIVERS MUSEUM OF
MUSKOGEE, OKLAHOMA, INC.**

An Oklahoma Non-Profit Corp.

JOHN VECCHIO, Chairman

Regular City Council**26.**

Meeting Date: 06/25/2018
Submitted For: Mike Stewart, Assistant City Manager
Initiator: Robin Orman, Office Administrator
Department: Assistant City Manager
Staff Information Source:

Information**AGENDA ITEM TITLE:**

Receive year-end report from Retail Attractions for activities in FY 2017-2018, as well as consider approval to renew a Professional Services Agreement with Retail Attractions, LLC., for FY 2018-2019, or take other necessary action. (Gary Garvin)

BACKGROUND:

Retail Attractions has requested the opportunity to provide a report to Council on the previous years activity. The City's contract with Retail Attractions expires June 30, 2018. The City Council has already approved funding for renewal of this contract in the coming year's budget.

RECOMMENDED ACTION:

Receive report and take action on the renewal of the agreement.

Fiscal Impact**Attachments**

Rickey Hayes Srvs Agreement

PROFESSIONAL SERVICES AGREEMENT

This agreement made and entered into this ____ day of _____, 2018 and to be considered effective beginning on the 1st day of July, 2018, by and between the City of Muskogee, a Municipal Corporation [hereinafter “City”] and Rickey Hayes CEO, Retail Attractions LLC [hereinafter “Consultant”] in consideration of the mutual promises hereinafter stated.

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

- I. Term of Agreement.** This agreement is effective as of the above date and will terminate on the 30th of June, 2019 unless terminated prior based upon the terms included in this agreement.
- II. Scope of Work.** The Consultant agrees to provide consulting services to the City as follows:

 - A. Research and analyze Muskogee, Oklahoma’s trade area market, retail, office, and residential growth potential. The most recent market data from 2018 as well as newer updates will be incorporated as data becomes available. Consultant will provide all data to Director of Planning & Economic Development.
 - B. Prepare an updated marketing report for City use in highlighting the key demographics and attributes of the Muskogee trade area. This marketing material will include a map of the Muskogee trade area and will be used as a marketing tool to introduce the Muskogee community to our extensive network of commercial/residential developers and retail/corporate tenants.
 - C. Consult with Director of Planning & Economic Development to craft development agreements that will profit both the private and public sectors and truly encourage new investment by working with City staff to develop incentive packages.
 - D. Consult with Director of Planning & Economic Development to identify targets that will meet the long term needs of the City. These targets will include retail projects for downtown as well as the retail corridors. Enhance the initial strategy to target retail and restaurant entities which will ultimately draw consumers from the entire market into the Muskogee trade area.
 - E. Actively recruit targets identified and approved by City and supported by the data. Recruitment efforts will continually be throughout the term of this contract and be initiated through personal contact, mail, email, International Council of Shopping Center (“ICSC”) events, and development/industry contacts.
 - F. Work directly with developers to create interest in the Muskogee market, define development opportunities and coordinate/attend meetings with City and developers. When timing indicates a deal with a target is imminent or when a target’s response indicates the need to intensify the effort, Consultant will work with the City as needed or directed by the Director of Planning & Economic Development.

- G. Represent the City at the ICSC SW conference in Texas during January 2019 and the ICSC RECon conference in Las Vegas during May 2019. Provide specific monthly updates to the Director of Planning & Economic Development. See Attachment A for detailed requirements. For Confidential projects code names shall be established.
- H. Provide specialized training, meet with civic clubs, and meet with city staff and elected officials and other appropriate citizen groups, (city will be flexible with consultant's schedule) as required by the Director of Planning & Economic Development.
- I. With consent of the City and within the budget allocated to this agreement, bid specialized marketing materials (printed or video), web updates, retail specific web sites, traffic counts, aerial photography, and grant research and writing under separate bids or at the sole discretion of the city and utilizing the City's recommended vendor.
- J. Prepare information on federal/state grant and incentive programs that support economic development projects (public or private) and determine applicability to City projects.
- K. Maintain the privacy and confidentiality of all information.
- L. Perform said work in the manner that is most cost-efficient for the City.
- M. Work with City to establish goals and benchmarks to promote accountability.

III. Consideration. As consideration for the performance of the scope of work as set forth above:

- A. City agrees to pay Consultant the sum of Four Thousand dollars (\$4000.00) per month.
- B. Consultant will provide a monthly report to Director of Planning & Economic Development. See Attachment A for detailed requirements.
- C. Consultant will invoice City at the end of the monthly scope of work. Payment for said services will be made by the City to the Consultant following approval of City claims list at first monthly council meeting. Should the City dispute any portion of the invoice submitted, the City will pay the undisputed amount and retain the disputed amount until the issue may be resolved. The total amount of this contract including expenses shall not exceed \$48,000.

IV. Expenses. City agrees to reimburse expenses to the Consultant as follows:

- A. In the event that the City needs Consultant to travel to locations other than Muskogee, to attend special meetings, mileage will be paid at the standard IRS rate (current Federal mileage rate).
- B. Any travel expenditure must be pre-approved by the Director of Planning & Economic Development. Any travel expenses not preapproved will not be reimbursed and will be the sole responsibility of the Consultant. These payments will be made for travel made strictly on behalf of the City.
- C. Any non-travel expenditure must be pre-approved by the Director of Planning & Economic Development. Any non-travel expenses not preapproved will not be

reimbursed and will be the sole responsibility of the Consultant. These payments will be made on items strictly for the benefit of the City.

- D. Should the Consultant represent any other person or entity in which expenses are claimed, the other entities shall be disclosed to the City and the claimed expenses shall be reduced proportionally.

V. Ownership of Documents. All original documents developed in connection with services performed related to this agreement are property of, and shall remain in the possession of, the City. All original documents shall be immediately tendered to City.

VI. Confidentiality. Retail Attractions, LLC shall execute a confidentiality agreement with the City of Muskogee within thirty (30) days of the effective date of this agreement. Should Consultant fail or refuse to sign the Confidentiality agreement this agreement shall terminate immediately. No materials or data created by and through this agreement will be shared in any way with any person or entity other than as necessary to fulfill this agreement without the express written permission of the Director of Planning & Economic Development.

VII. Default/Termination. The agreement may be terminated by either party during the term upon thirty (30) days written notice to the other party or immediately upon breach of any term of this agreement. Upon termination the City shall pay the Consultant for all work and services rendered, up to the time of the notice of termination, in accordance with the terms, limits and conditions of this Contract and the Consultant shall tender any and all remaining documents in his possession to the City.

VIII. Authority. The parties agree that the Consultant shall have no authority to bind the City of Muskogee to any agreement. That authority is reserved exclusively with the City Manager and City Council of the City of Muskogee, Oklahoma, unless specifically delegated to a designee as a result of action taken by the City Manager and/or Council in a valid meeting of the City Council of Muskogee, Oklahoma.

IX. Relation of Parties. The parties to this Agreement shall not constitute nor create an employer/employee relationship. Consultant is an independent contractor responsible for all obligations relating to federal income tax, self-employment Medicare and FICA taxes and contributions and all other employer taxes and contributions.

X. Controlling Law. This agreement is to be governed by the Law of the State of Oklahoma. Venue shall be in Muskogee County, Oklahoma.

XI. Successors and Assigns. City and Consultant each binds themselves and their partners, successors, executors, administrators, assigns and legal representatives to the other party to this Agreement and to the partners, successors, executors, administrators, assigns and legal representatives of such other party in respect to all covenants, agreements, and obligations of this Agreement. Neither City nor

Consultant shall assign, sublet or transfer any rights under or interest in this Agreement, including, but without limitation, moneys that may become due or moneys that are due, without the written consent of the other, except to the extent that the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent Consultant from employing such independent consultants, associates and sub-contractors as he may deem appropriate to assist him in the performance of services hereunder at the Consultants own expense.

XII. Compliance with Applicable Law. Consultant, Consultant's consultants, agents, employees, and subcontractors shall comply with all applicable federal and state laws, the charter and ordinances of the City of Muskogee, and with all applicable rules and regulations promulgated by all local, state and national boards, bureaus, and agencies. Consultant shall further obtain all permits and licenses required in the preparation of the work contracted for in this Agreement.

XIII. Approval Not Waiver. Approval by City shall not constitute nor be deemed a release of the responsibility and liability of the Consultant, Consultant's employees, subcontractors, agents and consultants for the accuracy and competency of their designs, working drawings, specifications or other documents and work, nor shall that approval be deemed to be an assumption of that responsibility by the City for any defect in the designs, working drawings, and specifications or other documents prepared by the Consultant, Consultant's employees, subcontractors, agents and consultants.

XIV. Notices.

Notices shall be made by Consultant to City's representative:

City of Muskogee, Oklahoma (a municipal corporation)
c/o Mike Miller, City Manager &
c/o Gary Garvin, Director of Planning and Economic Development
229 West Okmulgee Avenue
Muskogee, Oklahoma 74401

Notices shall be made by City to Consultant or to Consultant's representative:

Mr. Rickey Hayes, CEO
Retail Attractions, LLC
12150 East 96th Street, Suite 107
Owasso, OK 74055

XV. Non Exclusive Agreement.

- A. The City recognizes that the Consultant represents other parties and the Consultant agrees that no actions will be taken which will create a conflict in Consultants representation of the City. Should any conflict or potential conflict arise the Consultant shall immediately Contact the City Manager and disclose the same. The City shall at its sole discretion determine the existence of a conflict. Should the City deem the activity a conflict the Consultant will be given 15 days to resolve the conflict or this agreement shall terminate immediately.
- B. The Consultant recognizes that the City may engage the services of other consultants, companies or employees which will perform the same or similar services.
- C. The City recognizes that the Consultant may be engaged by other private sector entities to perform work in the Consultant's fields of expertise, and that Consultant may be re-numerated for such services. If consultant is being paid or otherwise employed by, or representative of, developers, brokers or retail clients that are involved in retail projects in the City, or when such work is a direct conflict with the agreed upon scope of work between City and Consultant, Consultant is required to disclose those contractual relationships to the Director of Planning & Economic Development. If the other work is deemed by the City to be in conflict the Consultant will be given 15 days to resolve the conflict or this agreement shall terminate immediately.
- D. The City recognizes that the Consultant may be engaged by other Municipal, County or other public entities to perform work in the Consultant's fields of expertise, and that Consultant may be re-numerated for such services. If consultant is being paid or otherwise employed by, or representative of clients that are involved in retail projects where such work is a direct conflict with the agreed upon scope of work between City and Consultant, Consultant is required to disclose those contractual relationships to the Director of Planning & Economic Development. If the other work is deemed by the City to be in conflict the Consultant will be given 15 days to resolve the conflict or this agreement shall terminate immediately.
- E. Within 15 days of the execution of this agreement, consultant shall tender to the Director of Planning & Economic Development a complete list of all public and private entities that engage the services of consultant. The consultant shall have the duty of updating the client list upon any changes.

XVI. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Consultant and the City concerning services to be performed. Any amendments shall be in writing and will only be enforceable upon the signature of both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed and executed and shall be effective from and after the day and year first above written.

Mike Miller
City Manager

Rickey Hayes, CEO
Retail Attractions LLC

APPROVED as to form and legality this _____ day of _____, 2018.

Roy D. Tucker
City Attorney

Attachment A

Reporting Requirements

Monthly Reports

Detail log of all work performed on behalf of the City. This will include meetings, written communication, verbal communication and trade show preparation.

Meetings – project name, date of meeting, who was in attendance, what was discussed, results, and next steps.

Telephone Calls – Project name, date of call, who was in the conversation, what was discussed and next steps.

Preparation for Trade Shows

One month prior to the show – list of meetings being set-up, reason for the meeting, who will be in the meeting, time and location.

Two weeks prior to the show – Final meeting schedule including who, where, when and purpose of the meeting. Review of marketing material to be used at the trade show.

One week prior to the show – Marketing material finalized.

Regular City Council**27.**

Meeting Date: 06/25/2018
Submitted For: Mike Stewart, Assistant City Manager
Initiator: Robin Orman, Office Administrator
Department: Assistant City Manager
Staff Information Source:

Information**AGENDA ITEM TITLE:**

Receive a report from the Muskogee County Public Transit Authority as to the financial condition, progress, and achievement of providing public transportation, as well as consider approval to renew the Cooperative Agreement for FY 2018-2019, or take other necessary action. (Mike Stewart)

BACKGROUND:

The City of Muskogee provides funding to Muskogee County Public Transit Authority under an annual contract for \$152,885.00 for FY 2018-2019. That contract includes a provision for presenting a summary of their accomplishments to the City Council. This presentation is to highlight the activities and achievements of Muskogee County Transit. Typically, the City sets aside funding for a cooperative agreement with the Muskogee County Public Transit Authority to continue its services. Staff recommends approval of the renewed agreement.

RECOMMENDED ACTION:

Receive report.

Fiscal Impact**Attachments**

MCT CONTRACT 2018-19

**COOPERATIVE AGREEMENT BETWEEN THE CITY OF MUSKOGEE AND
MUSKOGEE COUNTY PUBLIC TRANSIT AUTHORITY dba: MUSKOGEE
COUNTY TRANSIT**

This Agreement made and entered into this ____ day of _____, 2018, by and between the City of Muskogee and Muskogee County Public Transit Authority, a public trust formed in accordance with Title 60 O.S. Sections 176 et seq., doing business as Muskogee County Transit, hereafter referred to as the "Authority", to assist in providing public transportation services within the City of Muskogee through Section 5311 funding. The City of Muskogee is encouraging and promoting by public funding the activity of providing public transportation and chooses to implement this support through a support agreement with the Muskogee County Public Transit Authority.

The Authority agrees to act as the Independent Contractor of the City in implementing said Agreement in compliance with all Laws and Statutes applicable to the accounting, reporting, recording, and retention of all revenues and expenditures of funds including to the extent applicable. The Authority will report and document revenues and expenditures to insure the City's ability to comply with the statutes applicable concerning the expenditure of City funds.

The City of Muskogee agrees to pay \$76,442.00 bi-annually based on \$152,885.00 for the fiscal year commitment commencing on July 1, 2018 and ending June 30, 2019. The Authority agrees to operate a deviated fixed or fixed route bus service, as approved by Oklahoma Department of Transportation, within the City of Muskogee for the public and curbside service.

This agreement shall be for the period of one (1) year corresponding with the City's fiscal year; therefore, this agreement shall expire at midnight on June 30, 2019.

Notices required to be sent shall be sent to:

- a. City Manager
City of Muskogee
229 W. Okmulgee Street
Muskogee, OK 74401
- b. Chairman
Muskogee County Public Transit Authority
4401 Hayes
Muskogee, OK 74402

The Authority shall maintain integrity of the revenues at all times and a general accounting ledger for these funds in a manner sufficient to enable City to comply with appropriate governmental accounting standards. All income, earnings and proceeds from the use of the funds shall be likewise accounted for.

The Authority further agrees to provide the City Treasurer a copy of its annual audit within thirty (30) days after the audit report is received by the Authority. The audit shall be an annual examination by an independent Certified Public Accountant of the Authority's financial records made in accordance with generally accepted auditing procedures.

The Authority shall maintain a record of revenues, expenditures, accounts, and transactions fully supported by invoices and appropriate documentation to show that each expenditure was made in accordance with the terms of this agreement. These records shall be maintained in accordance with generally accepted accounting procedures. Copies of all required documents shall be furnished to the City upon request.

The Authority agrees that it will not exclude from participation in or deny the benefits of the services, programs, or activities offered under this agreement to any qualified individual with a disability as defined in the Americans with Disabilities Act of 1990.

The Authority and its employees and agents shall provide these services in accordance with Appendixes A, B & C to Title IV Assurance and the Assurances Relative to Equal Employment Opportunity.

Responsibility for salaries, benefits, workers' compensation, and any and all other operational expenses will remain with the Authority.

There shall be established a Public Trust Board consisting of seven members. Three of the seven shall be appointed by the City of Muskogee. One Member shall be a member at large appointed by the Trust. Three members shall be appointed by the County Commissioners.

Authority agrees to carry public liability insurance with an insurance company or companies authorized for business in the State of Oklahoma, insuring Authority and City against liability for injuries to persons (including wrongful death) and damage to property, with liability limits of not less than the limits of liability as established in the Oklahoma Governmental Tort Claims Act. Authority shall also carry a policy of Workers Compensation insurance covering all employees of the Authority with limits as required by state statute.

The Authority will also provide public liability insurance to cover the errors and omissions of both parties to this agreement as well as the officers, agents, servants and employees of the Authority and Muskogee County Transit in amounts to comply with insurance requirements of

the program and the Governmental Tort Claims Act. The Authority shall also maintain comprehensive and collision coverage on the buses for actual cash value or cost of repair, whichever is less.

The Authority shall conduct itself in accordance with the Oklahoma Open Meeting Act and retain and manage all related records in accordance with the Oklahoma Open Records Act.

Dated this _____ day of _____, 2018.

CITY OF MUSKOGEE, OKLAHOMA

By: _____

John R. Coburn, Mayor

ATTEST:

Tammy L. Tracy, City Clerk

(SEAL)

Approved as to form and legality this _____ day of _____, 2018.

Roy D. Tucker, City Attorney

Accepted and approved by the Muskogee County Public Transit Authority

Executive Director or Chairman

Regular City Council**28.**

Meeting Date: 06/25/2018
Submitted For: Mike Stewart, Assistant City Manager
Initiator: Robin Orman, Office Administrator
Department: Assistant City Manager
Staff Information Source:

Information**AGENDA ITEM TITLE:**

Receive year-end report from Main Street Muskogee Inc., as to project status and progress towards achieving the public service objectives of the organization, as well as consider approval to renew the Cooperative Agreement for FY 2018-2019, or take other necessary action. (Mike Stewart)

BACKGROUND:

This report from board president John Newby is intended to brief the Council on what the organization has done in the past twelve months and what its plans and projects are for the next year. The funding for a renewal of Main Street Muskogee's contract for FY 2018-2019 was approved as part of the overall city budget in the amount of \$80,000.00.

RECOMMENDED ACTION:

Receive report and consider renewal of contract with Main Street Muskogee.

Fiscal Impact**Attachments**

Main Street Cooperative agreement

THE CITY OF MUSKOGEE, OKLAHOMA AND MAIN STREET MUSKOGEE, INC. COOPERATIVE AGREEMENT

THIS AGREEMENT is entered into this _____ day of _____, 2018, by and between the City of Muskogee, Oklahoma (hereinafter "City") and Main Street Muskogee, Inc. (hereinafter Main Street Muskogee") a private not for profit Oklahoma Corporation.

WHEREAS, Main Street Muskogee, Inc. was organized as an Oklahoma not for profit corporation, and

WHEREAS, the City has as one of its stated public purposes an interest in promoting the economic well being of local community, and

WHEREAS, one of the stated purposes of Main Street Muskogee is the enhancement and revitalization of the downtown area of the City of Muskogee, and

WHEREAS, the City Council of the City of Muskogee approved Resolution 2167 authorizing the participation in the Oklahoma "Main Street Program", and

WHEREAS, the purposes of entering into this agreement are to assist in provision of funding for: (1) the administration and operation of Main Street Muskogee at the specified funding level to ensure that its related services and facilities continue to revitalize and enhance the Main Street area of the City; (2) to create a cooperative partnership between the City and Main Street Muskogee aimed at achieving these goals and objectives, and

WHEREAS, the Council of the City of Muskogee, Oklahoma, has determined that continued operation of Main Street Muskogee, Inc. fulfills the public purpose of the City in promoting the economic well being and development of the community by enhancing and revitalizing the downtown area,

NOW THEREFORE, in consideration of the mutual promises and other good and valuable consideration exchanged herein, the parties hereby acknowledge and agree as follows:

SECTION I. Intent and Purpose

The intent and purpose of this Agreement is for the City to contract the services of Main Street Muskogee so that Main Street Muskogee can effectively implement programs that enhance the economic well being of the Muskogee community by enhancing and revitalizing the downtown area.

SECTION II. Creation of Independent Contract

Main Street Muskogee agrees to act as an Independent Contractor of the City in implementing this Agreement in compliance with all Laws and Statutes applicable to the accounting, reporting, recording, and retention of all revenues and expenditures of funds including to the extent applicable: the Municipal Budget Act, Title 11, Oklahoma Statutes, Chapter 17; the Oklahoma Open Meetings Act, Title 25, Oklahoma Statutes, § 301 et seq; and the Oklahoma Open Records Act, Title 51, Oklahoma Statutes, § 24A.1 et seq. Main Street Muskogee will report and document revenues and expenditures to insure the City's ability to comply with the above statutes.

SECTION III. Services to be performed by Main Street Muskogee

Main Street Muskogee shall, consistent with the terms of this agreement, encourage, develop, promote activities and implement programs that enhance the economic well being of the Muskogee community by enhancing and revitalizing the downtown area.

SECTION IV. Budgeting of Funds

- a. Main Street Muskogee shall, no later than April 1, submit an annual budget for approval by the City. The budget will be submitted in two (2) categories – Costs for the Enhancement and Revitalization of the downtown area and Administrative Costs. The budget for fiscal year has been submitted and approved in the amount of Eighty Thousand (\$80,000.00) dollars.
- b. City Council agrees to allocate funds to Main Street Muskogee not to exceed the amount specified in the City's approved Budget for the services to be performed under this Agreement, from the appropriate funding sources of the City, said compensation to be made at least as often as monthly. An invoice must be submitted to the City in writing and verified in the manner provided by law. An invoice for purposes of this agreement shall mean a statement from downtown Muskogee of the amount due under this agreement.
- c. The City Treasurer will be responsible for monitoring compliance with the terms of this Agreement, and will promptly report in writing possible non-compliance to the City Manager, so that necessary corrections can be made.
- d. All revenue not expended by June 30 of the contract year, which the Main Street Muskogee received from the City for services performed under this Agreement, shall be returned to the City by July 15 of the next fiscal year during the term of this Agreement.

SECTION V. Accountability.

Main Street Muskogee shall maintain integrity of the tax revenues at all times and a general accounting ledger for these funds in a manner sufficient to enable City to comply with appropriate governmental accounting standards.

SECTION VI. Reporting.

- a. Reports. Annually, Main Street Muskogee Inc. shall furnish the City Council a report summarizing accomplishments in sufficient detail of year to date activities to allow a determination of value received and goals met as a means of measuring success and return on investment. The reports shall be briefed no later than the second regular Council Meeting of the month of March. This report shall include the agency's annual audit results if one was completed for any reason.
- c. Accounting Report. Annually Main Street Muskogee shall furnish to the City Treasurer a copy of the yearend compiled financial statements. In the event Downtown Muskogee prepares and Audit, for any reason, a copy of the Audit shall be provided to the City.

SECTION VII. Maintenance and Disposition of Records.

- a. Main Street Muskogee's Responsibilities. Main Street Muskogee shall maintain a record of revenues, expenditures, accounts, and transactions fully supported by invoices and appropriate documentation to show that expenditures were made in accordance with the terms of this agreement and the approved budget. These records shall be maintained in accordance with generally accepted accounting procedures. Copies of all required documents shall be furnished to the City upon request.

b. City Responsibilities. All records received from the Main Street Muskogee shall be maintained as records of the City with disposition of the records to be as required by law or special resolution of the City Council.

SECTION VIII. Administration.

a. Main Street Muskogee agrees to employ qualified and competent personnel, to implement the intent of this Agreement, and provide all the management and administrative services necessary to implement and continue the activities for the enhancement and revitalization of the downtown area of the City. Expenses directly attributable to the services provided by the Main Street Muskogee pursuant to this Agreement shall be allocated as part of the budget process. Expenses which are attributable, directly or indirectly, solely to Main Street Muskogee services for functions outside the scope or purpose of services within the scope of this Agreement shall be allocated to Main Street Muskogee funds and not the funds provided herein.

b. Main Street Muskogee further agrees to grant City staff access to Main Street Muskogee's files, and other information services and data relative to cultural and tourism activities necessary to implement the intent of this Agreement.

SECTION IX. Insurance

Main Street Muskogee agrees to carry public liability insurance with an insurance company or companies authorized for business in the State of Oklahoma, with said companies to have at least an "A" rating by A.M. Best Company, insuring Main Street Muskogee and City against liability for injuries to persons (including wrongful death) and damage to property, with liability limits of not less than \$1,000,000.00 for any one accident involving injury to one or more persons, and not less than \$25,000.00 for property damage resulting from any one claimant. Main Street Muskogee shall also carry a policy of Workers Compensation Insurance covering all employees of Main Street Muskogee with units as required by state statute.

SECTION X. Right of Review

Main Street Muskogee understands and agrees that the purpose of this agreement is intended to serve the general public, for this purpose, therefore City shall have the right to review proposals and plans developed by the Main Street Muskogee in carrying out the activities described herein. In case of disagreement between the parties with respect to the provisions of this section, the disagreement shall be resolved by the official act of the governing body of each party.

SECTION XI. Term of Agreement; Termination of Agreement

This agreement shall be for a one (1) year period commencing on July 1, 2018 and ending on June 30, 2019, unless this agreement is terminated prior to each expiration date upon the following condition:

Upon ninety (90) days written notice by one party to the other party, said notice to be sent to:

- a. City Manager
City of Muskogee
P. O. box 1927
Muskogee, Oklahoma 74402
- b. President
Main Street Muskogee, Inc.
216 W. Okmulgee

SECTION XII. Non-transferable

Main Street Muskogee agrees not to assign or otherwise transfer this Agreement or rights therein contained without prior written approval of City.

SECTION XIII. Non-discrimination

In connection with the performance of services under this Agreement, Main Street Muskogee agrees not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, disability or ancestry. Main Street Muskogee further agrees to take affirmative action to insure that employees are provided equal opportunity in employment, promotion, transfer, rates of pay or other forms of compensation and selection for training.

SECTION XIV. Waiver

The waiver by the City of any breach of any term, condition, or covenant herein contained shall not be deemed a waiver of any subsequent breach of the same, or any other term, condition or covenant.

SECTION XV. Miscellaneous Provisions

The officers and employees of Main Street Muskogee shall not be considered for any purpose to be officers or employees of the City.

SECTION XVI. Main Street Muskogee Inc. agrees that it shall include the following credit line on all printed promotional and program materials and on the agency's website: With assistance from the City of Muskogee.

**SECTION XVII
Open Meeting and Public Records**

A Main Street Muskogee Administrative funds received under this contract, it shall throughout its boards and agencies conduct itself in accordance with the Oklahoma Open Meetings Act and retain and manage all related records in accordance with the Oklahoma Open Records Act.

IN WITNESS WHEREOF, the parties hereto affix their hands and seals the day and year first above written.

CITY OF MUSKOGEE, OKLAHOMA
A Municipal Corporation

JOHN R. COBURN, Mayor

Attest

TAMMY L. TRACY, City Clerk

Approved as to form and legality as to the City of Muskogee this ____ day of _____, 2018.

ROY D. TUCKER, City Attorney

MAIN STREET MUSKOGEE, INC.
a not for profit Oklahoma corporation

CHAIRMAN OF THE BOARD

Regular City Council

29.

Meeting Date: 06/25/2018
Initiator: Marsha Wiseman, Admin Assistant
Department: City Manager
Staff Information Source:

Information

AGENDA ITEM TITLE:

Consider the appointment of a Councilor to the Purchasing Committee, to serve a term commensurate with his/her term, replacing Councilor Ivory Vann, or take other necessary action. (Mike Miller)

BACKGROUND:

Councilor Ivory Vann has requested he be replaced by another Councilmember on the Purchasing Committee.

RECOMMENDED ACTION:

Approve the appointment of new City Councilmember to the Purchasing Committee, replacing Councilmember Ivory Vann.

Fiscal Impact

Attachments

No file(s) attached.

Regular City Council

30. a.

Meeting Date: 06/25/2018
Submitted For: Kelly Plunkett, Personnel
Initiator: Kelly Plunkett, Director of Human Resources
Department: Personnel
Staff Information Source: Kelly Plunkett

Information

AGENDA ITEM TITLE:

Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in Executive Session to discuss negotiations with the American Federation of State, County, and Municipal Employees, Local No. 2465, and if necessary, take appropriate action in open session. (Kelly Plunkett)

BACKGROUND:

The City's negotiating team desires to discuss with the Mayor and Council the ongoing negotiations with AFSCME, Local No. 2465.

The City Council should determine that disclosure of ongoing negotiations between the City and AFSCME will seriously impair the ability of the City to continue negotiations. Therefore, the Council should convene in Executive Session to discuss this matter.

RECOMMENDED ACTION:

Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss negotiations with the American Federation of State, County and Municipal Employees, Local No. 2465, and if necessary, take appropriate action in open session.

Fiscal Impact

Attachments

No file(s) attached.

Regular City Council**30. b.**

Meeting Date: 06/25/2018
Submitted For: Kelly Plunkett, Personnel
Initiator: Kelly Plunkett, Director of Human Resources
Department: Personnel
Staff Information Source: Kelly Plunkett

Information**AGENDA ITEM TITLE:**

Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in Executive Session to discuss negotiations with the International Association of Fire Fighters, Local No. 57, and if necessary, take appropriate action in open session. (Kelly Plunkett)

BACKGROUND:

The City's negotiating team desires to discuss with the Mayor and City Council the ongoing negotiations with the IAFF, Local No. 57. The City Council should determine that disclosure of ongoing negotiations between the City and the IAFF will seriously impair the ability of the City to continue negotiations. Therefore, the Council should convene in executive session to discuss this matter.

RECOMMENDED ACTION:

Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, convene in executive session to discuss negotiations with the International Association of Fire Fighters, Local No. 57, and if necessary, take appropriate action in open session.

Fiscal Impact**Attachments**

No file(s) attached.

Regular City Council**30. c.**

Meeting Date: 06/25/2018
Submitted For: Kelly Plunkett, Personnel
Initiator: Kelly Plunkett, Director of Human Resources
Department: Personnel
Staff Information Source: Kelly Plunkett

Information**AGENDA ITEM TITLE:**

Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, consider convening in Executive Session to discuss negotiations with the Fraternal Order of Police, Lodge No. 95, and if necessary, take appropriate action in open session. (Kelly Plunkett)

BACKGROUND:

The City's negotiating team desires to discuss with the Mayor and City Council the ongoing negotiations with the FOP, Lodge No. 95. The City Council should determine that disclosure of ongoing negotiations between the City and the FOP will seriously impair the ability of the City to continue negotiations. Therefore, the Council should convene in executive session to discuss this matter.

RECOMMENDED ACTION:

Pursuant to Section 307B.2, Title 25, Oklahoma Statutes, convene in executive session to discuss negotiations with the Fraternal Order of Police, Lodge No. 95, and if necessary, take appropriate action in open session.

Fiscal Impact**Attachments**

No file(s) attached.

Regular City Council

31.

Meeting Date: 06/25/2018

Submitted For: Roy Tucker, City Attorney

Initiator: Roy Tucker, City Attorney

Department: City Attorney

Staff Information Source: City Attorney; City Treasurer; City Manager

Information

AGENDA ITEM TITLE:

Consider approval of Resolution No. 2732 approving and adopting a best practices handbook for Oklahoma municipalities, or take other necessary action. (Roy D. Tucker)

BACKGROUND:

Our liability and property insurer, OMAG recommends that the City of Muskogee adopt a best practices handbook for use by its elected officials. The handbook captures tenants and philosophies of good government, as well as, incorporates our Charter and relevant Council Policies. If the handbook is adopted and the Council participates in a training session, the City will receive \$10,000 from OMAG.

RECOMMENDED ACTION:

Approve the Resolution

Fiscal Impact

Attachments

Proposed Resolution

Proposed Handbook

RESOLUTION NO. 2732

A RESOLUTION APPROVING AND ADOPTING A BEST PRACTICES HANDBOOK FOR OKLAHOMA MUNICIPALITIES.

WHEREAS, the City Council of City of Muskogee desires to adopt a best practices handbook, providing for a one-stop resource of relevant Council Policies, practices, ordinances, and excerpts of state law, all for use by its members;

WHEREAS, the City Council of the City of Muskogee finds that having such a resource will be beneficial tool in ensuring public transparency, council accountability and engagement in the operations of the City, as well as, staff responsibility.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MUSKOGEE, MUSKOGEE COUNTY, OKLAHOMA:

SECTION 1. The Best Practices Handbook of the City of Muskogee is hereby adopted.

ADOPTED THIS 25th DAY OF June, 2018.

CITY OF MUSKOGEE

JOHN R. COBURN, MAYOR

ATTEST:

TAMMY L. TRACY, CITY CLERK

(SEAL)

Approved as to form and legality this 25th day of June, 2018.

ROY D. TUCKER, CITY ATTORNEY



Best Practices Handbook

Approved by

The City Council of the City of Muskogee

June 25, 2018

A Best Practices Handbook for Oklahoma Municipalities

CREATED | PRODUCED BY



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-

INTRODUCTION

Educating ourselves and creating a more stable local government should be the goal of all elected officials. With a more stable government, cities and towns can successfully meet the needs of the community. This handbook aims to help provide stability by compiling resources to assist in training the members of the city council. By adopting a “best practices” resolution, the City of Muskogee can continue working toward stability. Effort has been made to ensure that all provisions contained within this handbook are in conformance with the Charter, City Ordinances, Resolutions and Council Policies. However, in the event of any conflict between this handbook and any provision of the Charter, City Code, Resolution or Policies, the latter shall prevail.

BEST PRACTICES RESOLUTION

The City maintains a list of City Council Policies, Resolutions and Ordinances which when combined form the best practices for our city. It is the intent of the City by adopting this handbook, the philosophies and purposes of those policies, resolutions and ordinances are enhanced, explained and supplemented with recommended other best practices and state law. Many of those best practices deal with public transparency, council accountability and engagement in the operations of the City, and staff responsibility. The “best practices” of the City consist of the following topics:

A. Elected Official Accountability: The council shall ensure council accountability by:

- a. An annual training event with staff to review ethics, finances, operations, and to address the expectations and goals of the city, including a self-assessment of the accomplishments and improvements needed by council and management to achieve the goals of the city.
- b. The use of council committees dealing with topics as the council deems appropriate, including financial and project related oversight.
- c. The use of well-defined purchasing policies of the city to ensure management and staff are clear concerning the purchasing policies and expectations of the city.
- d. The implementation of the “transparency” policies adopted by council to make information about city government easily accessible to the public.
- e. A “Code of Ethics” of council, identified by Council Policy 1-10, that is reviewed annually by council and readily available for council reference.

B. Management and Staff Accountability: The council shall ensure management and staff accountability by:

- a. An annual evaluation and review of the City Manager.
- b. An annual strategic planning session with management to evaluate the satisfaction of expectations and goals of the city for the immediately preceding year and to ensure that the expectations and goals of the city have been met,

and are clearly defined for both the council and management in the coming year and years.

- c. Monthly financial and expenditure reports provided to council on a timely basis, including a proposed review and approval of a comprehensive fee schedule for all fees charged by the city.
- d. Expenditure reporting by the City Manager to the Council on an annual basis, as required by contract.
- e. Implementation of the “transparency” policies and/or resolutions by the Council to make information about city government easily accessible to the public.
- f. Direction to all city employees that a “whistleblower” policy exist for the city.
- g. Compliance with a well-defined purchasing policy of the city.
- h. An annual report of the departments of the city that outlines the activities of each department, including the risks, liabilities and any litigation involving the city.

Setting these minimal standards will ensure stability and continuity in operations.

FORM OF GOVERNMENT: COUNCIL MANAGER

Understanding the role of the City Council with City employees begins with understanding the governmental role of the parties. The City Council serves as the legislative (and in some circumstances judicial) arm of the City, while the City Manager is the executive responsible for day-to-day operations. The Council is responsible for appointment of the City Manager, but the City Manager, and not the Council, is responsible for all other employees of the City.

Regardless of the above, in most cities remains one of the most difficult issues to deal with between the City, the City Manager, and the City employees is the question of involvement of the City Council in personnel matters. Section 2:05 of the City Charter specifically deals with this issue by providing that Council Members may not:

- Dictate in any manner the appointment or removal of any city administrative officers or employees whom the City Manager or any of his subordinates are to appoint, but the Council may express its views and fully and freely discuss with the City Manager anything pertaining to appointment and removal of such officers and employees.
- Deal with city officers and employees who are subject to the direction and supervision of the City Manager, outside of the City Manager, nor may the Council or Mayor give order to any officer or employee of the City Manager, either publicly or privately.

In addition to the Charter, a City Council Member must also adhere to City Council Policy 1-4, *Interaction with and Requests to City Staff by Councilmembers and the Mayor*, attached hereto as Exhibit 1.

There are many examples in which direction given to employees by a Council Member can result in difficulties and a violation of the law by the City Council Member. The following specific examples are examples of conduct that should be avoided:

- A. Council Members should not appear at City Hall or other department of the City and direct office personnel to perform any duties on behalf of the Council Member; if anything is needed from City employees, that request should be directed to the City Manager who can then communicate that request to the appropriate employee;
- B. Council Members should not appear at emergency scenes and expect to have any input into the handling of the situation any different than any other citizen;
- C. Council Members should not appear at public work sites and offer suggestions as to how the work can be better performed; again, any direction of that type should be directed to the City Manager who can then communicate that direction, if appropriate, to the employees involved.

Again, the best rule of thumb is to keep in mind that Council should consider themselves no more than ordinary citizens when it comes to City employees and public facilities. In this form of government, the council serves as a policymaking, legislative body and does not manage day-to-day operations.

Also, council should be aware that certain groups within the City are represented by state sanctioned unions. As most of you are probably aware, the various Unions representing City employees at different times may attempt to place pressure on Council Members to side with them in their pending negotiations. It is important for Council Members to limit their participation in negotiations with the Unions to a "formal" participation wherein they would participate through the appropriate channels and not do so in private meetings or in informal circumstances. Informal meetings circumvent the goals set by the Council as a group and by the staff in its attempt to reach a conclusion. To allow one Council Member to be informally involved in negotiations, and to have private meetings with the various Unions without the knowledge or involvement of the staff or other Council Members, circumvents not only the staff attempts to resolve the dispute but also undermines the authority of the Council as a whole. The best approach in regard to these issues is to have a clear understanding by the Council as a whole and not have individual members handling it on their own.

The above restrictions on the conduct of the City Council are very clear; Council Members have no authority to direct any employee, request the hiring or firing of any specific employee, or participate in the discipline of any City employee. Those duties are left exclusively to the City Manager and any involvement by Council Members in those activities is a violation of the City Charter and Council Policy.

SUCCEEDING AS AN ELECTED OFFICIAL

Policy-Making: Public policy determines what services will be provided to the residents and the level of those services, what kinds of development will occur in the community, and it determines what the community's future will be. Elected officials have public policy-making responsibilities. Because policies created affect everyone in the community in some way, the very best is demanded of public officials. Therefore, there are three major jobs elected officials have when creating policy:

1. Set a Goal

To create an effective policy, elected officials must set a strategic direction to go in to achieve a specific goal or vision. Goals should be realistic, achievable, and in the public's best interest. Without a goal, it can be easy to lose sight and direction of the policy's purpose and importance to the community.

2. Achieve the goal

Adopt policies that enable the organization to go in the direction and establish the policy set in the goal-setting stage. Policy making requires measurement of the consequences of policy decisions against the community's vision, values, and goals. It can be difficult to determine what a "good" policy is; the following qualities may assist in that determination:

- There is public support.
- The policy is fair and equitable and does not impose disproportional impacts on interest groups.
- Throughout the policy-making process, officials analyzed the impact a policy will have and measured the consequences of policy decisions against the community it affects.
- Officials maintained clear goals while considering a range of alternatives and assessed the impacts of alternatives.
- The policy is relevant and addresses an issue or problems that is generally perceived as significant to the community.
- The policy can be implemented, has a reasonable chance of working, and there are clear assignments for responsibilities for implementation.
- The results are monitored.

3. Monitor results

There is always a risk that policy decisions will not accomplish their intended goal or have an unintended negative impact. To gauge effectiveness, monitoring results is necessary. One way to monitor the results of a policy is to get reports and updates on the policy. Good monitoring systems may provide early warning of failure and the opportunity to alter or abandon a policy before the policy negatively affects the public.

Fiduciary Duties: The public delegates governing authority to public officials to exercise discretion over the public treasury and to create laws that will impact their lives. The public official, once elected, appointed, or hired, is in a superior position to that of the individual citizen due to specialized governmental knowledge and the ability to advise, deliberate, and

participate in the representative process. And finally, the public trusts that the public official will act in the public's best interest. Fiduciaries are under rigorous obligations that ensure compliance with their role responsibilities. Those obligations are:

1. The Duty of Obedience

The duty of obedience requires that an elected official ensures compliance with applicable laws and regulations, acts in accordance with its own policies, and carries out its mission to serve its constituents appropriately. Public officials should ensure they carry out their intended purpose and do not engage in unauthorized activities.

2. The Duty of Loyalty

Public officials have an absolute obligation to put the public's interest before their own direct or indirect personal interests. The public official breaches this obligation when he or she benefits at the public expense. Prohibited benefits can be financial (such as engaging in pay to play politics- or participating in decisions that favorably impact an official's business, property, or investments), career related (such as using public office and/or public resources to obtain future employment or political position), or personal such as benefits to family members or close associates. Note that when general ethical duties to family or friends conflict with duty to the public, the public duty must prevail.

3. The Duty of Care

The duty care requires that the public official competently and faithfully execute the duties of the office. Under duty of care fall such obligations as the duty to manage assets competently and be good stewards of the public treasury, to use due diligence in the selection and supervision of staff, to follow the rules and to uphold the constitution and laws of the jurisdiction. Examples of breach of this duty include failure to attend meetings, failure to investigate, failure to engage in the deliberative process, and failure to vote.

COUNCIL CONDUCT WITH THE PUBLIC: IN PUBLIC MEETINGS

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual council members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

- **Be Welcoming to Speakers and Treat Them with Care and Gentleness:** The way that the Council treats people during public hearings can do a lot to make them relax or push their emotions to a higher level of intensity."
- **Actively Listen:** It is disconcerting to speakers to have Council members not look at them when they are speaking. It is fine to look down at documents or to make notes, but reading for a long period of time gazing around the room gives the appearance of disinterest. Be aware of facial expressions, especially those that could be interpreted as "smirking," disbelief, anger or boredom. If speakers become flustered or defensive by Council questions, it is the responsibility of the chair to calm and focus the speaker and

to maintain the order and decorum of the meeting. Questions by Council members to members of the public testifying should seek to clarify or expand information. It is never appropriate to belligerently challenge or belittle the speaker. Council members' personal opinions or inclinations about upcoming votes should not be revealed until after the public hearing is closed.

- **No Personal Attacks of Any Kind, Under Any Circumstance:** Council members should be aware that their body language and tone of voice, as well as, the words they use, can appear to be intimidating or aggressive.
- **Follow Parliamentary Procedure in Conducting Public Meetings:** Final rulings on parliamentary procedure are made by the chair of the meeting.
- **Council Policy 1-2, City Council Rules of Procedure.** Procedural rules for handling the business of the City at Council Meetings is attached hereto as Exhibit 2.

OPEN MEETING ACT SUMMARY

Meetings of public bodies (such as city council) are governed by the Oklahoma Open Meeting Act. **A violation of the Open Meeting Act can result in criminal charges against the individual Council Member.** The Open Meeting Act has four areas that cause the most concern:

1. **Defining Meeting:** The Open Meeting Act defines a meeting as "the conducting of business of a public body by a majority of its members being personally together." As you can see by the definition, an informal get-together involving four Council Members can constitute a "meeting." Further, there is no requirement that there be a vote taken, but only discussion.

Meetings cannot be held unless an agenda is posted and the public is advised that the meeting is going to take place. Therefore, in order to avoid any type of problem with an illegal meeting, each of you should be especially careful to avoid any discussion of any City business, or any matter indirectly related to City business, at any time in which four of you are present. It is the responsibility of the individual Council Members to avoid this problem. (Telephone or computer communication by a majority of members is also prohibited.) **Further, extreme care should be taken in regard to discussions held either immediately before or immediately after council meetings.**

2. **Notice and Agenda:** State law requires that an agenda be posted for any meeting that is to be held. If an item is not posted on an agenda, with the exception of new business that is discussed later, it should not be discussed or acted upon at a meeting of the Council. (If four of you meet informally and discuss City business, a violation of the Act occurs by the failure to post an agenda.)
3. **Consent Agenda:** A consent agenda is used by cities to allow approval, by one motion and vote, of a number of items that are considered routine. Staff will recommend those

items that are included; any council member who wants a vote on any individual item can remove the item from consent. Once an item is removed from the consent agenda, it may be fully discussed by the body.

4. New Business: New business for purposes of the Open Meeting Act is defined as "any matter not known about or which could not have been reasonably foreseen prior to posting of the agenda." The City of Muskogee does not utilize "New Business" as a standard agenda item.

EXECUTIVE SESSIONS

Executive sessions can only be held for certain specific reasons, such as to discuss pending litigation or claims, the purchase of property, union negotiations and the employment, hiring, appointment, promotion, demotion, discipline or resignation of an individual, salaried, public officer or employee.

Executive sessions cannot be used to discuss general personnel problems of the city or a department and cannot be held unless they are listed on the agenda. The Open Meeting Act also requires a specific listing of the type of matter being discussed in an executive session; therefore, executive sessions are limited to the specific item to be discussed and other general City business cannot be discussed at that time. Any action taken as a result of an executive session must be voted on in public. Executive sessions are intended as private, confidential meetings in which the private discussions cannot be disclosed by any of those present – the "city," and not the individuals present, own that right to confidentiality and only the "city" by a vote of the elected officials can agree to disclose the private discussion.

ATTENDANCE

Attendance at city council meetings by members is addressed by City Charter. Any council member who, unless excused, misses three consecutive regular meetings of the Council forfeits, as a matter of law, their office. There are no exceptions to the statutory requirement, no ability of the city to waive that requirement, and no action for removal that is required - the forfeiture occurs as a matter of law without any affirmative vote by the other members.

MEETING SIGN IN.

Any member of the public wishing to address the City Council must sign in at least 15 minutes prior to the beginning of the meeting. The forms are attached as Exhibit 3 (Agenda item) and Exhibit 4 (Non Agenda Item).

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CONDUCT, ETHICS & CONFLICT OF INTEREST

One of the more dangerous and sensitive subjects involving council members is the question of conflict of interest. The topic is especially troublesome because the penalty involved, if there is a conflict with a council member and some action being taken by the city, is severe (primarily involving the council member).

SUMMARY OF CONFLICT OF INTEREST AND STATUTES

In general, the conflict of interest statutes fall into four categories, as follows:

- A.** A general prohibition that precludes any city officer, employee, or family member of any officer or employee from doing any business of any type with the city. The violation of the statute is a misdemeanor, the contract or agreement entered into is void as a matter of law, and any member voting to approve the contract is personally liable for the amount of the transaction.
- B.** There are a series of statutes dealing with public trust that preclude the public trust from contracting with trust members or their families; again, if that conduct occurs, the trustee is removed as a matter of law and the contract is void. Further, the public trust statutes preclude bidding in certain instances by family members and again results in any contract approved, even after the bid, being void and the member who has a conflict being guilty of a felony. Further, willful violations result in removal of the trustee.
- C.** There are public finance statutes that provide that no contract with a Council member or in which a member "directly or indirectly is interested" will be valid. The contract is treated as void. The purpose of the statute is to provide an additional safeguard concerning the expenditure of monies by public bodies in which individual Council members are receiving some interest.
- D.** In addition to the above three conflict of interest statutes, there is also a criminal statute that provides that it is unlawful for any council member to sell materials, supplies or other goods to the city. Any such contract is also void. All members voting yes are personally liable for the amount of the purchase; fines and criminal penalties are provided for.

- E. Lastly, if you serve on the Council of directors of a company doing business with the city, a conflict exists that will require you to excuse yourself from the discussion and voting on those business dealings.

Per the above statutes, the best approach in dealing with possible conflicts is to act with caution. The very basic summary of the rule is that the city cannot contract with any council member or family of any council member; this rule applies even if the council member involved abstains and does not participate in the agreement.

The most likely situation is one in which there is not a direct conflict but some appearance of a conflict because of other business dealings or family members. In those instances, the potential conflict should be disclosed, the potential conflict investigated, and a decision made as to whether the potential conflict is a real conflict.

The statutes that regulate council members fall into the following categories:

1. COUNCIL MEMBERS PROHIBITION FROM DOING BUSINESS WITH THE CITY

The following statute prohibits council members from doing business with the city:

11 Okla.Stat. §8-113 - Prohibited Conduct

- A. Except as otherwise provided by this section, no municipal officer or employee, or any business in which the officer, employee, or spouse of the officer or employee has a proprietary interest, shall engage in:
 - 1. Selling, buying, or leasing property, real or personal, to or from the municipality;
 - 2. Contracting with the municipality; or
 - 3. Buying or bartering for or otherwise engaging in any manner in the acquisition of any bonds, warrants, or other evidence of indebtedness of the municipality.
- B. The provisions of this section shall not apply to any officer or employee of any municipality of this state with a population of not more than two thousand five hundred (2,500) according to the latest Federal Decennial Census, who has a proprietary interest in a business which is the only business of that type within five (5) miles of the corporate limits of the municipality. However, any activities permitted by this subsection shall not exceed Two Thousand Five Hundred Dollars (\$2,500.00) for any single activity and shall not exceed Fifteen Thousand Dollars (\$15,000.00) for all activities in any calendar year. Provided, however, such activity may exceed Fifteen Thousand Dollars (\$15,000.00) per year if the municipality purchases items therefrom that are regularly sold to the general

public in the normal course of business and the price charged to the municipality by the business does not exceed the price charged to the general public.

- C. Provisions of this section shall not apply where competitive bids were obtained consistent with municipal ordinance or state law and two or more bids were submitted for the materials, supplies, or services to be procured by the municipality regardless of the population restrictions of subsection B of this section. Provided the notice of bids was made public and open to all potential bidders.
- D. All bids, both successful and unsuccessful, and all contracts and required bonds shall be placed on file and maintained in the main office of the awarding municipality for a period of five (5) years from the date of opening of bids or for a period of three (3) years from the date of completion of the contract, whichever is longer, shall be open to public inspection and shall be matters of public record.
- E. For purposes of this section, "employee" means any person who is employed by a municipality more than ten (10) hours in a week for more than thirteen (13) consecutive weeks and who enters into, recommends or participates in the decision to enter into any transaction described in subsection A of this section. Any person who receives wages, reimbursement for expenses, or emoluments of any kind from a municipality, any spouse of the person, or any business in which the person or spouse has a proprietary interest shall not buy or otherwise become interested in the transfer of any surplus property of a municipality or a public trust of which the municipality is beneficiary unless the surplus property is offered for sale to the public after notice of the sale is published.
- F. For purposes of this section, "proprietary interest" means ownership of more than twenty-five percent (25%) of the business or of the stock therein or any percentage which constitutes a controlling interest but shall not include any interest held by a blind trust.
- G. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor. Any transaction entered into in violation of the provisions of this section is void. Any member of a governing body who approves any transaction in violation of the provisions of this section shall be held personally liable for the amount of the transaction.
- H. Notwithstanding the provisions of this section, any officer, director or employee of a financial institution may serve on a Council of a public body. Provided, the member shall abstain from voting on any matter relating to a transaction between or involving the financial institution in which they are associated and the public body in which they serve.

2. PUBLIC TRUST CONFLICTS STATUTE

The following statute applies to public trusts and limits the activity of trustees of those trusts:

60 Okla.Stat. §178.8 - Conflict of Interest - Transactions Exempt

- A. Except with regard to residents of a facility for aged persons operated by a public trust, who are trustees of the public trust operating the facility and who comprise less than a majority of the trustees, a conflict of interest shall be deemed to exist in any contractual relationship in which a trustee of a public trust, or any for-profit firm or corporation in which such trustee or any member of his or her immediate family is an officer, partner, principal stockholder, shall directly or indirectly buy or sell goods or services to, or otherwise contract with such trust. Upon a showing thereof, such trustee shall be subject to removal and such contract shall be deemed unenforceable as against such trust unless the records of such trust shall reflect that such trustee fully and publicly disclosed all such interest or interests, and unless such contractual relationship shall have been secured by competitive bidding following a public invitation to bid.

The following types of transactions are exempt from the aforementioned provisions of this section:

1. The making of any loan or advance of any funds to, or the purchase of any obligations issued by such public trust, in connection with the performance of any of its authorized purposes;
2. Any legal advertising required by law or indenture or determined necessary by the trustees of such public trust;
3. The performance by any bank, trust company or similar entity or any services as a depository; or
4. The sale of any public utility services to such public trust, in which the price of said services is regulated by law.

It shall be the duty of each public trust to compile a list of all conflicts of interest for which its trustees have made disclosure. It shall also be the duty of each trust to compile a list of all dealings between its trustees and the trust which involve the exempted transactions listed above. Such lists shall be compiled semiannually for periods ending June 30 and December 31 of each year. Such lists shall be compiled on forms prescribed by the Oklahoma Tax Commission and shall be matters of public record. Copies of such lists shall be filed with the Secretary of State by September 1 and March 1 of each year.

- B. The provisions of this section shall be inapplicable to any public trust created and existing prior to July 1, 1988, if all bonds issued by such public trust are required to be issued under and pursuant to a single bond indenture by amendment or supplement thereto and if the instrument or will creating such public trust and the bond indenture under which such trust must issue all bonds shall have been held to be valid and binding agreements in an opinion of the Supreme Court of the State of Oklahoma; and nothing in this section shall impair or be deemed to impair the trust indenture, the bond indenture, or existing or future obligations of such public trust.

3. PUBLIC COMPETITIVE BIDDING ACT PROHIBITION FOR BIDDING

The following statute applies to contracts entered into pursuant to the Oklahoma Public Competitive Bidding Act:

61 Okla.Stat. §114 - Conflict of Interest

The chief administrative officer and members of the governing body of the awarding public agency authorizing or awarding or supervising the execution of a public construction contract, and their relatives within the third degree of consanguinity or affinity, are forbidden to be interested directly or indirectly through stock ownership, partnership interest or otherwise in any such contract. Contracts entered into in violation of this section shall be void. Persons willfully violating this section shall be guilty of a felony and shall be subject to removal from office.

4. CRIMINAL STATUTES

The following criminal statutes may apply to council members in certain circumstances:

21 Okla.Stat. §355 - Furnishing Public Supplies for Consideration-Exceptions

- A. It shall be unlawful for any member of any Council of county commissioners, city council or other governing body of any city, Council of trustees of any town, Council of directors of any township, Council of education of any city or school district, to furnish, for a consideration any material or supplies for the use of the county, city, town, township, or school district.
- B. The provisions of this section shall not apply to those municipal officers who are subject to Section 8-113 of Title 11 of the Oklahoma Statutes or to a member of any Council of education of a school district in this state which does not include any part of a municipality with a population greater than two thousand five hundred (2,500) according to the latest Federal Decennial Census when the Council member is the only person who furnishes the material or supplies within ten (10) miles of the corporate limits of the municipality. However, any activities permitted by this subsection shall not exceed Five Hundred Dollars (\$500.00) for any single activity and shall not exceed Two Thousand Five Hundred Dollars (\$2,500.00) for all activities in any calendar year.
- C. It shall not be unlawful for any member of any Council of county commissioners, city council or other governing body of any city, Council of trustees of any town, Council of directors of any township, or Council of education of any school district to vote to purchase materials or supplies from a business that employs a member of the governing body or employs the spouse of a member if the member or the spouse of a member has an interest in the business of five percent (5%) or less.

21 Okla.Stat. §344 - Personal Interest of Official in Transaction-Penalty

- A. Except as otherwise provided in this section, every public officer, being authorized to sell or lease any property, or make any contract in his or her official capacity, who

voluntarily becomes interested individually in such sale, lease or contract, directly or indirectly, is guilty of a misdemeanor.

B. The provisions of this section shall not apply to:

1. Municipal officers who are subject to the provisions of Section 8-113 of Title 11 of the Oklahoma Statutes; and
2. Conservation district Council members participating in programs authorized by Section 3-2-106 of Title 27A of the Oklahoma Statutes.

CODE OF ETHICS FOR ELECTED OFFICIALS

City Council Policy 1-10 attached hereto as Exhibit 5 represents the City's Ethics policy.

THE THREE R'S OF GOVERNMENT LEADERSHIP: ROLES, RESPONSIBILITIES AND RESPECT

Oklahoma State Statutes and City Ordinances provide detailed information on the roles and responsibilities of council members, the vice mayor and the mayor. This code is intended as a policy statement for the council to help ensure fair, ethical and accountable local government.

This Code of Ethics is designed to describe the manner in which council members should treat one another, city staff, constituents, and others that they may come into contact with while representing the city. The policy defines more clearly the behavior, manners and courtesies that are suitable for various occasions. The policy also considers a wide variety of policy changes and clarifications designed to make public meetings and the process of governance run more smoothly.

The constant and consistent theme through all of the conduct guidelines is "respect." Council members experience huge workloads and tremendous stress in making decisions that could impact thousands of lives. Despite these pressures, elected officials are called upon to exhibit appropriate behavior at all times. Demonstrating respect for each individual, through words and actions, is the touchstone that can help guide Council Members to do the right thing in even the most difficult situations.

OVERVIEW OF ROLES & RESPONSIBILITIES

Other resources that are helpful in defining the roles and responsibilities of elected officials can be found in the Oklahoma State Statutes, City Charter and Code of Ordinances and the Municipal Handbook from the Oklahoma Municipal League.

MAYOR

- Acts as the official head of the city for all ceremonial purposes and military law.
- Chairs council meetings.
- Calls for special meetings.
- Recognized as spokesperson for the city
- Selects substitute for city representation when mayor cannot attend
- Makes judgment calls on proclamations.
- Recommends subcommittees, as appropriate, for council approval.

- Leads the council into an effective, cohesive working team.
- Signs documents on behalf of the city.

VICE MAYOR

- Performs the duties of the mayor if the mayor is absent or disabled.
- Chairs Council meetings at the request of the mayor.
- Represents the city at ceremonial functions at the request of the mayor.
- Moves or makes motions on agenda items at Council meetings.

COUNCIL MEMBERS

- All members of the city council, including those serving as mayor and vice mayor, have equal votes. (may vary depending on charter or some forms of government)
- No Council member has more power than any other Council member, and all should be treated with equal respect.

RESPONSIBILITY OF ALL COUNCIL MEMBERS

- Fully participate in Council meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others, including the public, other Council members, and employees of the City.
- Prepare in advance of meetings and be familiar with issues on the agenda.
- Represent the city at ceremonial functions at the request of the mayor.
- Be respectful of other people's time.
- Stay focused and act efficiently during public meetings.
- Serve as a model of leadership and civility to the community.
- Inspire public confidence in our government.
- Provide contact information with the administration in case an emergency or urgent situation arises.
- Demonstrate honesty and integrity in every action and statement.
- Participate in scheduled activities to increase team effectiveness and review council procedures, such as this Code of Conduct.

MEETING CHAIR

The mayor will chair official meetings of the city council, unless the vice mayor or another council member is designated as chair of a specific meeting.

The Chair shall:

- Maintain order, decorum and the fair and equitable treatment of all speakers.
- Keep discussion and questions focused on specific agenda items under consideration. Make parliamentary rulings with advice, if requested, from the city manager, who shall act as an advisory parliamentarian.

POLICY ROLE OF THE CITY COUNCIL

Members shall respect and adhere to the structure of the city government as outlined by

Oklahoma Statutes (and City Charter if applicable). The Council members shall be informed of their role in their form of government and shall not interfere in those areas of operation that are the responsibility of others in their form of government. Except as where specifically allowed by statute, Council members should not interfere with the administrative functions of the city or the professional duties of city staff, nor shall they impair the ability of staff to implement council policy decisions.

POLICIES & PROTOCOL RELATED TO CONDUCT

- A. Ceremonial Events:** Requests for a City representative at ceremonial events will be handled by city staff. Generally, the mayor will serve as the designated city representative. If the mayor is unavailable, then city staff will determine if event organizers would like another representative from the council. Invitations received at city hall are presumed to be for official city representation. Invitations addressed to council members at their homes are presumed to be for unofficial, personal consideration.
- B. Correspondence Signatures:** City staff will assist, through the management of the City, in the preparation of any official correspondence needed by the Council. All Council members should be aware that all correspondence generated by them in their official capacity will likely be subject to the Open Records Act and, therefore, will become a public record subject to inspection by any member of the public.
- C. Endorsement of Candidates:** Council members have the right to endorse candidates for all council seats or other elected offices. It is inappropriate to mention endorsements during council meetings or other official city meetings.
- D. Public Meeting Hearing Protocol:** The applicant or appellant shall have the right to speak first. The chair will determine the length of time allowed for this presentation. Speakers who have signed up in advance, representing either pro or con points of view will be allowed to follow in accordance with the Rules of Decorum, which for agenda items allows for a five minute presentation, followed by 5 minutes of questions by Council members. The chair has the responsibility to run an efficient public meeting and has the discretion to modify the public hearing process in order to make the meeting run smoothly. After the close of a public hearing, no more public testimony will be accepted unless the chair reopens the public hearing for a limited and specific purpose.
 - a. Council members should not express opinions during the public hearing portion of the meeting except to ask pertinent questions of the speaker or staff. "I think" and "I feel" comments by council members are not appropriate until after the close of the public hearing. Council members should refrain from arguing or debating with the public during a public hearing and shall always show respect

for different points of view.

- E. Travel Expenses:** All council travel, in which the council member expects to officially represent the city and/or be reimbursed by the city for travel costs, must be approved in accordance with the city's travel and expense reimbursement policy.

COUNCIL MEMBER CONDUCT WITH ONE ANOTHER

Councils are composed of individuals with a wide variety of backgrounds, personalities, values, opinions and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of our community. In all cases, this common goal should be acknowledged even as the council may "agree to disagree" on contentious issues.

IN PUBLIC MEETINGS

- A. Practice Civility and Decorum in Discussions and Debate:** Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of a free democracy in action. This does not allow, however, council members to make belligerent, personal, impertinent, slanderous, threatening, abusive or disparaging comments. No shouting or physical actions will be tolerated.
- B. Honor the Role of the Chair in Maintaining Order:** It is the responsibility of the chair to keep the comments of council members on track during public meetings. Council members should honor efforts by the chair to focus discussion on current agenda items. If there is disagreement about the agenda or the chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.
- C. Avoid Personal Comments That Could Offend Other Council Members:** If a Council member is personally offended by the remarks of another Council member, the offended member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The chair will maintain control of this discussion.
- D. Demonstrate Effective Problem-Solving Approaches:** Council members have a public stage to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

IN PRIVATE ENCOUNTERS

- A. Continue Respectful Behavior in Private:** The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.

- B. Be Aware of the Insecurity of Written Notes, Voicemail Messages, And Email:** Technology allows words written or said without much forethought to be distributed wide and far. Would you feel comfortable to have this note faxed to others? How would you feel if this voice mail message was played on a speaker phone in a full office? What would happen if this email message was forwarded to others? Written notes, voice mail messages and email should be treated as potentially "public" communication.
- C. Even Private Conversations Can Have a Public Presence:** Elected officials are always on display -- their actions, mannerisms, and language are monitored by people around them that they may not know. Lunch table conversations will be eavesdropped upon, parking lot debates will be watched, and casual comments between individuals before and after public meetings noted.

COUNCIL CONDUCT WITH CITY STAFF

Governance of a city relies on the cooperative efforts of elected officials, who set policy, and city staff, who implement and administer the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community.

- A. Treat All Staff as Professionals:** Clear, honest communication that respects the abilities, experience and dignity of each individual is expected. Poor behavior toward staff is not acceptable.
- B. Limit Contact to Specific City Staff:** Questions of city staff and/or requests for additional background information should be directed through the appropriate channels and management, in accordance with Council Policy 1-4. Requests for follow-up or directions to staff should be made only through the proper channels. When in doubt about what staff contact is appropriate, council members should confer with management for direction and be sure that the contact is appropriate in the form of government applicable. Materials supplied to a Council member in response to a request will be made available to all members of the Council so that all have equal access to information.
- C. Never Publicly Criticize an Individual Employee:** Council members should never express concerns about the performance of a city employee in public, to the employee directly, or to the employee's department head. Comments about staff performance should only be made through management through private correspondence or conversation.
- a. Do not get involved in daily administrative functions, except those involving committees established by the Council and those involving council agenda items in which management is presenting the item to the Council for consideration.

- b. Council members must not attempt to influence city staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of city licenses and permits, except to the extent those items involve Council agenda items or items presented to Council committees.

D. Check with City Staff on Correspondence Before Taking Action: Before sending correspondence, Council members should check with city staff to see if an official city response has already been sent or is in progress.

E. Limit Request for Staff Support: Routine secretarial support will be provided to all council members. All mail for Council members is opened by management, unless other arrangements are requested by a Council member. Requests for additional staff support, even in high priority or emergency situations, should be made through management, who is responsible for allocating city resources in order to maintain a professional, well-run city government.

COUNCIL ACCESS AND USE OF PUBLIC FACILITIES AND EQUIPMENT

The Council acknowledges that the powers bestowed on council by state law and City Charter are granted to the Council as a whole, and not to individual Council members. As such, the powers granted to council are only exercised in public meetings in compliance with the Oklahoma Open Meeting Act.

Individual Council members and the Mayor do not have any greater access to public facilities, work sites, or city owned property and equipment than the public at large. Both the Council members and the Mayor are provided office space at City Hall to be used for official duties.

The use of any city equipment, even if authorized and provided through the proper channels, shall be in accordance with the policies of the city, and not for personal use.

If the Council members are provided city email accounts for city business, in order to comply with legal requirements for the preservation of public records and to ensure that there is compliance with the city's computer usage policies, all council members should conduct city business through the city email account only, with the failure to do so subject not only to the sanctions outlined herein, but also the risk of other individual legal liability for violation of the Oklahoma Open Records Act.

COUNCIL CONDUCT WITH THE PUBLIC: IN UNOFFICIAL SETTINGS

A. Make No Promises on Behalf of the Council: Council members will frequently be asked to explain a council action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of city policy and to refer to city staff for further information. It is inappropriate to overtly or

implicitly promise council action, or to promise city staff will do something specific (repair a street, solve a drainage problem, install street signs, etc.).

- B. Make No Personal Comments About Other Council Members:** It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other council members, their opinions and actions.
- C. Remember That Despite Its Impressive Population Figures, This City Is a Small Town at Heart:** Council members are constantly being observed by the community every day that they serve in office. Their behaviors and comments serve as models for proper deportment in the city. Honesty and respect for the dignity of each individual should be reflected in every word and action taken by council members, 24 hours a day, seven days a week. It is a serious and continuous responsibility.

COUNCIL MEMBER CONDUCT WITH OTHER PUBLIC AGENCIES

- A. Be Clear About Representing the City or Personal Interests:** If a Council member appears before another governmental agency or organization to give a statement on an issue, the council member must clearly state:
 - a. If his or her statement reflects personal opinion or is the official stance of the city;
 - b. Whether this is the majority or minority opinion of the Council. If the Council member is representing the city, the member must support and advocate the official city position on an issue, not a personal viewpoint.
 - c. If the Council member is representing another organization whose position is different from the city, the member should withdraw from voting on the issue if it significantly impacts or is detrimental to the city's interest. Council members should be clear about which organizations they represent and inform the mayor and council of their involvement.
- B. Correspondence Also Should Be Equally Clear About Representation:** City letterhead may be used when the Council member is representing the city and the city's official position. A copy of official correspondence should be given to the city manager for filing as part of the permanent public record.

COUNCIL MEMBER CONDUCT WITH COUNCILS AND COMMISSIONS

The city has established several Councils and commissions as a means of gathering more community input. Citizens who serve on Councils and commissions become more involved in government and serve as advisors to the city council. They are a valuable resource to the city's leadership and should be treated with appreciation and respect.

- A. If Attending a Council or Commission Meeting, Be Careful to Only Express Personal Opinions:** Council members may attend any Council or commission meeting, which are always open to any member of the public. However, they should be sensitive to the way their participation -- especially if it is on behalf of an individual, business or developer -- could be viewed as unfairly affecting the process. Any public comments by a Council member at a Council or commission meeting should be clearly made as individual opinion and not a representation of the feelings of the entire city council.
- B. Limit Contact with Council and Commission Members to Questions of Clarification:** It is inappropriate for a council member to contact a Council or commission member to lobby on behalf of an individual, business, or developer. It is acceptable for council members to contact Council members in order to clarify a position taken by the Council.
- C. Remember That Councils Serve the Community:** The city council appoints individuals to serve on Councils and commissions, and it is the responsibility of Councils to follow policy established by the council. But Council members do not report to individual council members, nor should council members feel they have the power or right to threaten Council members with removal if they disagree about an issue. Appointment and reappointment to a Council should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A Council appointment should not be used as a political "reward."
- D. Be Respectful of Diverse Opinions:** A primary role of Councils is to represent many points of view in the community and to provide the council with advice based on a full spectrum of concerns and perspectives. Council members may have a closer working relationship with some individuals serving on Councils, but must be fair and respectful of all citizens serving on Councils.
- E. Keep Political Support Away from Public Forums:** Council members may offer political support to a council member, but not in a public forum while conducting official duties. Conversely, council members may support Council members who are running for office, but not in an official forum in their capacity as a council member.
- F. Inappropriate Behavior Can Lead to Removal:** Inappropriate behavior by a Council member handled in accordance with City Council Policy 1-10, noting the same to the Mayor or the City Attorney if investigation is required.

COUNCIL CONDUCT WITH THE MEDIA

Council members are frequently contacted by the media for background and quotes.

- A. The Best Advice for Dealing with The Media is to Never Go "Off the Record":** Most members of the media represent the highest levels of journalistic integrity and ethics, and can be trusted to keep their word. But one bad experience can be catastrophic.

Words that are not said cannot be quoted.

- B. The Mayor Is the Official Spokesperson for the City's Position:** The Mayor is the designated representative of the Council to present and speak on the official city position. If an individual council member is contacted by the media, the council member should be clear about whether their comments represent the official city position or a personal viewpoint.
- C. Choose Words Carefully and Cautiously:** Comments taken out of context can cause problems. Be especially cautious about humor, sardonic asides, sarcasm or word play. It is never appropriate to use personal slurs or swear words when talking with the media.

SANCTIONS

- A. Public Disruption:** Members of the public who do not follow proper conduct after a warning in a public hearing maybe barred from further testimony at that meeting or removed from the council chambers.
- B. Inappropriate Staff Behavior:** Council members should refer to the administration any city staff who does not follow proper conduct in their dealings with Council members, other city staff, or the public. These employees may be disciplined in accordance with standard city procedures for such actions.
- C. Council Members Behavior and Conduct:** City Council members who intentionally and repeatedly do not follow proper conduct may be reprimanded or formally censured by the council, lose seniority or committee assignments (both within the city or with inter-government agencies). Serious infractions of the Code of Ethics could lead to other sanctions as deemed appropriate by Council.

Council members should point out to the offending council member infractions of the Code of Ethics. If the offenses continue, then the matter should be referred to the mayor in private. If the mayor is the individual whose actions are being challenged, then the matter should be referred to the vice mayor.

It is the responsibility of the mayor to initiate action if a Council member's behavior may warrant sanction. If no action is taken by the mayor, the alleged violation(s) can be brought up with the full council in a public meeting.

If violation of the Code of Ethics is outside of the observed behaviors by the mayor or council members, the alleged violation should be referred to the mayor. The city council should ask the City Attorney to investigate the allegation and report the findings to the city council. It is the city council's responsibility to take the next appropriate action. These actions can include, but are not limited to: discussing and counseling the individual on the violations; recommending

sanction to the full council to consider in a public meeting; or forming a council ad hoc subcommittee to review the allegation; the investigation and its findings, as well as, to recommend sanction options for council consideration.

- A. City staff shall provide a copy of this resolution to the members of all city Councils and commission to ensure they are familiar with the guidelines established by the city council.
- B. Additional ethical restrictions, based on state law, apply to any financial conflict of interest issue that may arise, and those issues should be addressed on an individual basis as they arise.

GIVING AND RECEIVING GIFTS

When the season of giving is upon us, it is within the human spirit to give. While not limited to the holiday season, this is often the time of year municipal employers might want to give employees a Christmas bonus, providing a turkey/ham or giving the city/town councilmember a gift. Although the intent is good, it can cause a great deal of confusion for city employees and members of the governing body. OK Const. Article 10 §14 states that “Except as otherwise provided by this section, taxes shall be levied and collected by general laws, and for public purposes only, et al.” Basically, this prohibits gifts or donations of public funds directly by the payment of money, including providing free rent, utilities or other services, or indirectly by lending public equipment or the labor of public employees when the primary benefit goes to a private corporation, association, or individual.

Oklahoma State Laws have strict regulations about changing an elected official’s salary while he/she is in office. What about giving a turkey or a ham? It seems harmless, but if the turkey or ham was purchased with public funds, it could be considered an emolument (fringe benefit). Laws in Oklahoma prohibit an elected or appointed official’s salary or emolument to be changed after his or her election and/or appointment. Municipal employees may receive a Christmas bonus or a turkey/ham as compensation, but this is a matter of policy. A Christmas bonus or free turkey/ham is not a gift when it is used as payment in exchange for service to the public as a whole. The value of the compensation must be figured as income for reporting purposes under state and federal laws. For a non-cash item to be a true payment, it must be recorded as a real part of one’s salary.

It is important to consult with your city attorney when implementing a policy for the expenditure of public funds. Relying and acting upon the advice of your municipal attorney offers a measure of protection that otherwise you would not have if you act without consultation.

MUNICIPAL ELECTED OFFICIAL SURVEY

The following comments are the result of a survey that has been submitted to numerous officials, representing many of the municipalities in the Tulsa area and northeast Oklahoma. The following responses should serve as a guideline for elected officials, both new and established.

1. The best elected officials possess the following traits:

- A genuine desire to benefit the public being served, not just a constituency that may have elected them.
- A willingness to seek training or other learning opportunities.
- A willingness to look at options before a decision is made.
- Honesty, knowledgeable, consensus-builder.
- Respect for coworkers, both peers and subordinates.
- A desire to share their insights and experience with similar entities, and not just the unit of government that they currently serve.
- High moral and ethical standards that supersede legal standards.
- A willingness to work together as a team towards common goals.
- A mindset that is open to compromise.
- A willingness to take the time to research all sides of an issue before making a final decision
- An appreciation that there will be times when everyone will not agree.
- A willingness and ability to communicate.
- Understands that we are all human and sometimes make mistakes.
- Thoughtful, consistent, supportive, responsible, practical, and intelligent.

2. Conduct by an elected official that is most damaging to a municipality is the following:

- Any attempt through private meetings to make a decision that should be made in accord with the open meeting act, followed closely by any attempts to subvert the ordinary chain of command by giving orders to staff members that their supervisors are not made aware of.
- Making “busy” work for staff.
- Using the position for financial gain for themselves or individuals, and using the position to only further the agenda of certain individuals, or certain groups of individuals.
- Self-serving decision making.
- Vindictive decision making.
- Making very important decisions without fully researching all the issues.
- Believing and buying in to people who only tell you part of a story – the part that best suits them and their motives.
- Having a “plant” at City Council meetings to perform the dirty work for a Councilmember.
- Being involved with day-to-day operations instead of performing their roles as policy maker.
- Believing “everything” that they hear on the street or read in the local newspaper.

- The “gotcha” member. They wait until the meeting to ask questions often only to make themselves look good at the cost of making others look bad. They often distrust staff, their fellow members, and revel in failures more than the successes.

3. Conduct by an elected official that is most beneficial to a municipality is the following:

- An intelligent search for ways to make the city and the lives of its citizens better, safer, and more productive.
- Working with other elected officials and staff to make decisions that will benefit all citizens.
- The newly elected official should keep his/her mouth closed and ears open for the first several months while they learn the parameters of what they can or more especially cannot do in their elected capacity.
- They should research the history of the issues of the day by asking questions of all sides and make sure they listen more than they speak.
- They must be fully informed to maintain credibility.
- Maintaining an open mind.
- Compliment staff in public and criticize staff in private, if criticism is warranted.
- Being positive and calm.

EXAMPLE SOCIAL MEDIA IMPRESSUM

Use on social media, particularly Facebook, so you can confidently hide or delete comments.

Comments posted to this page will be monitored. The City of _____ reserves the right to hide or remove comments, including those that have obscene language or sexual content, threaten a person or organization, support or oppose political candidates or ballot propositions, promote or encourage illegal activity, promote commercial services or products, promote individual causes, websites or social media sites or are not topically related to the particular posting.

CONFIDENTIALITY AGREEMENT FOR EXECUTIVE SESSION

A confidentiality agreement is required for any participant in the Council’s executive session. The form of said agreement is attached hereto as Exhibit 6.

CITY COUNCIL DISCLOSURE OF INTEREST FORM

The undersigned, in accordance with City Ordinance and State Law, hereby discloses the following Conflict of Interest:

- A. I have an interest in following issue that is pending:

B. My conflict exists because of the following:

C. Does the transaction involve any of the following:

- a. Selling, buying, or leasing property, real or personal, to or from the municipality;
- b. Contracting with the municipality; or
- c. Buying or bartering for or otherwise engaging in any manner in the acquisition of any bonds, warrants, or other evidence of indebtedness of the municipality.

If yes, AND you or an immediate family member are engaging in that activity, the action is illegal. If your interest is in a company doing business with the City and your interests consists of a "proprietary interest" or ownership of more than twenty-five percent (25%) of the business or of the stock therein or any percentage which constitutes a controlling interest, the transaction is illegal.

Does this section apply to your transaction? YES / NO

D. Competitive Bidding. Is the contract for a construction project involving more than \$50,000? If yes, you are forbidden to be interested directly or indirectly through stock ownership, partnership interest or otherwise in any such contract. Does this section apply to your transaction? YES / NO

E. I have an interest in an issue that will appear on a City Council agenda, as follows:

- a. I understand that because my interest is a personal or family interest in which I have a financial risk in the outcome of the vote, I am precluded from voting on this issue. I understand I can present factual information to the Council as a member of the public could, and understand that even though I am not legally required to leave the room during the council's discussion of this matter, that I have been advised I should do so. Does this section apply to your transaction?

YES / NO

- b. I or a family member has an interest in an issue appearing before council. I do not have any direct or indirect financial interest in the outcome of the vote, and am making this disclosure to avoid any allegation that I had an inappropriate conflict of interest. Does this section apply to your transaction? YES / NO

Dated this _____ day of _____, 20__

Signature

City Clerk

City Attorney

RESPONSIBILITY AS AN ELECTED PERSON

Elected persons are responsible for more than just their conduct, which is detailed in Section Two: Conduct, Ethics and Conflict of Interest. They are also responsible for financial tasks like budgeting and accounting. All Cities are required by law to budget and account for the revenues and expenditures made by the City. The City is also required by law to have an audit conducted each year by a licensed independent auditing firm. Finance is responsible for all accounting functions, debt services, investments, asset management, budgeting, rate analysis, and purchasing.

Accounting

The Finance Department is responsible for developing and maintaining accounting and reporting systems for the City, and any public trusts that the City exercises oversight authority.

The City accounts for governmental funds, which include General Fund, Capital Project Funds, Debt Service Funds, and Special Revenue Funds based on the modified accrual basis of accounting. Under this method, revenues are recognized when “measurable and available”. Measurable means knowing or being able to reasonably estimate the amount. Available means collectible within the current period or soon enough thereafter (defined by the City as 60 days

after year end) to pay current liabilities. The primary revenue sources, which have been treated as susceptible to accrual by the City, are sales tax, police fines, user fees, intergovernmental revenues, and other taxes. Expenditures (including capital outlay) are recorded when the related fund liability is incurred, except for general obligation bond principal and interest which are recorded when due.

The City also accounts for proprietary funds based on the accrual basis of accounting. Under this method, revenues are recognized when earned and expenses are recorded when the liability is incurred or economic asset used.

The City utilizes encumbrance accounting in all funds under which purchase orders, contracts, and other commitments for the expenditure of funds are recorded in order to reserve a portion of the applicable appropriation. Encumbrances outstanding at year-end are not considered expenditures for budgetary purposes, but are reported as a reservation of fund balance since the City intends to honor the commitments and provide for supplemental appropriations in the following budget year. All appropriations lapse at year-end.

The City's financial accounting software package may also include modules for budgeting and purchasing.

In the normal course of business, the City might participate in various federal and state grant programs from year to year. Each program contains specific conditions and accounting requirements, which must be met to ensure reimbursement and safeguard of the City's eligibility for future grant awards.

Budgeting

The administrative staff is responsible for developing a budget for review by the City Council. The goal and purpose of the budget is to allocate available funds to accomplish the policies and directions provided by the Council through the City Manager.

Budget Process

A detailed request is prepared for the specific department operating budget, equipment needs and capital projects and is submitted for analysis. Meetings are held with the various Department Heads to affirm objectives, set priorities and justify work programs. The City Council and Municipal Authority Trustees deliberate upon the proposed budget by holding a public hearing to approve the annual budget no later than seven (7) days prior to the end of the current fiscal year. The City Council must approve the budget before any expenditure is made in the new fiscal year.

Passage of the budget is a major milestone for the City, but not the end of the process. After passage, the budget is entered into the City's financial accounting package. The budget is monitored throughout the year as a part of the budget process. Further, progress reports of revenues and expenditures on a monthly basis are presented to the Council.

UNDERSTANDING MUNICIPAL TRUSTS AND AUTHORITIES

Oklahoma law allows for the creation of a public trust for limited purposes. In doing so, the city gains some advantages in the ability to finance projects and some other differences in how it can conduct its' business. The greatest advantage is the ability to sell revenue bonds to finance construction of public utilities or other projects that can be funded by the revenue that is created. The revenue bonds can be approved and sold by a vote of the Trustees of the Trust and do not require a vote of the people, as do general obligation bonds that are used by the city to finance projects.

Many trusts in Oklahoma have been created to allow that flexibility. The trust is for all purposes a separate, legal entity and therefore, required to have separate meetings and separate agendas for its meetings. The Trustees of the Trust are designated by the trust documents, and many times will be elected officials of the city. Although we sometimes refer to the two entities as one and the same, they really are not. Each entity has its own budget, has its own financial structure, and does business in specific areas without mingling its financial affairs with the other entity. All of the open meeting and open record restrictions that apply to

the City will apply to the trust. Although your form of government may have special limitations on the roles of the Mayor and other elected officials, the Trust Indenture should be reviewed to determine the specific powers of the trustees of the trust that governs your operations.

Cities are allowed by law to create different types of entities to carry out municipal functions. Three areas in which these entities may exist are as follows:

A. PUBLIC TRUSTS.

State law allows “public trusts” to be created to carry out projects that otherwise could not be conducted by the City. The primary purpose of a public trust is to create more flexibility in financial transactions that the city is able to use in operations, primarily because of constitutional limitations. The trust will qualify as a public trust only if the trust has a purpose that is public in nature and the City has agreed to be the beneficiary of the trust. Public trusts are also subject to the open meeting act and many the regulations that govern the City.

PUBLIC TRUST CONFLICTS STATUTE

The following statute applies to public trusts and limits the activity of trustees of those trusts:

60 Okla.Stat. §178.8 - Conflict of Interest - Transactions Exempt

- A.** Except with regard to residents of a facility for aged persons operated by a public trust, who are trustees of the public trust operating the facility and who comprise less than a majority of the trustees, a conflict of interest shall be deemed to exist in any contractual relationship in which a trustee of a public trust, or any for-profit firm or corporation in which such trustee or any member of his or her immediate family is an officer, partner, principal stockholder, shall directly or indirectly buy or sell goods or services to, or otherwise contract with such trust. Upon a showing, thereof, such trustee shall be subject to removal and such contract shall be deemed unenforceable as against such trust unless the records of such trust shall reflect that such trustee fully and publicly disclosed all such interest or interests, and unless such contractual relationship shall have been secured by competitive bidding following a public invitation to bid.

The following types of transactions are exempt from the aforementioned provisions of this section:

1. The making of any loan or advance of any funds to, or the purchase of any obligations issued by such public trust, in connection with the performance of any of its authorized purposes;
2. Any legal advertising required by law or indenture or determined necessary by the trustees of such public trust;

3. The performance by any bank, trust company or similar entity or any services as a depository; or
4. The sale of any public utility services to such public trust, in which the price of said services is regulated by law.

It shall be the duty of each public trust to compile a list of all conflicts of interest for which its trustees have made disclosure. It shall also be the duty of each trust to compile a list of all dealings between its trustees and the trust which involve the exempted transactions listed above. Such lists shall be compiled semiannually for periods ending June 30 and December 31 of each year. Such lists shall be compiled on forms prescribed by the Oklahoma Tax Commission and shall be matters of public record. Copies of such lists shall be filed with the Secretary of State by September 1 and March 1 of each year.

- B. The provisions of this section shall be inapplicable to any public trust created and existing prior to July 1, 1988, if all bonds issued by such public trust are required to be issued under and pursuant to a single bond indenture by amendment or supplement thereto and if the instrument or will creating such public trust and the bond indenture under which such trust must issue all bonds shall have been held to be valid and binding agreements in an opinion of the Supreme Court of the State of Oklahoma; and nothing in this section shall impair or be deemed to impair the trust indenture, the bond indenture, or existing or future obligations of such public trust.

B. CITY CREATED COUNCIL COMMITTEES.

The City of Muskogee has several council committees to assist the council and staff in addressing certain issues that may arise. These are the Finance, Public Works and Purchasing Committees.

BEST PRACTICES FOR ELECTED OFFICIALS

BUILDING STABILITY

Our goals should be the same for the mayor, elected council member and city employee, that we want the following things in our city government:

- A. Stability: Everyone we deal with needs our government to be stable, meaning predictable, reliable and consistent in how we do business.
- B. Fulfilling: Our city government experience should be fulfilling for everyone involved, from the highest ranking to the lowest ranking person associated with our government. We get there by accomplishing good goals, and by leaving it better than we found it.
- C. Enjoyable: We deal with difficult issues sometimes, but the experience of working to make our government better should be enjoyable for everyone involved.

The more stable our cities are, the more fulfilling and enjoyable our service will be. The stability test was created as a way to measure how our cities are doing; the 10 categories used were chosen based on input from a number of municipal officials, with the idea that we should identify the broad areas that should be measured to determine how well our communities are functioning. Some cities have adopted this test as a framework for annual retreats, using it to

identify areas in which they seek improvement and as a way to measure how they have improved from year to year.

- 1. Financial Stability:** Do you have enough money to operate?
 - a. Create a written policy that establishes financial goals for the city, approved by council resolution that gives clear direction to staff.
 - b. Determine an appropriate reserve policy with realistic goals.
 - c. Clear, simple, monthly reports to elected officials.
- 2. Governing Body Stability:** How stable is your governing body?
 - a. Hold an annual training, including training to staff and elected officials about meeting protocol.
 - b. Plan to hold an annual retreat to set goals.
 - c. Hold regular meetings with staff to ensure all are working on the projects that are important.
 - d. Have a code of ethics for elected officials.
 - e. Have a best practices resolution for oversight.
 - f. Be professional.
- 3. Meetings:** How good are your meetings?
 - a. They should be business meetings.
 - b. Have respect for fellow elected officials.
 - c. Have and abide by clear meeting rules.
 - d. Include a good balance of public input limited to agenda topics.
 - e. Attend meetings in other cities and learn from them.
- 4. Employees:** How good is your workforce?
 - a. How do you instill pride in their work?
 - b. Improve uniforms and appearance with employee help.
 - c. Provide a good salary and benefits.
 - d. Create a sense of being a part of the team that works toward a common goal.
 - e. Show appreciation to your employees.
- 5. Public Image:** What does the public think of your city?
 - a. Having good, professional meetings will help.
 - b. Emphasize what you do well.
 - c. What do your city properties look like?
 - d. What does your city equipment look like?
 - e. Do you show appreciation to vendors?
 - f. Do you pay on time?
- 6. Crisis Management:** How do you handle a crisis?
 - a. Understand everyone's role.

- b. Understand operations before an event.
- c. Have elected officials tour emergency management facilities and understand who is in charge.

7. Economic Development: Are you involved in economic development?

- a. Have you set goals for economic development?
- b. Does the city own land for development?
- c. Do you have an economic development director or contract?

8. Planning & Goal Setting: How well do you plan and set goals for city projects?

- a. Hold an annual or regular goal setting meeting with written results.
- b. Have short term and long term planning.
- c. Have clear communication, including action steps.

9. Administration: How stable has your upper management been?

- a. Identify the strengths and weaknesses of a good working relationship.
- b. Communicate about expectations.
- c. Build and maintain trust between the elected officials and the administration.

10. Communication: How well do you communicate?

- a. Create a communications system that is agreed to, that may include:
 - i. Weekly reports
 - ii. Annual reports
 - iii. City newsletter
 - iv. Employee newsletter
 - v. Email of important events
- b. If possible, have council committees
- c. Informal time with elected officials for management

If you can find stability in these 10 areas, your city will operate more efficiently and achieve greater success throughout the years.

Regular City Council

32.

Meeting Date: 06/25/2018

Submitted For: Mike Miller, City Manager

Initiator: Mike Miller, City Manager

Department: City Manager

Staff Information Source:

Information

AGENDA ITEM TITLE:

Receive presentation from Oklahoma Municipal Assurance Group on best practices for Oklahoma municipalities and their governing bodies, and take any necessary action (Mike Miller).

BACKGROUND:

Oklahoma Municipal Assurance Group offers a \$10,000 rebate on our insurance if we adopt a best practices handbook and the City Council attends a best practices training once a year. An OMAG representative will provide an hour long training session at the end of the city council meeting and the city will save \$10,000.

RECOMMENDED ACTION:

Receive training

Fiscal Impact

Attachments

No file(s) attached.
