

AGENDA  
BOARD OF CITY COMMISSIONERS  
February 16, 2016 AT 6:30 P.M.  
COMMISSION CHAMBERS AT CITY HALL  
SHAWNEE, OKLAHOMA

CALL TO ORDER

DECLARATION OF A QUORUM

INVOCATION

FLAG SALUTE

All motions will be made in the affirmative. The fact that a commissioner makes or offers a second to a motion does not mean that the commissioner must vote in favor of passage.

1. Consider approval of Consent Agenda:
  - a. Acknowledge staff will proceed in the instant meeting with the opening and consideration of bids as set forth in Agenda Item No. 12.
  - b. Minutes from the February 1, 2016 regular meeting.
  - c. Acknowledge the following reports and minutes:
    - License Payment Report for January 2016
    - Project Payment Report for January 2016
    - Planning Commission Minutes from January 6, 2016 meeting
  - d. Approve lease with Raymond Utter for North Airport Property land and facilities. (*Deferred from January 19, 2016 meeting.*)
  - e. Approve Collective Bargaining Agreement with International Association of Fire Fighters (IAFF).
  - f. Acknowledge Oklahoma Municipal Retirement Fund normal Retirement for Mary Ann Karns.
  - g. Acknowledge Workers Compensation Settlement – Fred Couch
  - h. Approve renewal of existing contract with changes and approved by the Commission for FY 2015-2016:
    - (1) Contract with the City of McCloud for dispatch services.

i. Lake Lease Renewals/Transfers:

RENEWALS:

Lot 13 Johnston Tract, 16624 Stevens Rd.  
Lessees: Teresa Burton and Warren Mesner

TRANSFERS:

Lot 10 Magnino A Tract, 17236 Magnino Rd.  
From: Alene Topping  
To: Derek and Karla Baptiste

2. Citizens Participation  
(A three minute limit per person)  
(A twelve minute limit per topic)
3. Presentation of Fiscal Year 2014-2015 Audit.
4. Authorize staff to enter into an agreement with Fritz Baily Architects of Tulsa, Oklahoma to provide design, engineering and biddable construction documents for the repair and renovation of Fire Station #2 located at 1401 N. Bryan. *(Deferred from February 1, 2016 meeting.)*
5. Discussion, consideration and possible action to approve a Budget Amendment for design, engineering and biddable construction documents for the repair and renovation of Fire Station #2 located at 1401 N. Bryan. *Transfer from General Fund to Capital Fund. (Deferred from February 1, 2016 meeting.)*
6. Discussion, consideration and possible action to approve a Cooperation Agreement with the Absentee Shawnee Tribe of Oklahoma.
7. Consideration of approval of a Final Plat for Shawnee Auto Mall located on Shawnee Mall Drive, east of Union. Case No. S14-15 Applicant: Huitt-Zollars, Inc. *(Deferred from January 19, 2015 City Commission Meeting.)*
8. A public hearing and consideration of an ordinance to rezone property located at 1500 East Independence Street from R-1; Single Family Residential District to R-2; Combined Residential District. Case No. P15-15 Applicant: The Landrun Group, LLC *(Deferred from January 19, 2016 meeting.)*
9. Discussion and possible action on termination of contract with JTS, Inc. for antenna work at north radio tower site.
10. Discuss and consider setting one or more special call meetings with regard to a workshop to discuss city projects, goals, long term needs, budget, and funding options.
11. Discussion, consideration and possible action to fill the position of City Attorney.
12. Consider Bids:
  - a. Lease of the City of Shawnee Property Located at the N.E. Corner of Leo Street and Westech Road, Shawnee, OK for the Purpose of Pasture Land (Open)

13. Acknowledge Sales Tax Report received February 2016.
14. City Manager Update
15. New Business  
(Any matter not known about or which could not have been reasonably foreseen prior to the posting of the agenda)
16. Commissioners Comments
17. Adjournment

Respectfully submitted

Phyllis Loftis, CMC, City Clerk

The City of Shawnee encourages participation from 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)

**Regular Board of Commissioners**

**1. a.**

Meeting Date: 02/16/2016

Open Bids

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

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Information

Title of Item for Agenda

Acknowledge staff will proceed in the instant meeting with the opening and consideration of bids as set forth in Agenda Item No. 12.

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Attachments

*No file(s) attached.*

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**Regular Board of Commissioners**

**1. b.**

Meeting Date: 02/16/2016

CC Minutes 02-01-2016

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

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**Information**

Title of Item for Agenda

Minutes from the February 1, 2016 regular meeting.

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**Attachments**

CC Minutes 02-01-2016

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**BOARD OF CITY COMMISSIONERS PROCEEDINGS**  
**FEBRUARY 1, 2016 AT 6:30 P.M.**

The Board of City Commissioners of the City of Shawnee, County of Pottawatomie, State of Oklahoma, met in Regular Session in the Commission Chambers at City Hall, 9th and Broadway, Shawnee, Oklahoma, Monday, February 1, 2016 at 6:30 p.m., pursuant to notice duly posted as prescribed by law. Mayor Mainord presided and called the meeting to order. Upon roll call, the following members were in attendance.

Wes Mainord

Mayor

Vacant

Commissioner Ward 1

Linda Agee

Commissioner Ward 2

James Harrod

Commissioner Ward 3-Vice Mayor

Absent

Commissioner Ward 4

Lesia Shaw

Commissioner Ward 5

Micheal Dykstra

Commissioner Ward 6

ABSENT: Hall

INVOCATION

The Lord's Prayer led by Mayor Mainord

FLAG SALUTE

Led by Commissioner Agee

AGENDA ITEM NO. 1:

Consider approval of Consent Agenda:

- a. Minutes from the January 19, 2016 regular meeting.
- b. Acknowledge the following minutes:
  - Shawnee Civic and Cultural Development Authority Minutes from December 17, 2015 meeting
- c. Mayor's Appointments

Shawnee Housing Authority

Sherry Lankford

2<sup>nd</sup> Full Term

Expires 02/14/2019

*Reappointment*

- d. Authorize staff to trade-in 2000 American LaFrance Rescue fire truck to Conrad Fire Equipment toward new Engine 3 apparatus previously authorized and ordered.
- e. Authorize staff to request bids to lease City owned property located at the northeast corner of Leo Street and Westech Road for the purpose of pasture land.
- f. Authorize staff to request bids for the Municipal Auditorium Heating, Ventilation and Air Conditioning System (HVAC).
- g. Approve closure of utility easement for property located at 2701 Crown Point and authorize staff to execute Utility Easement Release.
- h. Acceptance of Shawnee Market Place public improvements and place maintenance bonds into effect.

Commissioner Shaw asked that Agenda Item Nos. 1(c) and 1(h) be pulled for separate consideration.

A motion was made by Vice Mayor Harrod, seconded by Commissioner Shaw, to approve the Consent Agenda Item Nos. 1 (a-h), less items 1(c) and 1(h). Motion carried 4-1.

AYE: Harrod, Shaw, Dykstra, Agee

NAY: Mainord

Regarding Agenda Item No. 1(c), Commissioner Shaw stated that she was happy with the reappointment of Ms. Lankford to the Shawnee Housing Authority Board, however she is still requesting current information on all appointees or reappointees.

Regarding Agenda Item No. 1(h), Commissioner Shaw asked for clarification regarding the multiple bonds and the differing dates on them. City Manager Justin Erickson explained that each covered different aspects of the project.

A motion was made by Commissioner Shaw, seconded by Commissioner Dykstra, to approve Consent Agenda Item Nos. 1(c) and 1(h). Motion carried 5-0.

AYE: Shaw, Dykstra, Agee, Harrod, Mainord

NAY: None

AGENDA ITEM NO. 2:

Citizens Participation  
(A three minute limit per person)  
(A twelve minute limit per topic)

The following individuals all spoke regarding their concerns with the Animal Shelter.

Ms. Dawn Gambrell who thanked the City for extending the hours at the Animal Shelter and for not euthanizing as many animals

Ms. Sheila Hill expressed her concern with the current euthanasia process used by the Shelter and asked what method the City would be switching to.

Mr. Michael Rhodes expressed his concern for the need for public education of animal treatment and asked about standards of care or animals at the shelter.

Ms. Kathy Dixon also thanked the City for extended hours at the Animal Shelter. Ms. Dixon stated that she was disappointed that the City had not switched to another form of euthanasia yet.

AGENDA ITEM NO. 3:

Presentation by City Manager to Employee of the Month, Joshua Kimer, Parks Department.

Joshua Kimer was present to accept the Employee of the Month Certificate presented by City Manager Justin Erickson.

AGENDA ITEM NO. 4:

Consider and approve resolution authorizing the Mayor to sign and execute State of Oklahoma Department of Transportation Project Agreement No. 32255(04), US-270B, Kickapoo Spur, south to Farrall Street (SH18).

A staff report was given by City Engineer John Krywicki, stating that staff recommends approval. Mr. Krywicki gave details on the project, noting that Oklahoma Department of Transportation will fund the roadway improvement one hundred percent, and the City will be absorbing the cost of rights-of-way

acquisitions. Mr. Krywicki thanked Danny Overland, Phil Tomlinson, Kevin Bloss, Michael Patterson, and Gary Ridley for their assistance.

In response to questions asked by Commissioners, Mr. Krywicki stated he was not yet sure of the exact cost of rights-of-way acquisitions and that the project would hopefully be funded in one fiscal year.

Justin Erickson, City Manager explained it would be twelve to eighteen months before any construction could start.

Resolution No. 6507 was introduced.

A RESOLUTION SUPPORTING CERTAIN PROJECT AGREEMENT FOR FEDERAL-AID IMPROVEMENTS DESCRIBED BELOW BY AND BETWEEN THE CITY OF SHAWNEE AND THE OKLAHOMA DEPARTMENT OF TRANSPORTATION.

A motion was made by Vice Mayor Harrod, seconded by Commissioner Agee, to approve a resolution authorizing the Mayor to sign and execute State of Oklahoma Department of Transportation Project Agreement No. 32255(04), US-270B, Kickapoo Spur, South to Farrall Street (SH18). Motion carried 5-0.

AYE: Harrod, Agee, Mainord, Shaw, Dykstra

NAY: None

AGENDA ITEM NO. 5:

Presentation of recognition from the Shawnee Beautification Committee to the following:

- Family Dental of Shawnee
- St. John Lutheran Church
- Augusta Court Home Owners Association
- Sonic at 45th and Harrison
- 2000 N. Broadway

Representative from each business, as well the homeowner at 2000 N. Broadway, were here to accept their award

AGENDA ITEM NO. 6:

Authorize staff to enter into an agreement with Fritz Baily Architects of Tulsa, Oklahoma to provide design, engineering and biddable construction documents for the

repair and renovation of Fire Station #2 located at 1401 N. Bryan.

A staff report was given by Fire Chief Dru Tischer. Chief Tischer explained the RFQ process that was used to reach their recommendation of Fritz Baily Architects. He stated that staff negotiated the contract down to \$106,500.00 which is a 13% cost savings from the original quote. Chief Tischer noted that staff recommends approval of the agreement.

During discussion, Vice Mayor Harrod felt that the costs was exorbitant and asked that this item be tabled to allow for further information and investigation.

A motion was made by Vice Mayor Harrod, seconded by Commissioner Dykstra, to defer the item to the February 16, 2016 City Commission meeting. Motion carried 4-1.

AYE: Harrod, Dykstra, Agee, Mainord

NAY: Shaw

AGENDA ITEM NO. 7:

Discussion, consideration and possible action to approve a Budget Amendment for design, engineering and biddable construction documents for the repair and renovation of Fire Station #2 located at 1401 N. Bryan. *Transfer from General Fund to Capital Fund.*

A motion was made by Vice Mayor Harrod, seconded by Commissioner Dykstra, to defer the item to the February 16, 2016 City Commission meeting. Motion carried 4-1.

AYE: Harrod, Dykstra, Agee, Mainord

NAY: Shaw

AGENDA ITEM NO. 8:

Discussion, consideration and possible action for an agreement for Dobson Technologies to make use of city rights-of-way upon the payment of a use and maintenance fee.

A staff report was given by Community Development Director, Justin DeBruin, stating that staff recommends approval of this item.

A motion was made by Vice Mayor Harrod, seconded by Commissioner Agee, to approve an agreement for Dobson Technologies to make use of city rights-of-way upon the payment of a use and maintenance fee. Motion carried 5-0.

AYE: Harrod, Agee, Mainord, Shaw, Dykstra

NAY: None

AGENDA ITEM NO. 9 WAS MOVED UNTIL AFTER CITY MANAGER UPDATE BY THE POWER OF THE CHAIR.

AGENDA ITEM NO. 10: City Manager Update

City Manager Justin Erickson gave updates on the following city issues:

- a) Branding is being finalized and will be implemented this year. He stated that any last minute comments need to be sent to him by tomorrow (Tuesday, February 2, 2016).
- b) Regarding the Animal Shelter, the City has requested proposals by local veterinarians with one being received and another is expected, so far. The gas chamber cannot be dismantled until it is determined how the new form of euthanasia will work. The extended hours at the Animal Shelter have worked well. In regard to standards of care, the City is currently reviewing what other Municipal Shelters are doing. Mr. Erickson stated that the Animal Shelter is currently under the supervision of the Police Department.

In response to questions from Commissioners, Mr. Erickson addressed the following issues as well:

Commissioner Shaw asked if public education was being provided regarding the Animal Shelter. Mr. Erickson said that public education is offered in the newspaper, the city's web page and via on-line video.

Commissioner Dykstra referred to the question from Michael Rhodes, who spoke earlier. He stated that he hopes that whichever vet is chosen by the City for euthanasia purposes will also assist with standards of care for the animals.

Commissioner Agee asked about funding for the euthanasia process. Mr. Erickson stated that the funds are in the budget and will be in the next fiscal year's budget as well.

Vice Mayor Harrod stated that the Animal Shelter has provided prompt service each time he has contacted them.

AGENDA ITEM NO. 9:

Administrative Reports

- a. Zoning Process and Role of Planning Commission - Justin DeBruin, Community Development Director

Mr. DeBruin explained the zoning process and the considerations for zoning requests. He provided slides and discussed the following topics:

- a. Considerations for Zoning Requests.
- b. The specific requirements and differences in R-1 and R-2 zoning classes.
- c. Density examples for each R-1 and R-2 zonings.
- d. The role of the Planning Commission.

Commissioner Shaw had several follow-up questions for Mr. DeBruin. Among her questions were the following:

- a. Does the Planning Department look at market value of homes when they are considering a rezoning?
- b. Do they perform impact studies?
- c. Do they consider environmental issues?
- d. Do they listen to constituents instead of out-of-area contractors?

Mr. DeBruin responded to Commissioner Shaw's questions and also questions posed by other Commissioners regarding this item.

AGENDA ITEM NO. 11 WAS MOVED UNTIL AFTER COMMISSIONER COMMENTS BY THE POWER OF THE CHAIR.

AGENDA ITEM NO. 12:

Commissioners Comments

Commissioner Shaw applauded the Pioneer Library System and encouraged citizens continue to utilize them.

She further mention the Master Gardener program at Gordon Cooper

Technology Center on Saturday, February 6, 2016.

Commissioner Shaw also noted the opening of the new College of Nursing at Oklahoma Baptist University.

Regarding the previous agenda item relating to the renovation of Fire Station No. 2, Commissioner Shaw said that she understood the cost of Architect and Engineering phases of construction and would like to be a part of the process going forward with this project. She also noted that this fire station is located in her ward.

Commissioner Dykstra announced that February is Heart Health Month and he wants to encourage citizens to walk. He mentioned that there is a Zumba class at the Senior Center on February 19, 2016.

RECESS CITY COMMISSION MEETING BY THE POWER OF THE CHAIR TO CONVENE SHAWNEE AIRPORT AUTHORITY AND RECONVENE SHAWNEE MUNICIPAL AUTHORITY (7:49 P.M.)

RECONVENE CITY COMMISSION MEETING BY THE POWER OF THE CHAIR (7:51 P.M.)

AGENDA ITEM NO. 11:

New Business (Any matter not known about or which could not have been reasonably foreseen prior to the posting of the agenda)

City Attorney, Mary Ann Karns has requested an executive session under Title 25, Section 307(B)(1): Discussion, consideration and possible action of the employment, hiring, appointment, promotion, demotion, disciplining or resignation of the City Attorney.

A motion was made by Vice Mayor Harrod, seconded by Commissioner Dykstra, to enter into an executive session under Title 25, Section 307(B)(1): Discussion of the employment, hiring, appointment, promotion, demotion, disciplining or resignation of the City Attorney. Motion carried 4-1.

AYE: Harrod, Dykstra, Agee, Mainord

NAY: Shaw

COMMISSION ENTERED INTO EXECUTIVE SESSION AT 7:51 P.M. WITH ALL MEMBERS PRESENT.

COMMISSION RECONVENED FROM EXECUTIVE SESSION AT 8:50 P.M.  
WITH ALL MEMBERS PRESENT

A motion was made by Commissioner Dykstra, seconded by Vice Mayor Harrod, to end the current contract with City Attorney, Mary Ann Karns as of February 26, 2016 and place her on a retainer contract until June 30, 2016; the details of the retainer contract will be worked out with Commissioner Agee and Mayor Mainord. Motion carried 5-0.

AYE: Dykstra, Harrod, Mainord, Shaw, Agee

NAY: None

A motion was made by Commissioner Shaw, seconded by Vice Mayor Harrod, to seek proposals for the provision of legal services. Motion carried 5-0.

AYE: Shaw, Harrod, Mainord, Dykstra, Agee

NAY: None

AGENDA ITEM NO. 13:

Adjournment

There being no further business to be considered, the meeting was adjourned by power of the Chair. (8:52 p.m.)

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WES MAINORD, MAYOR

ATTEST:

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PHYLLIS LOFTIS, CMC, CITY CLERK

**Regular Board of Commissioners****1. c.**

Meeting Date: 02/16/2016

Acknowledge Minutes &amp; Reports

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

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**Information**

Title of Item for Agenda

Acknowledge the following reports and minutes:

- License Payment Report for January 2016
- Project Payment Report for January 2016
- Planning Commission Minutes from January 6, 2016 meeting

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**Attachments**

License Rpt

Project Rpt

Planning Minutes 01-06-2016

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2/03/2016 12:25 PM  
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L I C E N S E   P A Y M E N T   R E P O R T  
SORTED BY: CODE

PAGE:  
PAYMENT DATES: 1/01/2016 TO 1/31/2016

\*\* FEE CODE TOTALS \*\*

|            |                               | ===== PAYMENT DISTRIBUTION ===== |             |     |          |           |
|------------|-------------------------------|----------------------------------|-------------|-----|----------|-----------|
| FEE CODE   | DESCRIPTION                   | FEE                              | PENALTY     | TAX | INTEREST | TOTAL PAI |
| ALARM      | BURGLAR/FIRE ALARM LICENSE    | 4                                | 100.00CR    |     |          | 100.00    |
| ALARMRENEW | BURGLAR/FIRE ALARM RENEW      | 13                               | 195.00CR    |     |          | 195.00    |
| BOATREG    | BOAT REGULAR PERMIT           | 28                               | 728.00CR    |     |          | 728.00    |
| DEMOL      | DEMOLITION LICENSE FEE        | 1                                | 75.00CR     |     |          | 75.00     |
| ELEC1      | ELECTRICAL CONTRACTOR INITIAL | 3                                | 300.00CR    |     |          | 300.00    |
| ELEC2      | ELECTRICAL CONTRACTOR RENEW   | 8                                | 600.00CR    |     |          | 600.00    |
| EXT        | EXTERMINATOR LICENSE FEE      | 7                                | 175.00CR    |     |          | 175.00    |
| FISHANNUAL | FISHING ANNUAL FEE            | 28                               | 420.00CR    |     |          | 420.00    |
| HUNT2      | MIGRATORY FOWL                | 8                                | 64.00CR     |     |          | 64.00     |
| LAKELEASE  | LAKE LEASE                    | 11                               | 5,611.92CR  |     |          | 5,611.92  |
| MECH1      | MECHANICAL CONTRACTOR INTIAL  | 1                                | 100.00CR    |     |          | 100.00    |
| MECH2      | MECHANICAL CONTRACTOR RENEW   | 8                                | 600.00CR    |     |          | 600.00    |
| MIXER      | MIXED BEVERAGE RENEWAL        | 2                                | 1,800.00CR  |     |          | 1,800.00  |
| PAWN       | PAWN BROKERS LICENSE FEE      | 1                                | 25.00CR     |     |          | 25.00     |
| PLUM1      | PLUMBING CONTRACTOR INITIAL   | 5                                | 500.00CR    |     |          | 500.00    |
| PLUM2      | PLUMBING CONTRACTOR RENEW     | 3                                | 250.00CR    |     |          | 250.00    |
| REFUND     | REFUND                        | 1                                | 444.08CR    |     |          | 444.08    |
| RESAL      | RESIDENTIAL SALE              | 5                                | 50.00CR     |     |          | 50.00     |
| SIGN       | SIGN HANGERS LICENSE FEE      | 4                                | 300.00CR    |     |          | 300.00    |
| STORM      | STORM CELLAR LICENSE FEE      | 6                                | 450.00CR    |     |          | 450.00    |
| TREE       | TREE TRIMMING LICENSE FEE     | 4                                | 100.00CR    |     |          | 100.00    |
| TOTAL      |                               |                                  | 12,888.00CR |     |          | 12,888.00 |

\*\* GENERAL LEDGER DISTRIBUTION \*\*

| FUND G/L ACCOUNT | ACCOUNT NAME                  | AMOUNT     |
|------------------|-------------------------------|------------|
| 001-2133         | UBCC FEE PAYABLE              | 459.90CR   |
| 001-4202         | BUILDING PERMITS              | 8,917.41CR |
| 001-4203         | PLUMBING PERMITS              | 1,600.00CR |
| 001-4204         | ELECTRICAL PERMITS            | 255.00CR   |
| 001-4205         | ZONING PERMITS & APPLICATIONS | 280.00CR   |
| 001-4206         | HEATING & A/C PERMITS         | 1,940.00CR |
| 001-4249         | OTHER PERMITS                 | 525.00CR   |
| 001-4822         | OTHER MISC. REVENUE           | 57.50CR    |
| 101-4249         | OTHER PERMITS                 | 75.00CR    |
| 501-4510         | WATER TAPS                    | 1,350.00CR |
| 799-1023         | BANCFIRST GENERAL             | 15,459.81  |

02/03/2016 11:17 AM  
STATUS: ALL  
SEGMENT CODES: All  
FEE CODES: All

P R O J E C T   P A Y M E N T   R E P O R T

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PAYMENT DATES: 1/01/2016 TO 1/31/  
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\*\* SEGMENT CODE TOTALS \*\*

| SEGMENT CODE | DESCRIPTION               | TOTAL PAID  |
|--------------|---------------------------|-------------|
| B1-NEW       | BUILDING CONSTRUCTION NEW | 6,101.39CR  |
| B2-ADD       | BUILDING CONSTRUCTION ADD | 29.50CR     |
| B3-REMODEL   | BUILDING CONSTRUCTION REM | 3,792.52CR  |
| B4-CARPORT   | BUILDING CARPORT          | 29.50CR     |
| B4-SHELTER   | BUILDING SHELTER          | 383.50CR    |
| B4-STORAGE   | BUILDING STORAGE SHED     | 498.90CR    |
| E3-REMODEL   | ELECTRICAL REMODEL/REPAIR | 300.00CR    |
| M3-REMODEL   | MECHANICAL REMODEL/REPAIR | 2,052.50CR  |
| P3-REMODEL   | PLUMBING REMODEL          | 1,092.00CR  |
| P5-SEPTIC    | SEPTIC PERMIT             | 20.00CR     |
| UNAPPLIED    | UNAPPLIED CREDITS         | 280.00CR    |
| X-BORE/CUT   | BORING & PAVING CUT PERMI | 50.00CR     |
| X-CURBCUT    | CURBCUT/DRIVEWAY/SIDEWALK | 25.00CR     |
| X-SIGN       | SIGN PERMIT               | 25.00CR     |
| Z-OCCUP      | OCCUPANCY PERMIT          | 500.00CR    |
| Z-REZONING   | REZONING REQUEST          | 280.00CR    |
| TOTAL        |                           | 15,459.81CR |

# **PLANNING COMMISSION MINUTES**

**DATE: JANUARY 6<sup>TH</sup>, 2016**

The Planning Commission of the City of Shawnee, County of Pottawatomie, State of Oklahoma, met in the Commission Chambers, at City Hall, 9<sup>th</sup> and Broadway, on Wednesday, January 6<sup>th</sup>, 2016 at 1:30 p.m., pursuant to notice duly posted as prescribed by law.

## **AGENDA ITEM NO.1:**

### **Roll Call**

Upon roll call the following members were present:

**Present:** Morton, Clinard, Kerbs, Bergsten, Cowen, Kienzle, Affentranger

**Absent:**

Meeting was called to Order.

## **AGENDA ITEM NO. 2:**

### **Consideration of Approval of the minutes from the December 2<sup>nd</sup>, 2015 Planning Commission Meeting**

Chairman Bergsten asked if the Board had time to review the minutes and if so would ask to entertain a motion if there were no questions or discussion. Commissioner Kerbs made a motion to approve, seconded by Commissioner Kienzle.

Motion passed:

**AYE:** Morton, Clinard, Kerbs, Bergsten, Cowen, Kienzle, Affentranger

**NAY:**

**ABSTAIN:**

## **AGENDA ITEM NO. 3:**

### **Citizen's Participation**

Chairman Bergsten opened the public portion of the meeting and announced that this is an open time for discussion for those with questions on topics not on the Agenda and asked if anyone would like to come forward. No one came forward and Chairman Bergsten closed the public portion of the meeting.

## **AGENDA ITEM NO. 4:**

### **Case #S14-15 – Consideration of approval of a Final Plat for Shawnee Auto Mall located on Shawnee Mall Dr., east of Union Street, Shawnee, OK**

**Applicant: Huitt-Zollars, INC**

Chairman Bergsten asked for the staff report. Justin Debruin presented the staff report. Mr. Debruin informed the Commissioners that staff recommends deferring the case one more month to the February 3<sup>rd</sup>, 2016 Planning Commission meeting. Justin Debruin mentioned that construction documents were turned in around two weeks ago and more time was needed to review and prepare. Chairman Bergsten asked if there were any questions for staff, there were none and Chairman Bergsten opened the public portion of the meeting and asked if anyone who would like to speak against the item to come forward. No one came forward and Chairman Bergsten asked if anyone in favor of the item would like to come forward. No one came forward and Chairman Bergsten closed the public portion of the meeting. Chairman Bergsten asked if the Commissioners had any questions or comments or would like to entertain a motion. Vice-Chairman Cowen made a motion to defer, seconded by Commissioner Kienzle.

Motion passed:

**AYE:** Morton, Clinard, Kerbs, Bergsten, Cowen, Kienzle, Affentranger

**NAY:**

**ABSTAIN:**

**AGENDA ITEM NO. 5:**

**Case #P15-15 – A public hearing for consideration of approval of a Rezone for property located at 1500 E. Independence St. from R-1; Single Family Residential to R-2; Combined Residential, Shawnee, OK**

**Applicant:     The Landrun Group, LLC**

Chairman Bergsten asked for the staff report. Justin Debruin presented the staff report. Mr. Debruin stated that the applicant is requesting a rezone from R-1; Single Family Residential to R-2; Combined Residential and property was not developed when rezoned to R-1 last year. Property is around twelve acres in size. Mr. Debruin stated storm water drainage and increased traffic in area as previous problems. Justin Debruin went over some topics that were of concern from complaint letters staff received. Mr. Debruin discussed storm water drainage will have to be satisfied by City before plat approval. Justin Debruin explained that half street improvements would be required and mentioned that staff does not see an issue with comprehensive plan due to area. Mr. Debruin informed the Commissioners that sidewalks would be constructed and site plans or plats are not required at the rezone phase. The project would also be built in phases, not all at once. Mr. Debruin recommended approval. Chairman Bergsten asked if the Commissioners had any questions. Commissioner Clinard asked if Elm Street in a whole would be repaired. Mr. Debruin mentioned that Elm Street is not a collector street and is not required to be repaired by the applicant. Commissioner Kerbs asked about the half street improvements and Justin Debruin stated street would be asphalt like other side and would be up to the City for additional improvements. Vice-Chairman Cowen asked if other side was developed. Mr. Debruin agreed except for northern section. Vice-Chairman Cowen discussed the possibility of no street improvements in future if developed. Mr. Debruin explained there was potential for that northern section. Commissioner Kerbs mentioned if that area was developed, it would not take on the entirety of the street and Justin Debruin agreed and stated it would a City concern at that point. Commissioner Kerbs asked for definition of R-3 zoning. Mr. Debruin stated it was basically duplexes. Commissioner Kerbs also asked if they were owned duplexes. Justin Debruin could not confirm. Commissioner Affentranger asked for confirmation that the property was rezoned from Agricultural to R-1 roughly a year ago and Mr. Debruin agreed. Commissioner Affentranger went on to ask if there was any opposition at that time to the request and also regarding the traffic issue. Commissioner Kerbs stated there were two letters turned in. Commissioner Affentranger asked if the previous request include two thirty-six lots. The Board agreed and Commissioner Kerbs mentioned that the emphasis from previous request was not as much on the traffic concerns as it was for storm water drainage issues. Commissioner Affentranger wanted to clarify that there weren't traffic concerns then and Commissioner Kerbs stated they were secondary, storm water drainage was primary. Commissioner Kienzle asked how many units were on the multi-family structure to the west and Mr. Debruin stated it looked like ten duplexes. Commissioner Clinard asked how many duplexes would go in at this location. Justin Debruin informed her they did not know at this point in the rezone phase. Commissioner Kerbs asked if going to R-2 restricted it to only single level and not put in apartment complexes and Mr. Debruin agreed. Commissioner Affentranger asked if staff knew where entrances would go and Justin Debruin they did not know at this point. Commissioner Kerbs asked what else is acceptable in R2 zoning. Mr. Debruin informed him it consisted of duplexes, single family and townhomes. Vice-Chairman Cowen asked for the density requirements for R1 and R2 and/or how many more families/persons could occupy R2 versus R1. Justin Debruin stated that generally the differences between them are as follows: minimum lot size in R1 is 6000 sq feet and R2 is 10000 sq feet for duplex type structures; minimum lot width is 60 feet for single family and 80 feet for duplexes. Chairman Bergsten asked if there were any other questions for staff.

There were none and Chairman Bergsten opened the public portion of the meeting and asked if anyone who would like to speak against the item would like to come forward. Several people in opposition came forward to speak against the item and discussed issues including, but not limited to, flooding and storm water drainage, decrease in value of property for surrounding property owners, crime and traffic increase and upkeep of new development. Chairman Bergsten asked if anyone in favor of the item would like to come forward. Julie Landes with The Landrun Group came forward to mention that the storm water drainage would be brought up to state and federal regulations as well and city codes and also discussed a few of the concerns that were brought up. Vice-Chairman Cowen asked for a timeline and Julie Landes said the next step would be Preliminary Plat. Commissioner Affentranger asked for a number of units and Julie Landes informed him there would be around thirty five units. Steven Landes came forward to speak in favor and informed the Commissioners of more details regarding development. Commissioner Kienzle discussed the possibility of the surrounding property owners and the applicant having discussion to go over the issues described. Jared Marical came forward to speak in favor of item on behalf of the applicant and briefly went over some issues. Chairman Bergsten closed the public portion of the meeting and asked Justin Debruin to come forward to discuss a few more topics. Commissioner Affentranger asked for clarification that the drainage issue could possibly be improved with this development and Justin Debruin agreed. Commissioner Affentranger also asked if there was information regarding the devaluation of the surrounding property owners and Mr. Debruin informed him there were no records. Commissioner Kerbs asked about regulating what is allowed to go in on the site and Justin Debruin discussed this briefly. Commissioner Clinard asked about the proposed layout of property and a driveway going in. Vice-Chairman Cowen went over the process for the applicant and mentioned a few other topics. Commissioner Kerbs discussed a few items and Chairman Bergsten asked if there were any other questions or comments. Vice-Chairman Cowen made a motion to approve, seconded by Commissioner Affentranger. Motion did not pass and Commissioner Kienzle made a motion to defer, seconded by Chairman Bergsten.

Motion to approve failed:

**AYE:** Cowen, Affentranger

**NAY:** Morton, Clinard, Kerbs, Bergsten, Kienzle

**ABSTAIN:**

Motion Approved to defer to February 3<sup>rd</sup>, 2016 meeting:

**AYE:** Morton, Clinard, Kerbs, Bergsten, Cowen, Kienzle, Affentranger

**NAY:**

**ABSTAIN:**

**AGENDA ITEM NO. 6:**

**Case #P16-15 – A public hearing for consideration of approval of a Rezone for property located at 2202 N. Leo St. from R-1; Single Family Residential to R-2; Combined Residential, Shawnee, OK**

**Applicant: Darrin Marical**

Chairman Bergsten asked for the staff report. Justin Debruin presented the staff report and informed the Commissioners that the property is located on the northwest corner of Leo and Franklin Streets. Mr. Debruin stated that there would be one unit for a duplex and meets standards for construction. Commissioner Kerbs asked what the zoning is and Justin Debruin informed him it was R1. Commissioner Kerbs asked for the lot size and Mr. Debruin explained it was fifteen thousand. Chairman Bergsten asked if there were any other questions for staff. There were none and Chairman Bergsten opened the public portion of the meeting and asked if anyone against the item would like to come forward. No one came forward and Chairman Bergsten asked if anyone in favor of the item would like to come forward. Carl Packwood came forward and Chairman Bergsten closed the public portion of the meeting and asked if there were any questions or comments for staff. Vice-Chairman Cowen made a motion to approve, seconded by Commissioner Morton.

Motion Approved:

**AYE:** Morton, Clinard, Kerbs, Bergsten, Cowen, Kienzle, Affentranger

**NAY:**

**ABSTAIN:**

**AGENDA ITEM NO. 7:**

**Case #S17-15 – Consideration of approval of a Preliminary Plat for the re-plat of Vision Bank Addition, Section I, located at 4301 N. Harrison, Shawnee, OK**

**Applicant: Vision Bank, NA**

Chairman Bergsten asked for the staff report. Justin Debruin presented the staff report. Mr. Debruin mentioned the location was between 45<sup>th</sup> and 42<sup>nd</sup> Streets and discussed the reasons for the re-plat were to correct the lines on the current plat and to shrink the floodplain to the large concrete channel on property for more space for development. Mr. Debruin explained there would be an addition of around sixty eight feet and it would fix lot lines for future developments. Justin Debruin stated it would correct some issues and also mentioned there were four conditions. Commissioner Clinard asked about the channel location and whether it would put any additional stress on other properties and Mr. Debruin informed her that the channel was already on property but not finished and would not hinder any other properties. Commissioner Kerbs asked about the Agricultural classification showing on figure 2 and Justin Debruin stated it was not accurate and is zoned Commercial. Commissioner Kienzle asked if the city relied on a methodology for a ten year history for storm water drainage and Mr. Debruin discussed there are issues that can hopefully be updated in future. Chairman Bergsten asked if there were any questions for staff. There were none and Chairman Bergsten opened the public portion of the meeting and asked if anyone would like to speak against the item. No one came forward and Chairman Bergsten asked if anyone would like to speak in favor of the item. Carl Packwood came forward and spoke in favor. Chairman Bergsten asked what use property would have and Mr. Packwood stated that a company would like to make it into an office and a strip center. Richard Landes with Landes Engineering came forward to speak about the development. Commissioner Kerbs asked if storm water drainage would affect neighboring property and Mr. Landes informed him it would not. Commissioner Affentranger left early. Chairman Bergsten closed the public portion and asked if there were any questions or comments. Commissioner Kienzle made a motion to approve with conditions, seconded by Commissioner Kerbs.

Motion approved:

**AYE:** Morton, Clinard, Kerbs, Bergsten, Cowen, Kienzle

**NAY:**

**ABSTAIN:**

**AGENDA ITEM NO. 8:**

**Planning Director's Report**

Justin Debruin informed Link Cowen that stop signs would be put in the Hyatt Addition. Mr. Debruin mentioned that the Shawnee Marketplace was issued their Final Certificates of Occupancy and there is a drive being put in for two more pad sites.

**AGENDA ITEM NO. 9:**

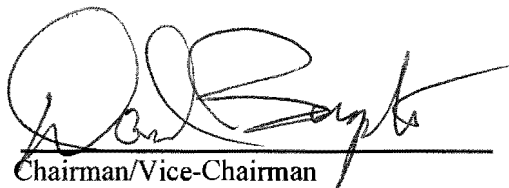
**Commissioners Comments and/or New Business**

Commissioner Kerbs asked about the North Harrison Industrial Park construction. Mr. Debruin informed him that the construction has moved slower but is still in the works. Commissioner Kerbs asked for an update on the Downtown Property Maintenance Code. Justin Debruin stated that four properties were sent a letter and have communicated with Building Inspector. Commissioner Clinard asked about the sidewalks for downtown. Mr. Debruin mentioned he was unsure of the exact date but would verify timelines. Commissioner Kerbs discussed issues with drainage and Mr. Debruin went over procedures and different items that could be changed. There was general discussion over sub division regulations.

**AGENDA ITEM NO. 10:**

**Adjournment**

Meeting was adjourned.



Chairman/Vice-Chairman

*Cheyenne Lincoln*  
Planning Commission Secretary

**Regular Board of Commissioners**

**1. d.**

Meeting Date: 02/16/2016

North Airport Property Lease

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

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**Information**

Title of Item for Agenda

Approve lease with Raymond Utter for North Airport Property land and facilities. (*Deferred from January 19, 2016 meeting.*)

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**Attachments**

North Airport Lease Memo

North Airport Lease

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**Mayor**  
WES MAINORD



## **The City of Shawnee**

16 W. 9<sup>th</sup> St.  
Shawnee, Oklahoma 74801  
(405) 878-1605  
[www.ShawneeOK.org](http://www.ShawneeOK.org)

## **Commissioners**

LINDA AGEE  
JAMES HARROD  
KEITH HALL  
LESA SHAW  
MICHAEL DYKSTRA

**Date:** February 16, 2016  
**To:** City Commissioners  
**From:** Keenan English, Assistant Airport Manager  
**RE:** **North Airport property old hangars lease, Raymond Utter**

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**Nature of Situation:** For some time, the Shawnee Economic Development Foundation (SEDF) managed the North Airport property. There are two separate leases for this property. One lease is for the acreage used to cut and bail hay, the other is a lease that allows use of the old hangars that still exist on the property, along with 11 acres mol adjacent to the hangars. Since January 1<sup>st</sup>, 2016, the SEDF has decided to stop managing the property and has handed over management back to the City. Therefore, the City needs to enter into a new contract in order to manage and receive rent revenue from the property. The lease you are voting on is for the hangars plus 11 acres. Raymond Utter has been the long time Lessee of the hangars and wishes to enter into another two year lease with the City.

**Staff Analysis, Considerations:** Major terms of the lease are as follows:

- Two (2) year lease beginning January 1<sup>st</sup>, 2016 and ending December 31<sup>st</sup>, 2017.
- \$2,400 per year fee.
- Leased premises 11 acres that includes approximately 86,500 sq ft of hangar space.
- Lessee may use the property as a commercial storage facility or as a business incubator.
- Tenant pays for all utilities
- Tenant must hold a comprehensive liability insurance policy including fire coverage having a minimum coverage of \$500,000 of general liability on the premises and for operations. Tenant must acquire minimum coverage of \$1 million by July 21<sup>st</sup>, 2016 as approved at the July 21, 2014 City Commission Meeting.

**Recommendation:** City staff recommends agreeing to this lease. The City Attorney has examined the lease as well. Mr. Utter has been a long time Lessee of this property and the staff sees no reason as to stop leasing to him at this time.

**Budget Consideration:**

This lease would yield \$2,400 of revenue per year for the City

## COMMERCIAL LEASE AGREEMENT

This Agreement of Lease made and entered into this 1<sup>st</sup> day of July by and between the City of Shawnee, Oklahoma, hereinafter referred to as "Lessor," and Raymond Utter hereinafter referred to as "Lessee."

### WITNESSETH THAT:

WHEREAS, the City is the owner of the premises known as the City of Shawnee (the "City")

WHEREAS, the City and Lessee are mutually desirous of entering into a Lease for the use and occupancy of certain areas at the North Airport Property

NOW, THEREFORE, in consideration of the premises and of the rents, covenants and conditions herein contained, the City does hereby grant to the Lessee the right to use and occupy the area of the North Airport Property described in Article 2 hereof, during the term hereof, (hereinafter referred to as the "Leased Premises"), for the term and pursuant to the conditions hereinafter set forth.

### **ARTICLE 1 - TERM**

- 1.1 The term of this lease shall be for two (2) year period commencing on January 1, 2016 and terminating on December 31<sup>st</sup>, 2017.

### **ARTICLE 2 - LEASE PREMISES**

- 2.1. Unimproved real property consisting of existing old hangars and approximately Eleven (11) acres of adjoining property on the North Airport Property.

### **ARTICLE 3 - USE OF LEASED PREMISES**

- 3.1 The Lessee shall occupy and use the Leased Premises for the following purposes and for no other purpose whatsoever:

3.1.1 Lessee hereby agrees to use and possess the Leased Premises as a commercial storage facility, for agricultural purposes, or as a business incubator. No other person shall occupy said property except as employees and customers or guests of Lessee without the prior written consent of the Lessor. All licenses and permits necessary to use, operate, and improve the Leased Premises shall be obtained by Lessee at its sole cost and expense.

### **ARTICLE 4 - RENTAL**

- 4.1 Lessee agrees to pay to the City as rental for use of the premises and the privileges herein granted the sum of \$2,400 per year.
- 4.2 Lessee shall pay one-twelfth (1/12) of the annual rent in advance on or before the first day of each month during the term or any renewal of this lease. Provided, however, that if any monthly rental payment is not paid on or before the tenth day following the first day of each month, such payment shall bear interest at 10% per annum.

- 4.3 The monthly rent shall be payable at the office of the City Clerk or such other locations as may from time to time be directed in writing by the City.

ARTICLE 5 - ACCEPTANCE, CARE MAINTENANCE,  
IMPROVEMENTS AND REPAIR

- 5.1 Lessee warrants that it has inspected the Leased Premises and accepts possession of the Leased Premises and the improvements thereon "as is" in its present condition, and subject to all ordinances of the City, and admits its suitability and sufficiency for the uses permitted hereunder. Except as may otherwise be provided for herein, the City shall not be required to maintain nor to make any improvements, repairs or restorations upon or to the Leased Premises or to any of the improvements presently located thereon. City shall never have any obligation to repair, maintain or restore, during the term of this lease, any improvements placed upon the Leased Premises by Lessee, its successors and assigns.
- 5.2 Lessee shall throughout the term of this Agreement assume the entire responsibility, cost and expense, for any repair and maintenance whatsoever on the Leased Premises and all improvements thereon in a good workmanlike manner, whether such repair or maintenance be ordinary or extraordinary, structural or otherwise. The Lessee will not be required to improve or repair any of the present damages of the Leased Premises in its present condition on the date of this agreement. Lessee will be responsible for any damage incurred of the Leased Premises that is caused directly by the Lessee, his employees, customers, or representatives, after the date of this agreement. Lessee shall not store any hazardous material on Lease Premises. In the event that the Leased Premises is damaged beyond repair, at no fault of either party, the agreement becomes void. However, the Lessee shall have the option make repairs to the Leased Premises at the Lessee's full expense in order to make the Leased Premises usable for Lessee's intended purpose. The Lessor is not responsible or liable for any damages done to Lessee's personal property.
- 5.2.1 Lessee shall pay for all utility charges relating to its stated use and occupancy of the Leased Premises.
- 5.2.2 The City shall be responsible for maintaining the access road to the Leased Premises.
- 5.3 . In the event Lessee fails to correct any deficiencies mentioned in this article, a period of thirty (60) days after written notice from the City to do any maintenance or repair work required to be done under the provisions of this Agreement, other than preventive maintenance.
- 5.4 Plans and specifications for all major repairs, constructions, alterations, modifications, additions or replacements (hereinafter referred to as "improvements"), including, without limitation to new facilities to be constructed by the Lessee pursuant to Section 5.5 below, undertaken by the Lessee shall be submitted to and receive the written approval of the City, and no such work shall be commenced until such written approvals are obtained from the City.
- 5.5 Lessee it will neither give nor grant, nor purport to give or grant any lien upon the Leased Premises. Notice is hereby given by City to all persons that no lien attaches to any such improvements.
- 5.6 Any improvements made to the leased premises by the Lessee shall become property of the City at the end of the lease term.

ARTICLE 6 - ADDITIONAL OBLIGATIONS OF LESSEE

6.1 Lessee shall take all reasonable measures:

6.1.1 Not to produce any disturbance that interferes with the operation by the City

6.1.3 Lessee shall comply with all health and safety laws and requirements and any other federal, state or municipal laws, ordinances, rules, regulations and requirements, applicable to the Leased Premises and the improvements thereon.

6.1.4 Lessee shall comply with all written instructions of the City in disposing of its trash and refuse at Lessee's expense, and shall use a system of refuse disposal approved by the City.

ARTICLE 7 - INGRESS AND EGRESS

7.1 The Lessee shall have the right of ingress and egress to and from the Leased Premises by means of roadways, to be used in common with others having rights of passage thereon.

ARTICLE 8 - LIABILITIES AND INDEMNITIES

8.1 City shall not in any way be liable for any cost, liability, damage or injury, including cost of suit and reasonable expenses of legal services, claimed or recovered by any person whomsoever, or occurring on the Leased Premises, or as a result of any operations works, acts or omissions performed on the Leased Premises, by Lessee, its sub lessees or tenants, or their guest or invitees.

8.2 Lessee agrees to indemnify, save and hold harmless, the City, (its officers, agents, servants and employees) of and from any and all costs, liability, damage and expense (including costs of suit and reasonable expenses of legal services) claimed or recovered, justly or unjustly, false, fraudulent or frivolous, by any person, firm or corporation by reason of injury to, or death of, any person or persons, and damage to, destruction or loss of use of any and all property, including City personnel and City property, directly or indirectly arising from, or resulting from, any operations, works, acts or omissions of Lessee, its agents, servants, employees, contractors, sub lessees or tenants. Any final judgment rendered against the City for any cause for which Lessee is liable hereunder shall be conclusive against Lessee as to liability and amount upon the expiration of the time for appeal.

8.3 In addition to Lessee's undertaking, as stated in this Article, and as a means of further protecting the City, its officers, agents, servants and employees, Lessee shall at all times during the term of this Agreement obtain and maintain in effect Public Liability Insurance coverage as set forth in Schedule A attached hereto and made a part hereof.

8.3.1 The City reserves the right to increase the minimum liability insurance set forth in Schedule A when in the City's opinion the risks attendant to Lessee's operations hereunder have increased.

ARTICLE 9 - RULES AND REGULATIONS

9.1 Lessee agrees to observe and obey any and all rules and regulations and all other Federal, State and municipal rules, regulations and laws and to require its officers, agents, employees, contractors, and suppliers, to observe and obey the same. City reserves the right to deny access to the Leased Premises and its facilities to any person, firm or corporation that fails or refuses to obey and comply with such rules, regulations or laws.

#### ARTICLE 10 - ASSIGNMENT AND SUBLEASE

- 10.1 Lessee covenants and agrees that it will not sell, convey, transfer, mortgage, pledge or assign this Agreement or any part thereof, or any rights created thereby, without the prior written consent of the City. Lessor may cancel the Agreement if such actions are taken by the Lessee.
- 10.2 Lessee shall not assign or sublet the premises without the written consent of the City.

#### ARTICLE 11 - NON-DISCRIMINATION

- 11.1 The Lessee, shall comply with the Civil Rights Act of 1964 and shall not discriminate against in person on the grounds of race, color, or national origin during any participation of the Lessee's business practices or use of the Leased Premises. Any breach of this covenant will give the Lessor the right to terminate the lease.
- 11.3 The Lessee shall include the foregoing provisions in every agreement or concession pursuant to which any person or persons, other than the Lessee, operates any facility at the Leased Premises providing service to the public and shall include thereon a provision granting the City a right to take such action as the United States may direct to enforce such covenant.
- 11.4 The Lessee shall indemnify and hold harmless City from any claims and demands of third persons including the United States of America resulting from the Lessee's noncompliance with any of the provisions of this Section and the Lessee shall reimburse City for any loss or expense incurred by reason of such noncompliance.

#### ARTICLE 12 - GOVERNMENTAL REQUIREMENTS

- 12.1 The Lessee shall procure all licenses, certificates, permits or other authorization from all governmental authorities, if any, having jurisdiction over the Lessee's operations at the Leased Premises which may be necessary for the Lessee's operations thereat.
- 12.2 The Lessee shall pay all taxes, licenses, certification, permit and examination fees and excise taxes which may be assessed, levied, exacted or imposed on the Leased Premises or operation hereunder or on the gross receipts or income to Lessee there from, and shall make all applications, reports and returns required in connection therewith.

#### ARTICLE 13 - RIGHTS OF ENTRY RESERVED

- 13.1 The City, by its officers, employees, agents, representatives and contractors shall have the right at all reasonable times to enter upon the Leased Premises for any and all purposes, provided, such action by the City, its officers, employees, agents, representatives and contractors does not unreasonably interfere with the Lessee's use, occupancy, or security requirements of the Leased Premises.
- 13.2 The City has the right, at any time, to enter the Leased Premises and maintain, repair, or replace any fixed or temporary structure on the Premises. The City shall give at least a one day notice to the Lessee unless such repairs are deemed an emergency. Premises by the Lessee. It is specifically understood and agreed that the reservation of the aforesaid right by the City shall not impose or be construed to impose upon the City any obligation to repair, replace or alter any utility service lines

now or hereafter located on the Leased Premises for the purpose of providing utility services only to the Leased Premises.

- 13.3 Any personal property of Lessee shall not obstruct the access of the City, its officers, employees, agents or contractors, or the utility company furnishing utility service to any of the existing utility, mechanical, electrical and other systems, and thus shall interfere with the inspection, maintenance or repair of any such system
- 13.4 At any reasonable time, and from time to time during the ordinary business hours, the City, by its officers, agents and employees, whether or not accompanied by a prospective lessee, occupier or user of the Leased Premises, shall have the right to enter thereon for the purpose of exhibiting and viewing all parts of the same, subject to Lessee's reasonable security requirements.

#### ARTICLE 14 - ADDITIONAL RENTS AND CHARGES

- 14.1 Except as provided in Section 5.3 (b), in the event Lessee fails within sixty (60) days after receipt of written notice from City to perform or commence to perform any obligation required herein to be performed by Lessee, City may enter the Leased Premises (without such entering causing or constituting a cancellation of this Agreement or an interference with the possession of such Leased Premises by Lessee) and do all things reasonably necessary to perform such obligation, charging to Lessee the cost and expense thereof, and Lessee agrees to pay to the City upon demand such charge in addition to other amounts payable by Lessee hereunder. Provided, however, that if Lessee's failure to perform any such obligation endangers the safety of the public or employees or property of the City, and City so states in its notice to Lessee, the City may perform such obligation of Lessee at any time after the giving of such notice, and charge to the Lessee the reasonable cost and expense thereof which Lessee shall pay upon demand.
- 14.2 If the City elects to pay any sum or sums or incur any obligation or expense by reason of the failure, neglect or refusal of Lessee to perform or fulfill any one or more of the conditions, covenants or agreements contained in this Agreement, or as the result of any act or omission of Lessee contrary to said conditions, covenants or agreements, Lessee hereby agrees to pay the sum or sums so paid or expense so incurred by the City as a result of such failure neglect or refusal of Lessee, including interest, not to exceed ten percent (10%) per annum, together with all costs, damages and penalties. In such event, the total of such amounts may be added to any installment of rent thereafter due hereunder, and each and every part of the same shall be and become additional rent recoverable by the City in the same manner and with like remedies as if it were originally a part of the rent provided for in this Agreement.

#### ARTICLE 15 - DEFAULT

- 15.1 In the event Lessee breaches any term or provision of this Lease, including the obligation to pay rent as and when due, the City shall have the right to terminate this lease upon giving Lessee a six (6) month notice to cure such default (except as otherwise provided in Section 5.3 above). If Lessee shall not have cured its default within said six (6) month period to the satisfaction of the City, then the City may declare this Lease and Lessee's right of occupancy to be terminated, and Lessee shall at once quit the Premises, taking only such personality or fixtures as the City may authorize to be removed. The foregoing rights and remedies given to City are and shall be deemed to be cumulative and shall be deemed to be given to City in addition to any other and further rights granted to City herein or by law. The failure by the City at any time to exercise any right or remedy hereby given to it shall not be deemed to operate as a waiver by it of its right to exercise

such rights or remedies at any other or future time.

#### ARTICLE 16 - TERMINATION BY LESSEE

- 16.1 In addition to any other right of cancellation herein given to Lessee, or any other rights to which it may be entitled by law, equity or otherwise, as long as Lessee is not in default in payment to City of any amounts due City under this Agreement, Lessee may cancel this Agreement and thereby terminate all of its rights and unaccrued obligations hereunder, by giving City thirty (30) day advance written notice upon or after the happening of the following events:

#### ARTICLE 17 - SURRENDER AND RIGHT OF RE-ENTRY

- 17.1 Upon the cancellation or termination of this Agreement pursuant to any terms hereof, Lessee agrees peaceably to surrender up the Leased Premises.

#### ARTICLE 18 - SURVIVAL OF THE OBLIGATIONS OF THE LESSEE

- 18.1 In the event that the Agreement shall have been terminated in accordance with a notice of termination as provided in Article 16 hereof, all the obligations of the Lessee under this Agreement shall survive such termination, re-entry, regaining or resumption of possession and shall remain in full force and effect for the full term of this Agreement, and the amount or amounts of damages or deficiency shall become due and payable to City to the same extent, at the same time or times, and in the same manner as if no termination, re-entry, regaining or resumption of possession had taken place. City may maintain separate actions each month to recover the damage or deficiency then due or at its option and at any time may sue to recover the full deficiency less the proper discount, for the entire unexpired term of the Agreement.

#### ARTICLE 19 - USE SUBSEQUENT TO CANCELLATION OR TERMINATION

- 19.1 The City, upon termination or cancellation pursuant to Article 16 hereof, may occupy the Leased Premises or may enter into an agreement with another lessee and shall have the right to permit any person, firm or corporation to enter upon the Leased Premises and use the same.
- 19.2 City shall also, upon said termination or cancellation, or upon re-entry, regaining or resumption of possession, have the right to repair and to make structural or other changes in the Leased Premises, including changes which alter its character and the suitability thereof for the purposes of the Lessee under this Agreement, without affecting, altering or diminishing the obligations of the Lessee hereunder, provided, that any structural changes shall not be at Lessee's expense.
- 19.3 In the event either of use by others or of any actual use and occupancy by City, there shall be credited to the account of the Lessee against its survived obligations hereunder any net amount remaining after deducting from the amount actually received from any lessee, licensee, permittee or other occupier in connection with the use of the said Leased Premises or portion thereof during the balance of the term of use and occupancy as the same if originally stated in this Agreement, or from the market value of the occupancy of such portion of the Leased Premises as City may itself during such period actually use and occupy, all expenses, costs and disbursements incurred or paid by City in connection therewith. No such use and occupancy shall be or be construed to be an acceptance of a surrender of the Leased Premises, nor shall such use and occupancy constitute a waiver of any rights of City hereunder. City will use its best efforts to minimize damages to Lessee under this

Article.

#### ARTICLE 20 - HOLDING OVER

- 20.1 No holding over by Lessee after the termination of this lease shall operate to extend or renew this lease for any further term whatsoever; but Lessee will by such holding over become the tenant at will of City and after written notice by City to vacate such premises, continued occupancy thereof by Lessee shall constitute Lessee a trespasser.
- 20.2 Any holding over by Lessee beyond the thirty (30) day period permitted for removal of fixtures without the written consent of the City shall make the Lessee liable to the City for damages equal to double the rentals provided for herein and which were in effect at the termination of the lease.
- 20.3 All insurance coverage that Lessee is required under the provisions hereof to maintain in effect shall continue in effect for so long as Lessee, or any of Lessee's sub lessees or tenants occupy the Leased Premises or any part thereof.

#### ARTICLE 22 - MISCELLANEOUS PROVISIONS

##### Force Majeure.

- 22.1 Neither party shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder by reason of labor disputes, acts of God, acts of the public enemy, acts of superior governmental authority or other circumstances for which it is not responsible or which is not in its control provided, however, that this section shall not excuse Lessee from paying the rentals herein specified.

##### Non-Liability of Individuals.

- 22.2 No director, officer, agent or employee of either party hereto shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or of an supplement, modification or amendment to this Agreement because of any breach thereof, or because of his or their execution or attempted execution of the same.

##### Quiet Enjoyment.

- 22.3 The City covenants that as long as Lessee is not in default of any provision of this Agreement, Lessee shall and may peaceably and quietly have, hold and enjoy the Leased Premises exclusively to it during the term hereof unless sooner canceled as provided in this Agreement.

##### General Provisions.

- 22.4 Lessee shall not use, or permit the use of, the Leased Premises, or any part thereof, for any purpose or use other than those authorized by this Agreement.
- 22.5 This Agreement shall be performable and enforceable in Shawnee, Oklahoma and shall be construed in accordance with the laws of the State of Oklahoma.
- 22.6 This Agreement is made for the sole and exclusive benefit of the City and Lessee, their successors and assigns, and is not made for the benefit of any third party.

22.7 All covenants, stipulations and agreements in this Agreement shall extend to and bind each party hereto, its legal representatives, successors and assigns.

22.8 Nothing herein contained shall create or be construed to creating a co-partnership between the City and the Lessee or to constitute the Lessee an agent of the City. The City and the Lessee each expressly disclaim the existence of such a relationship between them.

#### ARTICLE 23 - SUBORDINATION CLAUSES

23.1 This Agreement is subject and subordinate to the following:

23.1.1 City reserves the right to develop and improve the Leased Premises as it sees fit, regardless of the desires or view of Lessee, and without interference or hindrance by or on behalf of Lessee, provided, Lessee is not deprived of the use of or access to the Leased Premises.

#### ARTICLE 24 - ENTIRE AGREEMENT

24.1 The Agreement consists of Articles 1 to 28, inclusive, and Schedule A.

24.2 It constitutes the entire Agreement of the parties hereto and may not be changed, modified, discharged or extended except by written instrument duly executed by the City and the Lessee. The parties agree that no representations or warranties shall be binding upon the City or the Lessee unless expressed in writing in this Agreement of Lease.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year written above.

LESSOR:  
THE CITY OF SHAWNEE  
OKLAHOMA  
A Municipal Corporation

By: \_\_\_\_\_  
JUSTIN ERICKSON  
CITY MANAGER

By: \_\_\_\_\_  
MARY ANN KARNs  
CITY ATTORNEY

ATTEST:

---

PHYLLIS LOFTIS, CITY CLERK

LESSEE:

---

RAYMOND UTTER  
131 North Bell Street  
Shawnee, OK 74801

ATTEST:

---

SCHEDULE "A"

INSURANCE COVERAGE

The Lessee, at Lessee's expense, shall obtain and maintain in continuous effect during the term of this Lease Agreement, insurance policies issued by an insurance carrier licensed to do business in the State of Oklahoma, providing for:

1. Comprehensive General Liability - having a minimum coverage of \$500,000. Minimum coverage shall be raised to \$1,000,000 as of July 21, 2016

The Lessee shall provide the City with a Certificate of Insurance indicating proof of the foregoing coverage. Such certificate shall provide that the carrier issuing the certificate shall notify the City within ten (10) days in advance of any cancellation or significant change in the terms or coverage of such insurance policies.

The failure of the Lessee to obtain and maintain such insurance coverage shall not relieve the Lessee from any liability arising from this Lease Agreement nor shall any such liability be limited to the liability insurance coverage provided for herein.

**Regular Board of Commissioners**

**1. e.**

Meeting Date: 02/16/2016

IAFF Contract

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

---

**Information**

Title of Item for Agenda

Approve Collective Bargaining Agreement with International Association of Fire Fighters (IAFF).

---

**Attachments**

IAFF Memo

IAFF Contract

---

**Mayor**

WES MAINORD



**The City of Shawnee**  
*Office of the City Manager*

P.O. Box 1448

Shawnee, Oklahoma 74802-1448  
(405) 878-1601 Fax (405) 214-4249

[www.ShawneeOK.org](http://www.ShawneeOK.org)

**Commissioners**

VACANT SEAT  
LINDA AGEE  
JAMES HARROD  
KEITH HALL  
LESA SHAW  
MICHEAL DYKSTRA

**Date:** February 16, 2016  
**To:** Mayor and City Commissioners  
**From:** Justin Erickson, City Manager

**RE: Collective Bargaining Agreement with IAFF Local #6**

In 2014, the City and Union entered into a two year Collective Bargaining Agreement set to expire June 30, 2016. The Contract provided for a reopener on two issues: insurance and wages. The insurance issue was resolved, but we had some difficulty in reaching agreement on wage adjustments. A change in IAFF leadership slowed the negotiations.

We have now reached agreement on the wage portion. The City will add a 3.5% step 7 for members who are now topped out. The step will be retroactive to January 1, 2016. The cost is \$34,901.79.

The City's negotiating team was Tammy Johnson, Cindy Arnold and Mary Ann Karns.

Staff recommend approval of this agreement.



AGREEMENT BETWEEN  
THE CITY OF SHAWNEE, OKLAHOMA  
AND  
LOCAL #206  
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS  
AFL-CIO/CLC  
JULY 1, 2014 – JUNE 30, 2016

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## **ARTICLE I PURPOSE OF AGREEMENT**

**Section 1.01.** It is the intent and purpose of this Agreement, entered into by and between the CITY OF SHAWNEE, OKLAHOMA, a municipal corporation (the "City") and LOCAL NO. 206, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS; AFL-CIO/CLC (the "Union") to assure sound and beneficial working and economic relationships between the parties and to provide an orderly means to resolve grievances that may arise during the term of this Agreement. It shall be the duty of both parties to bargain in good faith concerning wages, hours, and other terms and conditions of employment deemed to be in the best interest of public welfare and safety.

---

## **ARTICLE II RECOGNITION**

**Section 2.01.** The City recognizes the Union as the sole and exclusive bargaining agent for all permanent employees of the Shawnee Fire Department, excluding the Fire Chief, and one administrative assistant. A permanent employee shall be an individual who has successfully completed the one (1) year probationary period.

---

## **ARTICLE III AUTHORITY AND TERM**

**Section 3.01.** The City and the Union have, by these presents, reduced to writing the collective bargaining agreement resulting from negotiations entered into by the City and the Union.

**Section 3.02.** This Agreement shall be effective as of the 1<sup>st</sup> day of July, 2014 and shall remain in full force and effect until the 30<sup>th</sup> day of June, 2016, subject to a reopener for the second year. The reopener shall be limited to a discussion of wages, including a cost of living adjustment and insurance. The parties recognize the legal restriction upon the City that prevents it from being bound beyond the current fund year. Should the City determine that it will not be able to fund the Contract, it shall give notice to the Union no later than March 1, 2015 for negotiations as set out in the Fire and Police Arbitration Act.

**Section 3.03.** Whenever wages, rates of pay or any other matters requiring appropriation of monies by the City are to be included as matters of collective bargaining, it is the obligation of the Union to serve written notice of request of collective bargaining on the corporate authorities at least one hundred twenty (120) days before June 23<sup>rd</sup>, the last day on which monies can be appropriated by the City to cover the contract period, which is the subject of the collective bargaining procedure.

---

**Section 3.04.** During the term of this Agreement, it shall be the obligation of the City and the Union to meet within ten (10) days after notice has been filed by either party to negotiate any amendments, addendums, or changes that do not require the appropriation of monies.

---

## **ARTICLE IV**

### **MANAGEMENT RIGHTS AND RESPONSIBILITIES**

**Section 4.01.** The Union recognizes the prerogative of the City to operate and manage its affairs in all respects and in accordance with its responsibilities, and power of authority which the City has not officially abridged, delegated, granted or modified by the agreement are retained by the City and all rights, powers and authority the City had prior to the signing of this Agreement are retained by the City, and remain exclusively without limitation, within the rights of the City.

**Section 4.02.** Except as may be limited hereinafter, the City retains the rights in accordance with the Constitution and laws of the State of Oklahoma, and the responsibilities and duties contained in the laws of the State of Oklahoma, the Charter of the City of Shawnee, the Ordinances, and regulations promulgated thereunder:

- a. To determine Fire Department policy, including the right to manage the affairs of the Fire Department;
- b. To assign working hours, including overtime;
- c. To direct the members of the bargaining unit, including the right to terminate, suspend, discipline, promote or transfer any member subject to this Agreement and the grievance procedure hereinafter set forth;
- d. To determine the table of organization of the Fire Department, including the right to organize the Fire Department and the determination of job classifications and ranks based upon duties assigned;
- e. To determine the safety, health and property protection measures for the Fire Department;
- f. To allocate and assign work to the members of the bargaining unit within the Fire Department;
- g. To be the sole judge of the qualifications of applicants and training of new employees;
- h. To establish and enforce Fire Department rules, regulations and orders;
- i. To introduce new, improved or different methods and techniques of operation of the Fire Department or change existing techniques;

- j. To determine the number of employees and supervision necessary;
  - k. To control the departmental budget;
  - l. To take whatever actions may be necessary to carry out the mission of the City in situations of emergency.
- 

## **ARTICLE V PERSONNEL REDUCTION**

**Section 5.01.** In the case of a personnel reduction, the members of the bargaining unit with the least seniority shall be laid off first, subject to a thirty (30) day notice to each member for the purpose of providing the opportunity of incumbent members to exercise their pension options. Time in the Shawnee Fire Department shall be given the utmost consideration.

**Section 5.02.** For the purpose of this Article, seniority shall be determined by the length of continuous service with the Shawnee Fire Department.

**Section 5.03.** No new employee shall be hired until the member or members laid off and the Union have been notified by registered mail and the member is given a fourteen (14) day period for reinstatement of employment.

**Section 5.04.** In the case of reduction of certain positions, as the result of a general personnel reduction, the members of the bargaining unit with the least seniority in those certain positions may be placed in the next lower position. Any member affected by this section shall not suffer from any loss of pay or seniority.

**Section 5.05.** Any member laid off for more than one (1) year must pass both the pension physical and the minimum requirements for physical fitness (City criteria).

---

## **ARTICLE VI UNION RIGHTS AND RESPONSIBILITIES**

**Section 6.01.** This Agreement shall be binding upon the successors and assigns of the parties hereto during the term of this Agreement, and no provision, terms or obligations herein contained shall be affected, modified, altered or changed in any respect whatsoever by the consolidation, merger or annexation, transfer or assignment of either party hereto, or affected, modified, altered or changed in any respect whatsoever by any change of any kind in the ownership or management of either party hereto or by any change geographically of place of business of either party hereto.

**Section 6.02.** After written notice to the Fire Chief, Union representatives may be granted time off without loss of pay to conduct Union business. Time off shall be

granted so long as it does not impede the operation of the Fire Department, as determined by the Fire Chief and so long as it does not exceed the following limitations:

- a. OSFA Convention – Time Off as needed for attendance of the authorized delegates;
- b. Negotiations with the City – 15 minutes before the meeting throughout the meeting, and 15 minutes after;
- c. Safety committee – 5 minutes before the meeting, throughout the meeting, and 5 minutes after the meeting;
- d. PFFO Convention – Time off will be granted for three members to attend the convention for a period not to exceed three (3) days.

**Section 6.03.** The City agrees not to discriminate against any member for his activity on behalf of, or membership in, the Union or its affiliate organizations.

**Section 6.04.** All rules, regulations, fiscal procedures, working conditions, departmental practices and manner of conducting the operation of and administration of the Fire Department currently in effect on the effective date of this Agreement, shall be deemed a part of this Agreement unless and except as modified or changed by the specific terms of this Agreement.

**Section 6.05.** The City agrees to deduct biweekly dues and assessments in an amount certified to be corrected by the Secretary/Treasurer of the Union for the pay of those members who individually request, in writing, that such deduction be made. The total amount of deduction shall remain in force until canceled by the member. The Union shall pay the City twenty-five (25) cents per month per member for such service. On July 1<sup>st</sup> and on January 1<sup>st</sup> of each year the members may change the amount being withheld as dues and assessments. No other changes will be permitted throughout the year except to add or delete a member from those having deductions made. All changes, additions or deletions shall be made only with written authorization from the individual member. The union agrees to indemnify the City and hold harmless from any liability arising out of the City's reliance on the written request presented to it.

**Section 6.06.** When a member of the bargaining unit has been promoted to another classification and is unable to perform his new assignment within ninety (90) days, he shall be allowed to return to his previous job without loss of seniority. If a member of the bargaining unit is selected or promoted in accordance with the promotional procedures set forth in the Collective Bargaining Agreement and Shawnee Fire Department SOG's to fill a position or rank which was vacated due to the promotion of a member of the bargaining unit to another position or rank, then that selection or promotion shall be deemed conditional and subject to revocation in the event the member of the bargaining unit who vacated the position or rank is returned to the position or rank

under the provisions set forth in this Article. Nothing within this section shall be interpreted as establishing a requirement that vacated positions must be filled. Further, nothing within this section shall be interpreted as establishing specific or mandatory staffing levels for any rank or position within the Department.

**Section 6.07.** Management or members shall have the right to have their Union President or his Designee present during any oral or written reprimand, investigative interview or any other disciplinary action.

---

## **ARTICLE VII PROHIBITION OF STRIKES**

**Section 7.01.** During the term of this Agreement, the Union agrees to a prohibition of any job action, *i.e.*, strikes, work slowdowns, mass absenteeism, or being a party to such activities. In addition, the Union agrees not to petition its affiliate, AFL-CIO, for legal sanction to strike during the term of this Agreement. The Union shall not be in breach of agreement where the acts and actions here in to fore enumerated are not caused or authorized by the Union.

---

## **ARTICLE VIII GRIEVANCE PROCEDURE**

**Section 8.01.** The Union or any member of the bargaining unit covered under this Agreement may file a grievance within twenty (20) calendar days of the alleged occurrence as hereinafter defined, and shall be afforded the full protection of this Agreement.

**Section 8.02.** The Union President, or his authorized representative, may report an impending grievance to the Fire Chief in an effort to forestall its occurrence.

**Section 8.03.** Any controversy between the City and the Union or any member concerning the interpretations, enforcement or application of any provision of this Agreement, concerning any of the terms or conditions of employment contained in this Agreement, shall be adjusted in the following manner:

- a. The grievance shall be discussed by the member with the Fire Chief or his designee. At or before the discussion, the grievant will advise what procedure or practice is being contested and which provision of this Agreement or prevailing practice is alleged to have been violated. Said member's Union President, or his alternate, shall be present at said discussion. The answer will be submitted by the Fire Chief or his designee in writing within twenty (20) calendar days of such discussion to the member(s) involved, and to the Union President.

- b. The parties agree to cooperate in the investigation of the grievance and to make available to each other upon reasonable request, any evidence that is relevant to the matter involved in the pending grievance.
- c. If the grievance is not settled by the provisions of Section 3 (a) of this Article, it shall be submitted in writing to the Union Grievance Committee. Within twenty (20) calendar days of the Chief's written response, the Union Grievance Committee shall determine, in their sole discretion and judgment, whether or not a grievance exists within the terms and conditions of this Agreement and shall advise the Chief of their decision to exercise either action provided for in sub-step (1) or (2) below.
  - I. If the Union Grievance Committee finds a grievance does not exist, it shall so inform the Fire Chief in writing, and no further proceedings shall be necessary.
  - ii. If the Union Grievance Committee finds a grievance does exist, the Grievance committee shall submit, in writing, the grievance to the City Manager for resolution advising the basis for such claim.
- d. The City Manager shall submit his answer in writing to the Union Grievance Committee, the member involved, and the Fire Chief within twenty (20) calendar days, specifying the basis for his decision. If the City Manager and the Union Grievance Committee have not settled the grievance within twenty (20) calendar days, it may be submitted to arbitration for resolution as follows:
  - I. A request shall be made for a panel of seven (7) arbitrators from the Federal Mediation and Conciliation Service.
  - ii. Within fifteen (15) calendar days from the receipt of such panel, a representative of the Union and the City shall meet and alternately strike names until one (1) arbitrator remains who then shall be selected as the impartial arbitrator. The party requesting arbitration shall strike the first name.
  - iii. Upon notification to the Federal Mediation and Conciliation Service of the selection of the arbitrator, and the arbitrator is contacted, the date for the arbitration hearing shall be set within fifteen (15) calendar days from the date the arbitrator is notified of his selection.
  - iv. After the conclusion of the hearing, the arbitrator shall issue a written opinion containing findings and recommendations with

respect to the issues presented. A copy of the opinion shall be mailed or delivered to the Union and to the City.

- v. With respect to the interpretation, enforcement, or application of the provisions of this Agreement, the decision, findings and recommendations of the arbitrator shall be final and binding on the parties to this Agreement.
- vi. The arbitrator's authority shall be limited to the interpretation and application of the terms of this Agreement and/or any supplement thereto. The arbitrator shall have no jurisdiction to establish provisions of a new agreement or variation of the present Agreement or to arbitrate away, in whole or in part, any provisions or amendments thereof. This shall not preclude individual wage grievances.
- vii. The cost of the impartial arbitrator shall be shared equally between the Union and the City. If a transcript of the proceedings is requested, the party requesting shall pay for it.

**Section 8.04.** All time limits set forth in this Article may be extended by mutual consent, but if not so extended, they must be strictly observed. If a party fails to pursue any grievance within the time limits provided, he shall have no further right to continue the grievance. If the City fails to answer in the time provided above, the grievance shall be considered valid and the remedy sought will be allowed. Such resolution will not establish a precedent for the parties. If the date an action is to take place falls on a Saturday, Sunday, or legal holiday as set forth in Article 18, then the act shall be performed on the next regularly scheduled business day.

**Section 8.05.** It is specifically and expressly understood that filing a grievance under this article, which has as its last step, arbitration that is final and binding, constitutes an election of remedies and a waiver of any and all rights of the parties, the Union and City or representatives of either party, to litigate or otherwise contest the last answer rendered through the Grievance procedure in any court or other appeal form. The only exception to this rule is that either party may seek to vacate any decision of an arbitrator contemplated herein under the following conditions:

- a. Where procured by corruption, fraud, or other undue means;
- b. Where the arbitrator was guilty of partiality, corruption, or misconduct;
- c. Where the arbitrator exceeded his powers;
- d. Where the award is in violation of state and/or federal law(s).

## **ARTICLE IX HOURS AND WORK PERIOD**

**Section 9.01.** The twenty-four (24) hour shift members shall continue to work the current, three platoons, twenty-four (24) hour shift.

**Section 9.02.** The twenty-four (24) hour shifts are comprised of the following days on duty and off duty: day on duty, day off duty, day on duty, day off duty, day on duty, four (4) days off duty. Each day shall begin at 7:00am the next day, comprising twenty-four (24) hours. Each duty day consists of twenty-four (24) hours of relief of duty. This sequence continues up to four (4) days off duty.

**Section 9.03.** For all twenty-four (24) hour shift members there is hereby established a series of work periods of fourteen (14) days duration that coincide with the current biweekly pay period.

**Section 9.04.** Day members shall work a ten (10) hour day, four (4) days a week schedule except the Emergency Management Director who shall work an eight (8) hour day, a five (5) day a week schedule. For all day members, there is in effect a standard seven (7) day work week that begins Sunday morning at 7:00 a.m. and ends the following Sunday morning at 7:00 a.m. The City and the Union agree to enter into a Memorandum of Understanding to determine ways to provide more consistent availability so as to improve customer service.

---

## **ARTICLE X OVERTIME, CALL- BACK AND OFF DUTY TRAINING**

**Section 10.01.** The twenty-four (24) hour shift members shall receive overtime at one and one-half times their regular rate for hours accumulated in excess of one hundred and six (106) hours per fourteen (14) day work period.

**Section 10.02.** Day Members shall receive overtime at one and one-half times their regular rate of hours accumulated in excess of forty (40) hours per seven (7) day work period.

**Section 10.03.** Except as provided herein, all leave granted shall be allowed. In the event that staffing on a shift falls below eleven (11) or additional staffing needed for any reason other than an incident resulting in calling back the entire shift or shifts, members shall be called back from a "call back roster." Members may elect to sign up on the call back roster. The call back roster will be a permanent list and a member may elect to remove himself from the list at any time, and any member not on the list may add his name to the bottom of the rotation at any time. The call back roster shall be maintained in the office of the Battalion Chiefs. The call back roster shall be a rotating list.

Members on the call back roster will be called according to the standard operating guidelines. Members being called back for less than twelve hours cumulative will not lose their turn on the call back roster. Members shall receive a two hour minimum for emergency call back.

**Section 10.04.** Off duty members shall receive pay one and one-half times their hourly rate of pay or compensatory time off at the rate of time and one-half, at their option, for each hour of attendance at training as required in writing by the Fire Chief.

**Section 10.05.** Any request by a member for voluntary non-incentive certifiable training will be considered on a case-by-case basis taking into consideration the benefit of the certified training course for the Fire Department. If a request for voluntary non-incentive certifiable training is approved by the Fire Chief, in writing, the Department will pay tuition as well as lodging and meals in compliance with the City's approved travel policy and will also allow the member time off for the training so long as the operations of the Fire Department are not impeded. Any member training off duty shall receive compensation time at the rate of one (1) hours of compensatory time for every hour of training and for every hour of travel for trips in excess of 75 miles one way. If more than two on the same shift seek voluntary training, those beyond two will count against the calendar. No person shall be bumped from training if the calendar is full. A two-hour slot is added to the calendar so long as minimum manning is not affected.

**Section 10.06.** Members of the bargaining unit may use compensatory time in any manner they choose so long as the normal operations of the Fire Department are not impeded as determined by the officer in charge of the shift. Maximum accrual of compensatory time will be limited to two hundred sixty-four (264) hours.

---

## **ARTICLE XI**

### **TRADING TIME**

**Section 11.01.** The City agrees that members may trade time, provided the operations of the Fire Department are not impeded and the officer or officers in charge of the shift or shifts is notified in advance. Members at the rank of firefighter may only trade with members of equal rank. Members who hold the rank of Lieutenant may trade within rank or one rank above. Members who hold the rank of Captain or above may trade within rank or one rank above or below. Members will be limited to two hundred and forty (24) hours of trading time per calendar year. This cap applies only to the employee who is not present, not to the employee who is substituting for the scheduled employee.

---

## **ARTICLE XII**

### **WORKING OUT OF CLASSIFICATION**

**Section 12.01.** Any member covered by this Agreement who is required to accept the responsibilities and carry out the duties of a position or rank above that which he normally holds shall be stepped down and back one in the position or rank being filled for each shift worked out of classification after the first three (3) consecutive shifts.

---

## **ARTICLE XIII HEALTH AND LIFE**

**Section 13.01.** The City agrees to make group health insurance coverage available to all members of the bargaining unit. The City will pay a maximum of \$355.20 per month for single coverage; a maximum of \$619.00 for adult/children coverage; a maximum of \$ 656.64 a month for coverage for couples and a maximum of \$840.88 a month for family coverage. For 2015-16 rates-see MOU dated June 19, 2015.

**Section 13.02.** The City agrees to provide all members with life insurance at no cost, in at least the following amounts:

|                     |             |
|---------------------|-------------|
| Death Benefit       | \$20,000.00 |
| Accidental Death    | \$40,000.00 |
| Dismemberment up to | \$20,000.00 |

---

## **ARTICLE XIV MUTUAL RESPONSIBILITY**

**Section 14.01.** Nothing in this Agreement shall be interpreted as diminishing the obligation of both parties to undertake affirmative action to insure that members are treated without regard to race, color, religion, sex, national origin, age, marital status, veteran status, handicapped status, political affiliation, or any other protected status. Specifically, pursuant to guidelines of the Equal Employment Opportunity Commission, each part is obligated to take positive action in affording equal employment, training and promotional opportunities to all members as required by Title VII of the Civil Rights Act of 1964, as amended.

**Section 14.02.** In the event that any portion of this Agreement unintentionally conflicts with the City's capability to be in compliance with said Act, the EEOC Guidelines will be overriding to that portion of this Agreement.

**Section 14.03.** The Union and the City specifically recognize the necessity of continuous improvements in efficiency and effectiveness throughout the Fire Department operation. Both parties will cooperate in accomplishing these results.

**Section 14.04.** The Union and the City agree that no member shall be terminated specifically because of race, color, religion, sex, national origin, age, marital status, veteran status, handicapped status, political affiliation, or any other protected status or without just cause, subject to the Grievance Procedure contained in this document.

---

## **ARTICLE XV MILITARY LEAVE**

**Section 15.01.** Military leave shall be granted in accordance with state law. Members of the bargaining unit shall notify their supervisor of their schedule as soon as the information becomes available. Copies of orders to report shall be given to the Fire chief who shall forward them to the Personnel Department. On return from leave, the member is to bring evidence of dates and time in attendance.

**Section 15.02.** Members on military leave shall not be counted toward the "three (3) off rule."

---

## **ARTICLE XVI SICK LEAVE, FAMILY LEAVE, AND FUNERAL LEAVE**

**Section 16.01.** Sick Leave – sick leave is granted when members are unable to perform their duties because of personal illness, injury, or disability.

**Section 16.02.** Family Leave – family leave (charged to accrued sick leave) is granted when medical care is necessary or when illness or injury requires hospitalization or attendant care of a member of the firefighter's immediate family. (Immediate family is defined in Section 3). A maximum of seventy-two (72) hours per calendar year is allowed for twenty-four (24) hour shift members and forty (40) hours for day members. Additional time off may be granted charged to the member's accrued vacation or holiday leave. This provision is separate and apart from the Family and Medical Leave Act of 1993.

**Section 16.03.** Funeral Leave – members may be granted time off (charged to accrued sick leave) not to exceed two (2) consecutive shifts for twenty-four (24) hour shift members or three (3) consecutive work days for day members, due to a death in the member's immediate family. Immediate family is defined as the member's or the member's spouse; spouse, grandparent, grandchild, parent-in-law, former guardian, child, brother, sister, parent, and their spouses. Additional time off may be granted charged to the member's accrued vacation or holiday leave.

**Section 16.04.** Day members shall accrue 4.62 hours sick leave per biweekly pay period and twenty-four (24) hour shift members shall accrue 6.46 hours sick leave per biweekly pay period.

**Section 16.05.** The maximum accrual of sick leave shall be:

|                                     |             |
|-------------------------------------|-------------|
| Day Employees                       | 960 hours   |
| Twenty-four (24) hour shift members | 1,344 hours |

**Section 16.06.** The officer in charge of the shift shall be notified prior to the start of the shift of the members staking sick leave.

**Section 16.07.** In the event of a serious illness or injury in which case the member received medical attention, a release for full duty is required from the attending physician before the member can return to work.

**Section 16.08.** False or fraudulent use of sick leave may be cause for disciplinary action against the offending member. Such disciplinary action may include dismissal.

**Section 16.09.** Upon death, disability or service retirement, unused accumulated sick leave will be converted to vacation at a rate of one (1) vacation hour for every three (3) hours of accumulated sick leave up to a maximum of 1,344 sick leave (448 vacation) for twenty-four (24) hour shift members and a maximum of 960 hours sick leave (320 vacation) for day members. The converted hours shall not count against the member's regular vacation accrual.

**Section 16.10.** Any member who is off sick for more than three (3) shifts or three (3) consecutive days off for 40 hour personnel must bring in a doctor's statement before returning to work.

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## **ARTICLE XVII**

### **VACATION**

**Section 17.01.** Members of the bargaining unit shall receive vacation time in accordance with the number of years of continuous service with the City, as follows:

Twenty-four (24) hour shift members:

| <u>Years of Service</u> | <u>Biweekly Accrual</u> | <u>Yearly Accrual</u>    | <u>Maximum Accrual</u>   |
|-------------------------|-------------------------|--------------------------|--------------------------|
| 1-5                     | 4.62 hour               | 120 hours<br>(5 shifts)  | 240 hours<br>(10 shifts) |
| 5-10                    | 6.46 hours              | 168 hours<br>(7 shifts)  | 336 hours<br>(14 shifts) |
| 10-15                   | 8.31 hours              | 216 hours<br>(9 shifts)  | 432 hours<br>(18 shifts) |
| 15-ABOVE                | 11.08 hours             | 288 hours<br>(12 shifts) | 576 hours<br>(24 shifts) |

## Day Members

| <u>Years of Service</u> | <u>Biweekly Accrual</u> | <u>Yearly Accrual</u>  | <u>Maximum Accrual</u> |
|-------------------------|-------------------------|------------------------|------------------------|
| 1-5                     | 3.08 hours              | 80 hours<br>(10 days)  | 160 hours<br>(20 days) |
| 5-10                    | 4.62 hours              | 120 hours<br>(15 days) | 240 hours<br>(30 days) |
| 10-15                   | 6.15 hours              | 160 hours<br>(20 days) | 320 hours<br>(40 days) |
| 15-ABOVE                | 7.70 hours              | 200 hours<br>(25 days) | 400 hours<br>(50 days) |

**Section 17.02.** Members may use vacation time in any manner they choose, so long as normal operations of the Fire Department are not impeded. However, minimum use of vacation time will be:

Twenty-four (24) hour shift members – ½ shift or 12 hours

Day members – 1 hour

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## ARTICLE XVIII HOLIDAYS

**Section 18.01.** All members of the bargaining unit shall be entitled to ten (10) holidays and two (2) half-holidays for which they shall receive pay at their regular rate. The authorized holidays shall be as follows:

|                               |                                      |
|-------------------------------|--------------------------------------|
| New Year's Day                | January 1 <sup>st</sup>              |
| Martin Luther King's Birthday | 3 <sup>rd</sup> Monday in January    |
| President's Day               | 3 <sup>rd</sup> Monday in February   |
| Memorial Day                  | Last Monday in May                   |
| Independence Day              | July 4 <sup>th</sup>                 |
| Labor Day                     | 1 <sup>st</sup> Monday in September  |
| Veterans Day                  | November 11 <sup>th</sup>            |
| Thanksgiving Day              | 4 <sup>th</sup> Thursday in November |
| Day after Thanksgiving Day    | Friday after Thanksgiving            |
| Christmas Eve (1/2day)        | December 24 <sup>th</sup>            |
| Christmas Day                 | December 25 <sup>th</sup>            |
| New Year's Eve (½ day)        | December 31 <sup>st</sup>            |

**Section 18.02.** The City agrees that, if a holiday provided in the above schedule falls on a member's regularly scheduled day off or if the member is required to work on a holiday provided in the above schedule, the member shall be compensated for such holiday by receiving equivalent time off with pay at a later date.

**Section 18.03.** All twenty-four (24) hour shift members shall be granted on (1) shift of duty time off for each holiday and one-half ( $\frac{1}{2}$ ) shift of duty time off for each one-half ( $\frac{1}{2}$ ) holiday. All day members shall receive holiday time as it occurs.

**Section 18.04.** Members of the bargaining unit may use holiday time in any manner they choose, so long as the normal operations of the Fire Department are not impeded. The maximum accrual of holiday time shall not exceed eleven (11) holidays or two hundred sixty-four (264) hours for twenty-four (24) hour shift personnel, or one hundred eighty (180) hours for day shift personnel.

**Section 18.05.** For members who promote from a line position on 24-hour shift to a day shift position their accrued holiday leave shall be converted by using the parity conversion factor in the appendix of this agreement.

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## **ARTICLE XIX**

### **LEAVES OF ABSENCE**

**Section 19.01.** Leave without pay may be requested by a member of the bargaining unit through the Fire Chief to be approved by the City Manager. Leave without pay shall not exceed five (5) shifts for twenty-four (24) hour shift members or ten (10) shifts for day members. Circumstances requiring additional time shall be subject to approval by the City Manager.

**Section 19.02.** When members are required to perform jury duty or to appear in a court of law, they shall be compensated as follows:

- a. Jury duty required on scheduled days -- members shall receive their regular salary or wages.
- b. If a member is involved in a personal court action, the member should be granted leave to attend to his business, but such time off will be charged to compensatory time, vacation, or holiday time in accordance with that Article.

The member shall not suffer loss of seniority during such absence, nor shall time off be charged to any other accrued leave.

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## **ARTICLE XX**

### **INJURY, WORKERS COMPENSATION AND EXPOSURE**

**Section 20.01.** All members of the bargaining unit shall be covered by the provisions of the Workers' Compensation Act during the performance of their duties. A member injured while performing his assigned duties shall be entitled to the provisions of the Workers' Compensation Act. No member on occupational injury leave shall receive a combination of workers' compensation and salary in excess of or less than his regular pay.

**Section 20.02.** When a member has been injured or exposed or suspected exposed to bodily fluids or hazardous materials during the performance of their duties, they must report the injury or exposure or suspected exposure as soon as possible, regardless of the extent, to their immediate supervisor. The member shall fill out the City SD-12 Report for the injury, City Form 207 for bodily fluid exposure or suspected exposure, and the City SD-12 for hazardous material exposure or suspected exposure. If the member is unable to do so, their immediate supervisor must complete the reports.

**Section 20.03.** The member must notify the Safety Director of an injury and the exposure control officer for an exposure or suspected exposure as soon as possible, due to reporting requirements and to ensure that proper medical treatment and follow-up care is completed.

**Section 20.04.** A member on workers' compensation paid leave shall exercise reasonable and necessary care during the recuperation process.

**Section 20.05.** Any member injured while performing his assigned duties and absent from work more than one (1) shift shall not be charged with his accrued sick leave. The member shall be entitled to time off in accordance with Title 11 Section 49-111. Sick leave will be accrued while off duty because of an on-the-job injury.

**Section 20.06.** Limited ("Light") Duty may be made available to employees who are temporarily disabled due to an on-the-job injury or job-related illness.

When an employee is released to return to limited duty, he will be temporarily assigned to duties consistent with his limitations or restrictions. The Fire Chief shall determine if a limited duty position is available and length of time that position will be provided. If the Chief determines a position is available within the Fire or Emergency Operations Departments and it is within the restrictions set by the employee's physician, the employee shall be required to accept the position. If a position is available outside the Fire or Emergency Operations Departments, the employee shall not be required to accept it.

Examples of limited duty include, but are not restricted to:

Taking reports

Assisting in records entry, filing, etc.

Inspections

Investigation that can be done by telephone or computer

Answering telephone

Planning, mapping, telephone assistance in EOC

Inventory

GIS

Training and education

Public relations

Procedure:

1. The employee will have his attending physician complete a work status form listing all work restrictions or special assignments.
2. The employee will submit the report to the Chief.
3. The employee will provide a follow up physician's re-evaluation and report every thirty days or more frequently if requested. If the physician's restrictions are changed, the City may adjust or end the light duty status. The Light Duty status will be extended in thirty day increments, depending on the physician's findings, but shall not exceed ninety days.
4. The Chief, in consultation with the Human Resources Director, will determine if there is a position where the employee can provide assistance within reasonable accommodations, and will re-evaluate at least every thirty days.
5. Copies of all evaluations and assignments will be placed in the employee's confidential medical file.
6. Should the employee's disability or restrictions become permanent or an extension of limited duty not be granted, this limited duty provision shall come to an end and the employee shall be evaluated in accordance with other leave, retirement or assignment policies of the City of Shawnee and applicable law.

There are no permanent light duty assignments within the Fire Department. Limited duty is not an inherent right of employment but a principle of sound personnel management to temporarily utilize employees who are recovering from on-duty injuries or job-related illness and cannot yet return to their regular full duty status.

If an employee's restriction includes number of hours he can work, he may be granted limited duty for those hours with the remainder of his regular pay as injury (workers' compensation) leave. If the employee is assigned to a 40 hour week work schedule, the conversion table shall be used to compute his pay.

Any member on light duty will be allowed to go to his scheduled physical therapy during their light duty work day and it will not count against his/her time. This time off will be just as if he/her were still on workers compensation, the city will cover it.

Any member on light duty will not be counted towards the minimum manning off any shift or the three off on the calendar.

**Section 20.07.** The second member who is off on workers' compensation leave shall not be counted toward the "three (3) off rule."

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## **ARTICLE XXI RULES AND REGULATIONS**

**Section 21.01.** The Union agrees that members shall comply in full with all Fire Department rules and regulations, including those relating to conduct and performance.

**Section 21.02.** The City agrees that interpretation of department rules and regulations that affect wages, hours and other conditions of employment shall be subject to the Grievance Procedure.

**Section 21.03.** The City's Personnel Policies shall provide additional provisions not included in this Agreement. If any conflict should arise, this Agreement supersedes the City's Personnel Policies.

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## **ARTICLE XXII SAFETY COMMITTEE**

**Section 22.01.** The City and the Union agree to cooperate to the fullest extent in the promotion of safety through full disclosure of any information, results of survey and/or studies, new forms procedures, materials, equipment and any new concept in safety and health applicable to the Safety Committee.

**Section 22.02.** Three (3) members of the bargaining unit representing the Union and three (3) employees representing the City shall comprise the Safety Committee. In the event no consensus can be reached concerning the safety of a situation, a neutral party will be selected by the members of the Safety Committee. The neutral party will make a determination as to the safety of the situation.

**Section 22.03.** The Safety Committee shall meet at such a time as deemed necessary by the City and/or the Union.

**Section 22.04.** Committee members shall also be allowed while on duty to conduct investigations of safety and health problems if deemed necessary by the City and/or Union. Time off shall not impede the operation of the Fire Department as determined by the Fire Chief.

**Section 22.05.** All recommendations and reports from the Safety Committee shall be in writing and copies submitted to the City and to the Union.

**Section 22.06.** The Safety Committee shall conduct annual inspections of all fire apparatus, appliances, tools, and other equipment during the month of March. Any fire apparatus, appliances, tools, or equipment deemed unsafe, or in need of maintenance or repair by such inspection, shall be taken out of service and the City shall perform such maintenance or repair as soon as possible upon notice from the Safety Committee.

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## **ARTICLE XXIII LABOR/MANAGEMENT MEETINGS**

**Section 23.01.** The City and the Union agree to conduct labor/management meetings when requested by either part. These shall be informative discussions between the City and the Union through designated representatives and shall have as their purpose, consideration of matters including, but not limited to, the following: the meaning and intent of this Agreement; the interpretation and application of rules, regulations and policies; the prevention and correction of conditions causing misunderstandings and grievances; the encouragement of good human relations in employee working conditions, education and training; and the strengthening of employees' morale. The Discussions shall relate to policy determinations but not to individual complaints or grievance. All actions taken as a result of these meetings will be consistent with this Agreement.

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## **ARTICLE XXIV CLOTHING AND EQUIPMENT**

**Section 24.01.** The City agrees to furnish and replace the following uniform items for the bargaining unit:

- 2 – Long Sleeved Shirts
- 2 – Short Sleeved Shirts
- 2 – Short Sleeved Pull over Golf Shirts
- 3 – Pairs of Pants
- 1 – Uniform Jacket (light and heavy)
- 2 – Badges (shirt and jacket(s))
- 1 – Belt
- 2 – Shirt and Jacket Insignia
- 2 – Name Plates (shirt and jacket)
- 3 – Tee Shirts
- 1 – Ball Cap
- 1 – Pair of Coveralls
- 1 – Wildland/Station Wear Boots

The uniform items will be purchased at the discretion of the Fire Chief in terms of specifications, amount, and vendor.

It is the responsibility of the member to clean and maintain the items listed in this section and to report for duty in a uniform that is clean and in good repair. Failure to do so shall result in disciplinary action.

All items issued, as listed in this section, shall remain the property of the City of Shawnee. The City agrees to issue clothing, as applicable, to each member as near to October 1<sup>st</sup> and April 1<sup>st</sup> as possible each year.

**Section 24.02.** In addition, the City agrees to furnish at no cost to each member the following protective gear and equipment required by the City:

- 1 – Pair of Bunker Boots
- 2 – Pairs of Gloves
- 1 – Helmet with Strap and Liners
- 1 – Helmet Face Protector Shield or Goggles
- 1 – Pair of Bunker pants with Suspenders
- 1 – Bunker Coat
- 1 – Nomex Hood
- 1 – Nomex Coveralls

All items furnished, as listed in this section, shall remain the property of the City of Shawnee.

**Section 24.03.** The City agrees that the protective gear and equipment and the items of clothing will meet N.F.P.A. standards at the time of purchase and at replacement time due to damage or end of service life.

**Section 24.04.** Whenever the Fire Chief determines that replacement of a City owned uniform is necessary, the previously issued item must be surrendered. Uniform items purchased before July 1, 1989, need not be turned in or replaced. Uniform items and protective gear and equipment may not be worn off duty for any purpose not authorized by the Fire Chief. Members shall be required to return uniform items and protective gear and equipment issued under this article at the time of their separation, except as may be authorized by the Fire Chief.

**Section 24.05** The City and the Union agree to have a Labor Management meeting as set out in Article XXIII for the purpose of discussing the possibility of removing items, adding items to be issued (including shorts), and altering the number of items, as well as changing distribution to once a year and as needed for replacement. The list submitted during negotiations for the FY 15-6 Agreement will be used as the basis for discussion. Any agreement reached will be incorporated into this CBA by Amendment.

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## ARTICLE XXV LONGEVITY

**Section 25.01.** To encourage career service, longevity pay shall be granted in addition to the base wages as shown in Appendix A. It shall be based upon the total years of continuous service with the City.

**Section 25.02.** Longevity shall be computed based on the last date of hire with the City, as per the following schedule.

| <u>Years of<br/>Continuous Service</u> | <u>Hourly Rate<br/>24 Hour Shift</u> | <u>Day</u> |
|----------------------------------------|--------------------------------------|------------|
| 4                                      | \$ .23                               | .34        |
| 5                                      | .26                                  | .38        |
| 6                                      | .29                                  | .43        |
| 7                                      | .32                                  | .47        |
| 8                                      | .35                                  | .52        |
| 9                                      | .38                                  | .56        |
| 10                                     | .41                                  | .60        |
| 11                                     | .44                                  | .65        |
| 12                                     | .47                                  | .69        |
| 13                                     | .50                                  | .74        |
| 14                                     | .53                                  | .78        |
| 15                                     | .56                                  | .82        |
| 16                                     | .59                                  | .87        |
| 17                                     | .62                                  | .91        |
| 18                                     | .65                                  | .96        |
| 19                                     | .68                                  | 1.00       |
| 20                                     | .71                                  | 1.05       |
| 21                                     | .74                                  | 1.09       |
| 22                                     | .77                                  | 1.13       |
| 23                                     | .80                                  | 1.18       |
| 24                                     | .83                                  | 1.22       |
| 25                                     | .86                                  | 1.27       |
| 26                                     | .89                                  | 1.31       |
| 27                                     | .92                                  | 1.35       |
| 28                                     | .95                                  | 1.40       |
| 29                                     | .98                                  | 1.44       |
| 30                                     | 1.02                                 | 1.50       |

**Section 25.03.** Longevity shall be included with the regular base wages and paid biweekly.

**Section 25.04.** The above schedule shall apply to all members as they become eligible. The amount now being paid to members shall remain fixed until such time the above schedule exceeds the amount they presently receive.

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## ARTICLE XXVI

### EDUCATIONAL/SKILLS INCENTIVE AND TUITION ASSISTANCE

**Section 26.01.** Educational incentive – the City agrees to compensate member’s educational incentive for successful completion (letter grade of “C” or better for each college hour) of college credit hours, applicable to a degree in the field of fire protection or any degree which enhances the member’s ability to perform his or her duties or is considered to benefit the City. Upon receipt of an officially sealed college transcript, the City shall pay incentive as per the following schedule:

| <u>College<br/>Credit Hours</u> | <u>Hourly Rate</u>   |            |
|---------------------------------|----------------------|------------|
|                                 | <u>24 Hour Shift</u> | <u>Day</u> |
| 32                              | .16                  | .24        |
| 66                              | .32                  | .47        |
| 90                              | .48                  | .71        |
| 124                             | .64                  | .94        |

Educational incentive shall be included with the regular base wages and paid bi-weekly.

**Section 26.02.** Skills incentive – the City agrees to compensate member’s incentive for certification of special skills. Upon proof of certification, including renewals when required, the City shall pay incentive as per the following schedule:

|     |                                                                                                                 | <u>Hourly Rate</u>   |            |
|-----|-----------------------------------------------------------------------------------------------------------------|----------------------|------------|
|     |                                                                                                                 | <u>24 Hour Shift</u> | <u>Day</u> |
| #2  | Firefighter II                                                                                                  | .20                  | .29        |
| #3  | EMT Basic – (Ok DOH or National Registry)                                                                       | .50                  | .74        |
| #5  | Paramedic – (OK DOH or National Registry)                                                                       | .50                  | .74        |
| #6  | Haz Mat Tech – (OSU/Fire Service Training)                                                                      | .20                  | .29        |
| #7  | Physical Fitness Excellence – (City’s Criteria)                                                                 | .20                  | .29        |
| #8  | Scuba – (City’s Criteria)                                                                                       | .20                  | .29        |
| #9  | One – 120 hours of OSU Fire Service<br>Continuing Professional Training or Career<br>Tech Fire Service Training | .15                  | .22        |
| #10 | Physical Fitness 80% of Standard                                                                                | .20                  | .29        |
| #11 | CLEET (Fire Prevention Only)                                                                                    | .50                  | .74        |
| #12 | Physical Fitness 100% of Standard                                                                               | .20                  | .29        |

Any member drawing incentives at present will be allowed to continue to draw the current incentive amounts they receive.

Training course that qualify for skill #9 shall be identified in the Training Record system introduced by the Oklahoma State University Fire Service Training or Career Tech Training Record.

Training is done while on duty, each course is allotted twelve (12) hours credit toward the completion of skills incentive #9. Each course must be successfully completed and shall be validated by a completed OSU Course Report Form 10 or similar training verification from Career Tech.

Members shall be allowed to attend training necessary to obtain skills incentive #3, #5, and #9 while on duty, provided the normal operations of the department are not impeded. Members shall not be charged any accrued leave while attending training on duty. Members shall carry a portable radio and will subject to respond to emergency and other calls as directed by the officer in charge. Attendance of any skills incentive training held outside the corporate city limits of the City of Shawnee shall be subject to approval by the Fire Chief and shall be charged to the member's accrued holiday or vacation leave.

Training courses shall neither be duplicated nor will refresher courses contribute toward additional hours of credit.

Skills incentive shall be included with the regular base wages and paid biweekly.

**Section 26.03.** Tuition Assistance – tuition assistance is available to all members of the bargaining unit. To qualify for tuition assistance, the member must obtain prior written approval for all courses for which tuition assistance will be sought. Applications for tuition assistance must be signed by the employee and approved by Fire Chief and City Manager. The application must be submitted prior to enrolment. The employee is responsible for paying for any course approved and may seek reimbursement based upon the conditions set forth in this article.

To be acceptable for reimbursement of tuition, required fees, lab fees and books, each course must provide training that will end to improve the services which a member was hired to perform, and be completed with a grade of "C" or better. Upon successful completion of the course(s) each semester, the member will initiate a claim of reimbursement by presenting an itemized receipt and a copy of the grade report from the college, university or technical training center. Tuition and required fees for traditional classroom courses shall not exceed tuition and required fees at Oklahoma State University or the University of Oklahoma for traditional classroom courses; tuition and required fees for online courses shall not exceed tuition and required fees for Oklahoma State University or the University of Oklahoma online courses.

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## **ARTICLE XXVII WAGES**

**Section 27.01.** All members of the bargaining unit shall receive wages according to Appendix A of this Agreement

**Section 27.02.** The following indicates both the classification and pay range of the positions covered by this Agreement:

| Classification                | Pay Range |
|-------------------------------|-----------|
| Firefighter                   | 01        |
| Lieutenant                    | 11        |
| Captain                       | 21        |
| Deputy Fire Marshal           | 21 (D)    |
| Training Officer              | 31 (D)    |
| Battalion Chief               | 31        |
| Emergency Management Director | 31 (D)    |
| Fire Marshal                  | 31 (D)    |

**Section 27.03.** During the first year of employment, a probationary firefighter will be employed at Step 1. Based on satisfactory performance he will be increased to Step 2 at the end of one (1) year of satisfactory employment.

**Section 27.04.** Each year, members on their anniversary date, shall be eligible for a merit increase unless they are at Step "7" of their pay classification range. For purposes of implementing the pay adjustment for 2015-16, those who were in Step 6 who had not reached their first anniversary date in that Step 6 by January 1, 2016 will stay at Step 6 until their anniversary date. Those who have been in Step 6 past an anniversary date upon approval of the CBA shall be moved to Step 7 and receive pay at that step retroactively to January 1, 2016. Upon promotion to a higher rank the member's merit date becomes the date of promotion and their anniversary date will be used for longevity only.

In the event a member is demoted, the member's merit date becomes the date of the demotion and their anniversary date will be used for longevity only.

Anniversary date for all members hired after January 1, 1979, will be a permanent anniversary date of the member's individual date of employment. All members hired before January 1, 1979, will have a permanent anniversary date of July 1st unless they are promoted or demoted. The merit increase shall be based on receiving a standard or above rating on the Employee Performance Evaluation.

Upon promotion to Lieutenant, the Firefighter will go down one (1) step and back one (1) step. Promotion to Lieutenant will not be considered until the member has three (3) years on the job. The member is responsible for the initiation of the process to enroll in the next Lieutenant Academy.

Upon promotion to Captain or above the member shall go one (1) step down and one (1) step back from the current step that they hold. To obtain the rank of Captain the member must have five (5) years on the department before they can test. To make the rank of Battalion Chief, the member must have eight (8) years on the department before they can test. The Shawnee Fire Department Promotional Procedures will be used for additional criteria.

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**Section 27.05.** On July 1, 2012, members who were denied step movement for FY 2010-2011 will be moved to the Step they would have been in had no freeze occurred. They will not receive back pay, but will be adjusted to the pay rate of the step. On their anniversary date, they will move to the next step if otherwise eligible to do so.

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## **ARTICLE XXVIII SAVINGS CLAUSE**

**Section 28.01.** If any provision of this Agreement or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Agreement which can be given effect without the invalid provision or application; and to this end the provisions of this Agreement are severable.

**Section 28.02.** All amendments to this Agreement shall be numbered, dated, and signed by the City and the Union and shall be subject to the provisions of this Agreement unless the terms of said amendments specifically delete or change a provision of this Agreement; and all amendments shall become part of this Agreement as if specifically set forth herein.

**Section 28.03.** Any appendices to this Agreement shall be numbered, dated, and signed by the City and the Union and shall be subject to the provision of this Agreement unless the terms of said Appendices specifically delete or change a provisions of this Agreement; and all appendices shall become part of this Agreement as if specifically set forth herein.

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## **ARTICLE XXIX MEDICAL EXAMINATIONS**

**Section 29.01.** The City shall furnish physicals annually and will include testing for Hepatitis B, C, HIV and any other blood borne pathogens. Additional testing for the before mentioned will be done, as needed upon suspected exposure. Physicals will be mandatory for all personnel. These physicals will be scheduled on-duty by the Fire Chief's Office. The City will provide annual testing for tuberculosis to all personnel.

**Section 29.02.** The parties to this contract acknowledge and agree that upon the agreement among the International Association of Firefighters (IAFF), the International Association of Fire Chiefs (IAFC) and the ten cities participation in the Physical Fitness certification Program, the City and Union will implement the program for all firefighters covered by this agreement. The parties will mutually cooperate in implementing such program. A committee composed of the Fire Chief, the Deputy Fire Chief, the City Treasurer/Finance Director and three members selected by the Union will be created to provide suggestions to the Fire Chief with reference to the implementation of the program.

**Section 29.03.** Physical fitness test will be considered for incentive only and will not be used for any other purpose. This section will become effective once the requirements of Section 2 have been met.

**Section 29.04.** The City shall furnish mask fit testing for all employees annually. The testing will be scheduled on duty by the Fire Chief and shall be in compliance with current OSHA standards. Such testing is mandatory for all members.

**Section 29.05.** Any member who misses his scheduled medical physical or mask fit testing will be afforded one additional rescheduling on duty. If the member misses rescheduled time, he will be responsible for scheduling and completing each examination on his own time.

**Section 29.06.** The City agrees to provide Hepatitis B shots to members of the bargaining unit. Any member refusing the inoculation must do so in writing.

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## **ARTICLE XXX**

### **ALCOHOL & CONTROLLED SUBSTANCE TESTING POLICY AND PROCEDURES**

**Section 30.01. Policy Statement:** The City of Shawnee recognizes the importance of having a drug and alcohol free workplace. The abuse of drugs, alcohol, or other chemical substances endangers the safety of the public, the employee, and other City employees. The City recognizes that it is in its best interest, as well as the best interest of its employees and the public, to prevent and eliminate drug, alcohol, and/or substance abuse in the work place. Any employee found using, possessing, selling, distributing, or being under the influence of an illegal chemical substance and/or alcohol during working hours or while on City property or while using City equipment will be subject to discipline up to and including termination of employment.

**Section 30.02. Effective Date:** This policy will be effective 10 days after ratification of the Collective Bargaining Agreement and following distribution of the policy to all employees. In addition, a copy will be given to each applicant for employment upon receipt of a conditional offer of employment.

**Section 30.03. Application:** This policy applies to all employees as well as all applicants for employment once they have received a conditional offer of employment. This policy will comply with the Oklahoma Standards for Workplace Drug and Alcohol Testing Act, 40 O.S. §§ 551 *et seq.* (the "Act") as amended and, where relevant, with the Omnibus Transportation Employee Testing Act of 1991, 49 CFR Page 40.

**Section 30.04. Applicant Pre-Employment Testing:** All applicants will undergo drug and/or alcohol testing following a conditional offer of employment but before final hiring and assignment. Refusal to undergo a test, or a positive test, will result in the City withdrawing its conditional offer of employment. In addition, adulteration of a

specimen for a drug or alcohol test will be considered as a refusal to undergo a test.

**Section 30.05. For Cause Testing:** Drug and/or alcohol testing may be conducted on any employee at any time the City has reasonable suspicion that there is cause to believe that an employee may be under the influence of drugs or alcohol, including, but not limited to, the following circumstances:

- a. Observation of drugs or alcohol on or about the employee's person or in the employee's vicinity;
- b. Observation of conduct on the part of the employee that suggests that the employee is impaired or is under the influence of drugs or alcohol;
- c. Receipt of a report of drug and/or alcohol use by an employee while at work;
- d. Information that an employee has tampered with drug and/or alcohol testing at any time;
- e. Negative job performance patterns by the employee; or
- f. Excessive or unexplained absenteeism or tardiness.

The supervisor will verbally inform the employee of the reason for the test. Additionally, a written record of the situation leading to the drug and/or alcohol test will be created and signed by the supervisor(s) within 24 hours of the event. A copy of the report will be forwarded to the Human Resources Department.

The employee involved must stop work immediately and will be transported as soon as possible to the designated testing facility by a management/supervisory employee. The employee will not be allowed back to work until the results of the test are known.

**Section 30.06. Post-Accident Testing:** Post-accident drug and/or alcohol testing may be conducted on an employee where there has been damage to City property or equipment while the employee was at work or the employee or another person has sustained an injury while at work. The post-accident test will be administered while the employee is still on duty or as close to as possible. No employee required to take a post-accident alcohol and/or drug test may use any alcohol and/or drugs of any kind following the accident until he/she undergoes the post-accident testing.

**Section 30.07. Random Testing:** The City may, at various times, randomly select members for unannounced random testing for drugs and/or alcohol.

**Section 30.08. Periodic Scheduled Testing:** The City may require an employee to undergo drug and/or alcohol testing as part of a routinely scheduled employee fitness for duty examination or in connection with the employee's return to duty from a leave of

absence.

**Section 30.09. Post-Rehabilitation Testing:** The City may require an employee to undergo drug and/or alcohol testing, without prior notice, for a period of up to 2 years after the employee's return to work following a confirmed positive test result or following participation in a drug and/or alcohol dependency program. Post-rehabilitation testing will be conducted in addition to any other testing the employee is subject to under this policy.

**Section 30.10. Substance for Which Tests May Be Given:** The City reserves the right to test for all drugs and for the presence of alcohol. The test for drugs may include, but not be limited to: amphetamines, cannabinoids, cocaine, phencyclidine (PCP), hallucinogens, methaqualone, opiates, barbiturates, benzodiazepines, synthetic narcotics, designer drugs, steroid, or a metabolite of any of the above.

Threshold reporting levels will be those established and maintained by the Federal Department of Transportation and as utilized by the National Institute for Drug Abuse (NIDA). Any positive levels below those established reporting levels will not be reported to the City's Review Officer by the testing laboratory.

**Section 30.11. Methods and Documentation:** Collection, storage, transportation, testing facilities, and testing procedures will be conducted in accordance with rules established by the State Board of Health. Samples may be collected on the premises of the City at its election. Body component samples will be collected with due regard to the privacy of the individual being tested. In no case may any City employee directly observe collection of a urine sample. A written record of the chain of custody of the sample will be maintained until the sample is no longer required.

All sample testing will conform to scientifically accepted analytical methods and procedures. Testing will include confirmation testing of any positive test results by gas chromatography, gas chromatography-mass spectroscopy, or an equivalent scientifically accepted method of equal or greater accuracy as approved by the State Board of Health at the cut off levels as determined by the State Board of Health. In the case of the use of Breathalyzer testing method, no discipline may be imposed unless there is a confirmation test performed on a second sample that confirms the prior results.

An applicant or employee will be given the opportunity to provide notification, in a confidential setting of any information which he/she considers relevant to the test, including currently or recently used drugs or other relevant information. In the event that an employee wishes to challenge the results of the City's test, he/she may do so as provided in this policy by asking for the "B" sample to be tested or by having another sample drawn. The employee must have the sample collected within one hour of the City's sample and such sample and retest must be in accordance with the standards set forth by the State Board of Health and in this policy.

**Section 30.12. Costs:** The City is responsible for all costs associated with drug

and/or alcohol testing. However, if an employee or applicant requests a confirmation test of a sample within 24 hours of receiving notice of a positive test result to challenge the results of the positive test, the employee or applicant is responsible for the cost of the confirmation test unless the confirmation test reverses the findings of the challenged positive test. In such case, the City will reimburse the person for the cost of the confirmation test.

**Section 30.13. Refusing to Undergo Testing or Tampering with Sample:** Employees refusing to undergo testing according to the terms of this policy will be subject to disciplinary action up to and including termination. Adulteration of a specimen or of a drug and/or alcohol test will be considered as a refusal to undergo a test and will result in disciplinary action up through and including termination of employment.

**Section 30.14. Review Officer:** The City will contract with a Review Officer who will receive confirmed positive test results from the testing facility and evaluate those results in conjunction with the subject employee and/or applicant. The Review Officer will be qualified by the Board of Health to receive, interpret and evaluate the test results. Upon receiving a confirmed positive test result, the Review Officer will contact the applicant or employee prior to notification of City officials. The applicant or employee will be given the opportunity to explain the test results.

**Section 30.15. Confidentiality:** The City will treat all test, and all information related to such test, as confidential materials. All records relating to drug testing will be kept separated from personnel records. The records are the property of the City but will be made available to the affected applicant or employee for inspection and copying upon request and will also be available for review by the City's Review Officer. Except as set forth below, the records will not be released to any person other than the applicant or the employee without that person's express written permission. However, the City may release the records:

- a. to comply with a valid judicial or administrative order;
- b. as admissible evidence in a case or proceeding before a court of record or administrative agency if the employee or the City is named as a party in the case or proceeding; or
- c. to employees or agents of the City who need access to the records in connection with the administration of this Policy and the Oklahoma Standards for Workplace Drug and Alcohol Testing Act.

**Section 30.16. Disciplinary Action:** The City may elect to take disciplinary action, up to and including termination of employment, against an employee who: 1) tests positive for drugs and/or alcohol; 2) refused to test under this policy; or 3) adulterates a specimen for a drug or alcohol test. Action taken will be subject to the CBA grievance procedure.

a. Employees who approach the City 1 hour before any testing begins may ask for referral to the Employee Assistance Program and a chance to enter a rehabilitation program. Continued employment will be contingent upon the successful completion of a rehabilitation program and an agreement to undergo periodic drug and/or alcohol post-rehabilitation testing for up to 2 years. .

b. Employees who have been offered the opportunity to participate in a rehabilitation program will not be allowed to return to work until they can provide a verified negative "return to work" test from a City-approved facility. An employee may be allowed a maximum of 12 weeks to provide a verified negative "return to work" drug or alcohol test. If a negative test is not provided within 12 weeks, the employee will be terminated from employment. Until a negative "return to work" test is supplied, the employee will be on leave without pay. However, an employee may request permission to use accrued sick leave and vacation leave. An employee may request a "return to work" test no sooner than 2 weeks from a positive test result, and subsequently every other week thereafter, until a negative "return to work" test is obtained. Employees refusing to seek help or submit to testing in accordance with this policy will be subject to disciplinary action.

c. Any future recurrence of abuse with the same or any other substance will result in termination of employment.

d. An employee who is discharged from employment on the basis of refusal to undergo drug and/or alcohol testing or based on a positive drug and/or alcohol test will be considered as having been discharged for misconduct for the purpose of unemployment compensation and the City will protest any application for unemployment benefits.

**Section 30.17. Prohibitions:** No employee may report for duty within 4 hours after using alcohol or remain on duty while having an alcohol concentration of 0.04 or greater, and no supervisor will permit any employee to perform any work duties if the supervisor is aware the employee has an alcohol concentration of 0.04 or greater. No employee will be on duty or operate a City vehicle/equipment or perform job duties while in possession of alcohol or use alcohol during duty time. Further, no employee may report for duty, drive a City-owned vehicle, operate City equipment or remain on duty when the employee has used any controlled substance, except when the use is pursuant to the instructions of a physician and where the physician has advised an employee the substance will not adversely affect an employee's ability to drive a vehicle or operate equipment. No supervisor having knowledge that an employee has used a controlled substance may permit an employee to be on duty or drive/operate any City vehicle or equipment.

**Section 30.18. Responsibilities of Individuals:** To comply with the provisions of this policy, each employee assumes the following responsibilities:

**a. Working Under the Influence of Performance Impairing Medication:** Employees who have been prescribed legal medications that might affect the safe performance of their duties are required to notify their supervisors prior to starting work.

**b. Reporting to Work or Working While Impaired:** Employees may not report to work and may not continue to work while impaired by any restricted substance identified in this policy.

**c. Reporting Violations:** The services provided by certain employees are performed at times under hazardous and dangerous conditions. Thus, employees are encouraged to come forward and report any violation of this policy to management. This information may be instrumental in the prevention of serious accidents and injuries on the job.

FOR ADDITIONAL INFORMATION REGARDING THE SPECIFICS OF STATE AND FEDERAL LAW AND DEPARTMENT OF HEALTH REGULATIONS PERTAINING TO DRUG TESTING, AS WELL AS THE CITY'S OBLIGATIONS FOR REPORTING, PLEASE CONSULT THE HUMAN RESOURCES OFFICE.

IN WITNESS WHEREOF, the parties have set their hands this 24<sup>th</sup> day of June, 2014.

FOR THE CITY OF SHAWNEE, OKLAHOMA  
A Municipal Corporation



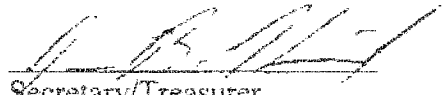
City Manager Brian McDougal

City Clerk Phyllis Loftis

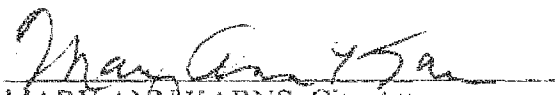
FOR THE INTERNATIONAL ASSOCIATION OF  
FIREFIGHTERS, LOCAL NO. 206

President  
Brenden Sheppard

ATTEST:

  
Secretary/Treasurer  
James Kriwanek

APPROVED AS TO FORM AND LEGALITY THE 25 DAY OF June 2014.

  
MARY ANN KARNs, City Attorney

IN WITNESS THEREOF, the parties have set their hands this \_\_\_\_\_ day of February, 2016.

FOR THE CITY OF SHAWNEE, OKLAHOMA  
A Municipal Corporation

\_\_\_\_\_  
City Manager, Justin Erickson

(SEAL)

\_\_\_\_\_  
City Clerk Phyllis Loftis

FOR THE INTERNATIONAL ASSOCIATION OF  
FIREFIGHTERS, LOCAL NO. 206

  
\_\_\_\_\_  
President  
Colt Forsythe

ATTEST:

  
\_\_\_\_\_  
Secretary-Treasurer  
Richard Stevenson

APPROVED AS TO FORM AND LEGALITY THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2016.

\_\_\_\_\_  
MARY ANN KARNS, City Attorney

**APPENDIX A**  
**EFFECTIVE July 1, 2014**

|                         |      |       | 2     | 3     | 4     | 5     | 6     |
|-------------------------|------|-------|-------|-------|-------|-------|-------|
|                         | 01F  | 11.86 | 12.47 | 13.14 | 13.83 | 14.54 | 15.31 |
| Firefighter             |      |       |       |       |       |       |       |
| Lieutenant              | 11F  |       | 14.78 | 15.55 | 16.36 | 17.22 | 18.09 |
|                         |      |       |       |       |       |       |       |
| Captain                 | 21F  |       | 17.67 | 18.63 | 19.57 | 20.62 | 21.74 |
| Battalion Chief         | 31F  |       | 19.57 | 20.58 | 21.67 | 22.80 | 23.99 |
|                         |      |       |       |       |       |       |       |
| Deputy Fire<br>Marshal  | 21-D |       | 26.01 | 27.42 | 28.84 | 30.35 | 31.99 |
|                         |      |       |       |       |       |       |       |
| Fire Marshal            | 31-D |       | 28.72 | 30.29 | 31.90 | 33.57 | 35.32 |
|                         |      |       |       |       |       |       |       |
| Training Officer        | 31-D |       | 28.72 | 30.29 | 31.90 | 33.57 | 35.32 |
|                         |      |       |       |       |       |       |       |
| Emergency<br>Management | 31-D |       | 28.72 | 30.29 | 31.90 | 33.57 | 35.32 |

**APPENDIX B**  
**EFFECTIVE July 1, 2015**

|                      |      | 1     | 2     | 3     | 4     | 5     | 6     | 7*    |
|----------------------|------|-------|-------|-------|-------|-------|-------|-------|
| Firefighter          | 01F  | 11.86 | 12.47 | 13.14 | 13.83 | 14.54 | 15.31 | 15.85 |
| Lieutenant           | 11F  |       | 14.78 | 15.55 | 16.36 | 17.22 | 18.09 | 18.72 |
| Captain              | 21F  |       | 17.67 | 18.63 | 19.57 | 20.62 | 21.74 | 22.50 |
| Battalion Chief      | 31F  |       | 19.57 | 20.58 | 21.67 | 22.80 | 23.99 | 24.83 |
| Deputy Fire Marshall | 21-D |       | 26.01 | 27.42 | 28.84 | 30.35 | 31.99 | 33.11 |
| Fire Marshal         | 31-D |       | 28.72 | 30.29 | 31.90 | 33.57 | 35.32 | 36.56 |
| Training Officer     | 31-D |       | 28.72 | 30.29 | 31.90 | 33.57 | 35.32 | 36.56 |
| Emergency Management | 31-D |       | 28.72 | 30.29 | 31.90 | 33.57 | 35.32 | 36.56 |

\*Step 7 is effective 1/1/2016 for those employees who have been maxed at step 6 for at least one year.

# MEMORANDUM OF UNDERSTANDING

BETWEEN

CITY OF SHAWNEE

AND

IAFF Local 206

1. The parties are in negotiations for a CBA for FY 16. They have reached agreement on the issue of the City's contribution to insurance premiums. For FY 16 the City will pay

\$378.68 per month for employee only

\$707.38 per month for employee and spouse

\$662.88 per month for employee and child(ren)

\$912.04 per month for employee and family

2. The issue of wages is not resolved while the parties await additional financial information.

3. The parties desire to implement the insurance provisions for the July, 2015 premium payments.

4. The parties agree to this memorandum of understanding to address only the issue of insurance premium payments.

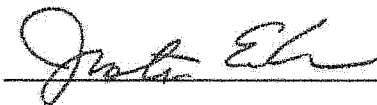
5. Neither party relinquishes the right to continue to bargain on the remaining issues that may exist. When a contract is reached, this MOU shall be incorporated in the CBA language.

6. This MOU has no precedential value, and is for the limited purposes stated.

Date: 6-19-15

City of Shawnee

IAFF Local 206



Justin Erickson, City Manager



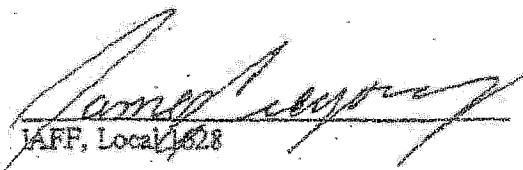
Brenden Shepherd, President

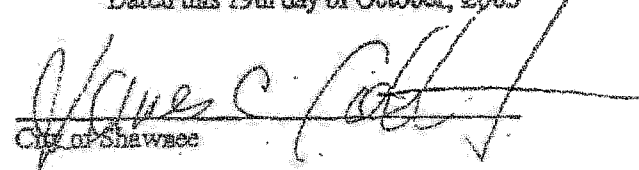
## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is entered into this 19th day of October, 2005, by and between the City of Shawnee and the International Association of Fire Fighters, Local 1628 in connection with the resolution of an issue which arose during the course of good faith bargaining for a collective bargaining agreement for FY 2005-2006.

1. The City and Local 1628 agree that the parties are governed by the provisions of the Oklahoma Fire and Police Arbitration Act, 11 O.S. §51-101 et seq., in connection with bargaining for a CBA.
2. Section 51-109 of the FPPA sets forth the factors that are to be considered by the Arbitrators in connection with a determination of which last best offer should be adopted as the proposed contract for a given fiscal year in the event that the parties are unable to reach an amicable resolution on a contract. Among other factors, Section 51-109 provides that the Arbitrators are to consider the wage rates and other monetary benefits of the City in comparison with the wage rates and monetary benefits of other cities of comparison size and status as well as cities in the local operating area.
3. In order to assist the parties in bargaining, the parties have agreed to utilize a "market approach" for the wage and monetary benefits comparisons set forth above. Specifically, the parties have agreed that the universe of cities to be used in the comparisons are: Altus, Ardmore, Bartlesville, Bethany, Del City, Duncan, Edmond, Midwest City, Muskogee, Nichols Hills, Norman, Ponca City, Stillwater, The Village, Warr Acres and Yukon. The parties acknowledge that they may mutually agree, in writing to amend, restrict or increase the universe of cities in the future.
4. Subsection 4 of Section 51-109 provides that a factor to be considered by the Arbitrators is "revenues available." The parties to this agreement understand that the fact that they have agreed to utilize a market approach does not mean that the City is required to immediately fund to a particular level and that implementation of the market approach in the future is subject to revenues available and the City's ability to pay.

Dated this 19th day of October, 2005

  
IAFF, Local 1628

  
City of Shawnee

**WAGE CONVERSION WORKSHEET**  
**Line Personnel – Day Personnel**

- 365 days in a year X 24 hours in a day = 8760 hours a year
- 8760 hours / 3 shifts = An average of 2920 hours per shift (Green, Red, and Blue)
- Average 11.3 pay periods per shift per year @ 120 hours;  
 $120 - 106 = 14$  hours overtime x 11.33 pay periods = 158.62 hours overtime
- Average 3.3 pay periods per shift per year @ 144 hours;  
 $144 - 106 = 38$  hours overtime x 3.33 pay periods = 126.54
- $158.62 + 126.54 = \underline{285.16}$  total average overtime per shift per year
- $285.16 / 2 = \underline{142.58}$  add to annual hours @ straight time
- $2920 + 142.58 = \underline{3062.58}$  total annual hours.
  
- 2080 annual day hours
- 3062 annual line hours
  
- $2080 / 3062 = \underline{.6793}$  conversion factor

**CONVERSION FACTOR**  
**.6793**

Example:

Line personnel receive a \$0.40 / hour increase;  
 $.40 / .6793 = .5888$  or \$0.59 / hour increase for day personnel

Day personnel receive a \$1.10 / hour increase;  
 $1.10 \times .6793 = .75$  or \$0.75 / hour increase for line personnel

#2  
Mayor  
WES MAINORD



**The City of Shawnee**  
*Office of the City Manager*

P.O. Box 1448  
Shawnee, Oklahoma 74802-1448  
(405) 878-1601 Fax (405) 214-4249  
[www.ShawneeOK.org](http://www.ShawneeOK.org)

**Commissioners**  
GARY VOGEL  
LINDA AGEE  
JAMES HARROD  
KEITH HALL  
LESA SHAW  
MICHEAL DYKSTRA

November 17, 2014

Brenden Sheppard  
President  
IAFF, Local 206

**Hand Delivered**

Dear Mr. Sheppard:

On September 8, 2014, Interim Fire Chief Dru Tischer issued new SOG's regarding the use of the "2 hour slot" contained in Article X, Section 10.05 of the Collective Bargaining Agreement.

On September 15, 2014, IAFF Local 206 filed a grievance.

In order to resolve the issues around the grievance, the City of Shawnee and Local 206 agree as follows:

1. The slot can be scheduled thirty days in advance, as all other leave, as long as Department is above minimum manning.
2. This is a fourth calendar slot to be used (1) one to (4) four hours.
3. There is to be only one use per shift.
4. There will be no "stacking".
5. There will be no transfer of the slot to another member.
6. There will be no exchange time.
7. Any necessary leave cancellation will be handled the same as other leave in accordance with Section 10.03 of the CBA and SFD SOG #A.0011.

Sincerely,

  
Brian McDougal  
City Manager  
City of Shawnee

**Regular Board of Commissioners**

**1. f.**

Meeting Date: 02/16/2016

OMRF Karns

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

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**Information**

Title of Item for Agenda

Acknowledge Oklahoma Municipal Retirement Fund normal Retirement for Mary Ann Karns.

---

**Attachments**

*No file(s) attached.*

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**Regular Board of Commissioners**

**1. g.**

Meeting Date: 02/16/2016

WC Settlement Couch

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

---

**Information**

Title of Item for Agenda

Acknowledge Workers Compensation Settlement – Fred Couch

---

**Attachments**

WC Memo

---

**Mayor**  
WES MAINORD



## **The City of Shawnee**

PO Box 1448  
Shawnee Oklahoma 74802-1448  
(405) 273-1250 Fax (405) 878-  
1581

[www.ShawneeOK.org](http://www.ShawneeOK.org)

## **Commissioners**

WARD 1- VACANT  
WARD 2- LINDA AGEE  
WARD 3- JAMES HARROD  
WARD 4- KEITH HALL  
WARD 5- LESA SHAW  
WARD 6- MICHAEL DYKSTRA

**From: Terry Cook**

### **Worker's Compensation: Summary Information**

|                                         |                                                                                                                                                                                                                                                             |
|-----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Date:</b>                            | 1/28/16                                                                                                                                                                                                                                                     |
| <b>Employee Name:</b>                   | Fred Couch                                                                                                                                                                                                                                                  |
| <b>Date of Hire:</b>                    | 1/10/2000                                                                                                                                                                                                                                                   |
| <b>Injury Date:</b>                     | 6/30/2014                                                                                                                                                                                                                                                   |
| <b>Position Held at Time of Injury:</b> | Lead Meter Reader                                                                                                                                                                                                                                           |
| <b>Type of Injury:</b>                  | <b>Heat Exhaustion</b>                                                                                                                                                                                                                                      |
| <b>Amount of Order:</b>                 | \$6,000.00                                                                                                                                                                                                                                                  |
| <b>Type of Payment:</b>                 | Joint Petition                                                                                                                                                                                                                                              |
| <b>Recommendation:</b>                  | <b>I recommend we accept this offer because the employee agreed to this settlement in the form of a Joint Petition Settlement. This will close the case for good on his injuries and all others known or unknown with no possibility of future medical.</b> |
| <b>Respondent Payments:</b>             | <p>\$ 140.00<br/>\$ 45.00 Safety Fund Tax (.75%)<br/>\$ 123.00 Workers' Compensation<br/>Administration Fund Fee (2%)</p>                                                                                                                                   |

**Regular Board of Commissioners**

**1. h.**

Meeting Date: 02/16/2016

McLoud Dispatch

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

---

**Information**

Title of Item for Agenda

Approve renewal of existing contract with changes and approved by the Commission for FY 2015-2016:

(1) Contract with the City of McLoud for dispatch services.

---

**Attachments**

McLoud Dispatch Contract

---

## **City of Shawnee – City of McLoud Dispatch Agreement**

This Agreement made and entered into by and between the City of Shawnee (hereinafter "Shawnee") and the **City of McLoud** (hereinafter "McLoud") this \_\_\_\_ day of \_\_\_\_\_, 2016.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows, to wit:

1. Shawnee agrees to dispatch McLoud Police and Fire Department on all calls received by the PUBLIC SERVICE ANSWERING POINT (PSAP) that have Emergency Service Numbers (ESNs) in its assigned jurisdiction. Shawnee shall monitor and dispatch radio traffic utilizing the primary 800 MHz McLoud Police Department Channel and the McLoud Fire Department Channel. The City of Shawnee dispatch will maintain a radio frequency dedicated to McLoud Police and will continually man the frequency with a dispatcher.
2. Shawnee shall text, and tone the Fire Department using the McLoud Fire Department channel to notify firefighters for EMS or fire calls in the McLoud Fire District. Shawnee will also conduct morning alarm and radio tests.
3. Shawnee agrees, subject to such policies and procedures as shall be established, to receive and dispatch the designated on call Utility representative for McLoud Utility emergency calls, and answer the McLoud 10 digit non-emergency lines on weekends, holidays and between the hours of 5 p.m. and 8:30 a.m. on such lines as are routed or otherwise rolled over to the Shawnee PSAP.
4. Provided the line(s) can be rolled over to the Shawnee PSAP, Shawnee agrees to monitor the Sensaphone alarm for the Mabel Bassett Prison water system and dispatch the on call McLoud Utility designee.
5. Shawnee shall loan McLoud 11 portable 800 MHz radios for use by the McLoud police officers/ and shall provide radio programming support as needed, to include rebanding, and other system programming issues that arise. McLoud shall be responsible for the loss, damage or destruction of such radios, and shall provide a log describing the officer to which each radio is assigned. The loan will be for two (2) years. Should the contract terminate all radios will be returned to the City of Shawnee immediately.

6. Shawnee shall provide access to its GEOSAFE software for use by the McCloud Police. McCloud shall be responsible for providing the necessary hardware for such software.
7. Shawnee shall provide OLETS, Triple I and OSBI information to authorized persons, and provide CAD logs and telephone/radio recordings as reasonably requested.
8. McCloud shall provide a list of rotating wrecker services operating in McCloud.
9. McCloud and Shawnee shall each provide and update as necessary a roster of contact names, titles and phone numbers for emergency contact for each of the services provided herein.
10. It is agreed that the City of Shawnee Dispatch Center shall activate the outdoor warning devices (sirens) for the City of McCloud upon the following conditions being present:

a. Tornadoic weather conditions directly affecting the area:

Devices shall be activated in the Tornado/Attention/Alert mode upon notification from a credible source that:

1. The National Weather Service has issued a Tornado Warning for McCloud for a storm located near or moving towards the city limits.
2. Trained, credible spotters for either Emergency Management or the media report a tornado, funnel, or rotating wall cloud located near or moving toward the city limits of McCloud.

b. Other emergency or disaster situations when warranted at the discretion of the McCloud Emergency Management Director

When hazardous materials incidents or other events exist, that in the opinion of the McCloud Emergency Management Director warrant activation of the siren system, activation of the Tornado/Attention/Alert mode shall be used.

c. Warning of an Enemy Attack upon the United States

Upon notification from the Oklahoma Highway Patrol, State Emergency Operations Center, Pottawatomie County Sheriff's Office, or other credible warning point listed in the State Warning Plan that an attack warning has been issued for Pottawatomie County, the devices shall be immediately activated in the Attack mode.

d. Process of Testing Devices

It is agreed that the City of Shawnee Dispatch Center shall activate the devices in the Tornado/Attention/Alert mode for testing purposes each Saturday at 12:00 P.M. (Noon) unless the weather is inclement, the sky is overcast, or for other reasons as determined by the McCloud Emergency Management Director. It is the duty and responsibility of the McCloud Emergency Management Director to notify the Shawnee Dispatch Center of the cancellation of a regular Saturday test. Additional testing may be needed at other times as authorized by the McCloud Emergency Management Director.

e. Costs for Maintenance and Operation of Devices

It is agreed that the City of McCloud is responsible for costs associated with the maintenance and operation of the outdoor warning devices.

11. **In consideration** for the services to be provided, **McCloud** agrees to pay Shawnee the sum of **\$3,000.00** per month payable by the 15<sup>th</sup> of each month. The first payment shall include payment of \$18,000 for past due amount from July 1 – January 31, 2015, plus any additional accrued months past January 31 at a rate of \$3,000 per month. Any past due amounts previous to July 1, 2015 shall be paid at the prior contracted amount.
12. The parties specifically agree and understand that the appropriate representatives of the parties shall be required to develop and adopt such policies, procedures, rules, regulations and guidelines as shall be necessary to carry this agreement into effect. To the extent possible, McCloud agrees to adopt or adapt its policies and procedures to align with the policies and procedures of Shawnee.
13. The parties agree that they shall execute and deliver such additional agreements, documents and writings as shall be necessary to effectuate the terms and conditions of this agreement.
14. **The term** of this Agreement shall be for a period of twelve (12) months commencing on July 1, 2015 and ending June 30, 2016:
  - (a) This Agreement shall be renewed automatically by Shawnee and McCloud for a successive twelve (12) month period commencing July 1, 2016 and ending June 30, 2017 unless either party gives the other 30 days' notice prior to the end of the applicable term. Should either

party choose to terminate this agreement all equipment will be returned to the appropriate parties.

(b) The time periods stated in this Agreement shall not be construed to violate applicable state law concerning contracting beyond the applicable fiscal years of the respective parties; and

15. This Agreement represents the whole of the agreement between the parties and may not be altered or amended except in writing signed and executed by both parties. There are no other agreements, oral or written, precedent or contemporaneous, between the parties.

16. This Agreement is entered into for good and sufficient consideration and both parties have executed the same of their own free will and for their mutual benefit and by the execution of their signatures hereto represent that the consideration is sufficient to bind them during the term of this Agreement. This Agreement shall be enforced under the laws of the State of Oklahoma;

17. The invalidity or ineffectiveness for any reason of any one or more words, phrases, clauses, paragraphs, subsections sections hereof this instrument shall not affect the remaining portions hereof so long as such remaining portions shall constitute a rational instrument.

18. The provisions of this Agreement hereof shall be binding upon the undersigned, their successors.

**IN WITNESS WHEREOF**, the parties have hereunto executed this Agreement on the \_\_\_\_ day of \_\_\_\_\_, 2016.

By: \_\_\_\_\_  
Wes Mainord, Mayor

ATTEST: By: \_\_\_\_\_  
Phyllis Loftis, CMC, City Clerk  
(SEAL)

By \_\_\_\_\_  
Mayor of McCloud

ATTEST: By: \_\_\_\_\_  
Clerk of McCloud

Approved as to form and legality the \_\_\_\_ day of \_\_\_\_\_, 2016

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Mary Ann Karns, City Attorney

n:\attorney\police dept\mcloud dispatch agreement\mcloud-shawnee dispatch agreement finalfinal.doc

**Regular Board of Commissioners**

**1. i.**

Meeting Date: 02/16/2016

Lake Leases

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

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Information

Title of Item for Agenda

Lake Lease Renewals/Transfers:

**RENEWALS:**

Lot 13 Johnston Tract, 16624 Stevens Rd.

Lessees: Teresa Burton and Warren Mesner

**TRANSFERS:**

Lot 10 Magnino A Tract, 17236 Magnino Rd.

From: Alene Topping

To: Derek and Karla Baptiste

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Attachments

Lake Lease Burton

Lake Lease Baptiste

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**City of Shawnee**  
**Community Development Department**  
222 N. Broadway  
Shawnee, OK 74801  
(405) 878-1665 Fax (405) 878-1587  
[www.ShawneeOK.org](http://www.ShawneeOK.org)

**SHAWNEE TWIN LAKES CABIN SITE LEASES  
SUMMARY/INSPECTION REPORT – FOR RENEWALS/TRANSFERS**

|                                                              |                                                                                                     |                            |
|--------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|----------------------------|
| <b>Date</b>                                                  | 02/01/2016                                                                                          | <b>License No. #019591</b> |
| <b>Type</b>                                                  | <input checked="" type="checkbox"/> Renewal <input type="checkbox"/> Transfer <i>(Fee: \$1,000)</i> |                            |
| <b>Commission Meeting Date</b>                               | February 16 <sup>th</sup> , 2016                                                                    |                            |
| <b>Property Address</b>                                      | 16624 STEVENS RD                                                                                    |                            |
| <b>Lake Site Location</b>                                    | LOT 13 JOHNSTON TRACT                                                                               |                            |
| <b>Lease Dates</b>                                           | 02/01/2016 – 02/01/2046                                                                             |                            |
| <b>Lease Fee (changes annually)</b>                          | \$662.00                                                                                            |                            |
| <b>Inspection Fee</b>                                        | \$75.00    Applicable: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No          |                            |
| <b>Lessee (Transfer To)</b>                                  |                                                                                                     |                            |
| <b>Name(s)</b>                                               | TERESA BURTON & WARREN MESNER                                                                       |                            |
| <b>Address</b>                                               | SEE FILE                                                                                            |                            |
| <b>Phone</b>                                                 |                                                                                                     |                            |
| <b>Current Lessee (Transfer From)</b> <i>(if applicable)</i> |                                                                                                     |                            |
| <b>Name(s)</b>                                               | TERESA BURTON                                                                                       |                            |
| <b>Address</b>                                               | SEE FILE                                                                                            |                            |
| <b>Phone</b>                                                 |                                                                                                     |                            |
| <b>Inspection Information</b>                                |                                                                                                     |                            |
| <b>Inspection Required</b>                                   | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No                                 |                            |
| <b>DEQ Report on File</b>                                    | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No                                 |                            |
| <b>Type of Septic System</b>                                 | <input checked="" type="checkbox"/> Conventional <input type="checkbox"/> Aerobic                   |                            |
| <b>Last Inspected/Pumped</b>                                 | 10/02/2012                                                                                          |                            |
| <b>Misc. Comments</b>                                        |                                                                                                     |                            |
| <b>Total Charges Paid: \$662.00</b>                          |                                                                                                     |                            |

**PLEASE READ CAREFULLY**

THIS LEASE IS NOT TRANSFERABLE AND IS SUBJECT TO CANCELLATION BY THE CITY FOR ANY VIOLATIONS OF THE TERMS THEREOF AS MORE SPECIFICALLY SET FORTH IN SECTION 16-326 OF THE SHAWNEE MUNICIPAL CODE:

**CABIN SITE LEASE  
LEASE# 019591**

STATE OF OKLAHOMA, POTTAWATOMIE COUNTY, SS:

This Lease made and entered into in duplicate this date of February 15<sup>th</sup>, 2016 by and between the CITY OF SHAWNEE, a municipal Corporation, PARTY OF THE FIRST PART, and

TERESA BURTON  
of 1309 WASHINGTON BEATRICE NEBRASKA OK 68310 ,  
WARREN MESNER  
of 16624 STEVENS RD SHAWNEE OK 748015737,  
PARTY OF THE SECOND PART.

WITNESSETH: That the first party in consideration of the sum of \$ 662.00 dollars for 2015, does hereby acknowledge receipt of the applicable rental fee, and other good and valuable considerations, does by these presents demise, lease and let unto the second party the following described real estate situated on, and a part of the site, owned by the first party as a City Reservoir and known as Shawnee Twin Lake No. 1, in the County of Pottawatomie State of Oklahoma, to-wit:

**16624 STEVENS RD  
LOT 13 JOHNSTON TRACT**

TO HAVE AND TO HOLD SAME UNTO the second party for a term of thirty (30) years from the date hereof.

IT IS FURTHER mutually understood and agreed by and between the parties hereto as follows:

The said party of the second part shall and will and does hereby agree to pay to the first party annual lease payments as set forth in "Exhibit A", payable yearly in advance. The City shall retain the right to adjust the lease rate schedule at the termination of the original 30-year lease or at such time that a transfer is approved in accordance with Section 16-321 of the Shawnee Municipal Code (hereafter "SMC").

That at the expiration of the primary term hereof, the lessee shall have the right and option to renew said lease for an additional period of thirty (30) years under the terms and conditions set forth in Section 16-321 SMC. There is no limit to the number of times a lease can be renewed.

The premises of all lots leased by the City shall at all times be kept clean and maintained in a sanitary condition by the lessee. There is a 25-foot lakeshore buffer that extends landward of the ordinary high water mark on all leased lots for the purpose of watershed protection. This area shall not be used by the general public, except during an emergency situation. Within this buffer, leaseholders are encouraged to preserve existing native vegetation. Docks and other approved structures may be located within the buffer area. Fertilizers and other chemicals shall not be used within the buffer area. All other applicable City regulations and rules apply

That in addition to the possession of the property so leased, the lessee shall have the right and privilege of a site for a boat house and boat dock on the land owned by the City adjoining and immediately in front of a lot leased, which said boat house shall be erected and maintained by and at the cost of the lessee on ground not to exceed an area of thirty (30) feet by thirty (30) feet, which said boat house shall never be used as a place of human habitation, and which said boat house or boat dock shall conform to the provisions of Section 16-325 SMC, and that said boat dock or boat house shall be the private property of the lessee, who shall have the right of ingress and egress to and from the same, subject to the rights of the public as set forth herein. The lessee shall agree to keep said lot and boat house and dock in a clean and sanitary condition, and to maintain the same in a safe condition, and the City as lessor shall in no manner be liable to lessee for any damages suffered by lessee to said lot or boat house or dock, or the improvements thereon on account of the rise and fall of the water line of said lake, or for the enlargement or decrease by the City of the size of said lake, or on account of any rule or regulation that may hereafter be adopted by lessor, governing the regulations of said lake, and lessee agrees to hold the lessor free and harmless from all damages suffered by him or by any other person, on account of personal injuries or loss of property that may incur upon said lot, boat house or boat dock.

That the lessee agrees to lease the premises **AS IS** from the lessor with the knowledge and understanding that the lessor does not guarantee access to lots. Should the Lessee determine that an access road is necessary to reach his/her lot from a road already in existence, lessee agrees to use his/her own funds to create said access road. Lessee further agrees that upon access road completion it shall not be a private road, but rather, will be available for public use, including, but not limited to, allowing neighbor lots to connect to it to improve access to their lots or to allow joint access to bordering lots upon the one access road. The location of any access road to be constructed by the lessee must be approved by the City Engineer of the City of Shawnee prior to the beginning of construction.

That should the lessee construct any building or other structure, said construction will be in accordance to City of Shawnee development regulations. Lessee agrees that prior to commencing construction on any structure on the leased premises he/she will obtain an approved building permit from the City.

That lessee is solely responsible for determining the flood elevation on the leased premises and is required to satisfy lessor that prior to any construction on the leased premises the determination of the flood elevation has been done correctly and that any structure or building to be constructed on the leased premises be above the flood elevation. **LESSOR EXPRESSLY MAKES NO WARRANTIES OR REPRESENTATIONS AS TO SAFETY FROM FLOODING ON THE LEASED PREMISES AND LESSEE EXPRESSLY RELEASES THE LESSOR FROM ANY LIABILITY DUE TO FLOOD DAMAGE, BOTH PERSONAL AND PROPERTY, OCCURRING ON THE LEASED PREMISES FROM ANY CAUSE OR CONDITION.**

That all sanitary facilities to be constructed on the premises shall be wholly contained on the leased premises. Sanitary facilities, include, but are not limited to, septic tanks and lateral lines.

All septic systems and waste disposal systems on leased lake lots shall be inspected and subject the standards set forth in Chapter 16 SMC. The leaseholder shall have sixty (60) days to correct any defects found in the system. Corrections not made within the allotted time shall be grounds for the City to cancel the lease of the leaseholder.

That no lease shall be assigned or sublet, but lessee may at any time during the term of his/her lease, sell and transfer to other parties the improvements on the lot leased by him/her.

That in the event of the sale of the improvements by the lessee, the transfer shall not become effective until approved by the Board of Commissioners of the City of Shawnee at a regular or adjourned meeting held for that purpose and the City as lessor reserves the right to reject and disapprove any transfer when in its opinion it would be to the best interests of the City and its inhabitants to do so. If the transfer is approved, a new lease shall be entered into between the purchaser and the City, and a transfer charge is hereby fixed and established in the sum of one-thousand dollars (\$1000.00) to be paid to the City prior to said transfer in accordance with Section 16-322 SMC.

That the lessee shall be the owner of all improvements which may be placed by him or her, said improvements including cabins or other buildings and boat houses constitute personal property and lessee shall have the right to remove same from the lot at the termination of the lease, subject to the following: whenever a lease has been cancelled by the City as provided herein or by ordinance, the lessee or owner of said improvements shall remove the same within sixty (60) days of the date of the said cancellation of the lease and upon failure to do so, said improvements shall revert to and become the property of the City of Shawnee. And it shall have the right, without further notice or demand to take immediate possession of all said improvements and these will belong to the first party or its assigns, as liquidated damages for the non-fulfillment of the lease by lessee and for the use and rental thereof.

That the said second party does hereby release the City of Shawnee of any claim or claims for damages by reason of the cancellation of the said lease aforesaid.

That the second party shall at all times during the term of this lease be subject to and does hereby agree to abide by and conform to any rules, regulations or ordinances now in force, or that may hereafter be adopted by the City of Shawnee, governing the regulation of said lake and within the described premises, as to fishing, hunting, boating and other recreational activities upon and around said water reservoir, and to conform to and abide by all further rules, regulations and ordinances now in force, or that hereafter may be adopted by the City of Shawnee, Oklahoma, governing the regulations of said premises and lake.

The City Commission may upon a showing of intentional disregard for the terms of the lease and this division or other city ordinance pertaining to the lake, cancel the city lease upon 30 days notice to the lessee by mailing a copy of such notice to the lessee at his/her last known address. If a lease is cancelled either by the city or the lessee of a city-owned lot prior to the expiration of the lease term, the lessee shall pay the city an early termination fee of \$1,000 in exchange for a release of liability from the remaining term.

That this lease shall be binding upon the representatives, heirs, and assigns and successors in interest of the parties hereto.

It is understood by the parties hereto that a failure to comply with the terms of said Cabin Site Lease shall constitute a misdemeanor and any person, firm, or corporation convicted of such violation shall be punished by a fine not exceeding five hundred dollars (\$500.00) plus costs, or imprisonment for a term not exceeding thirty (30) days, or by such fine and imprisonment.

IN WITNESS WHEREOF, party of the first part has caused its name to be affixed hereto by the Mayor of the City of Shawnee, Oklahoma, and attested by the City Clerk, and the party of the second part hereunto affixed his/her name the day and year first above written.

CITY OF SHAWNEE, OKLAHOMA  
A Municipal Corporation,

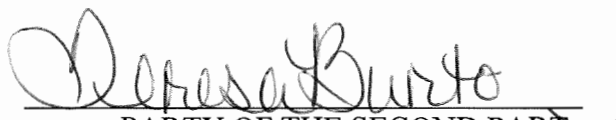
BY: \_\_\_\_\_

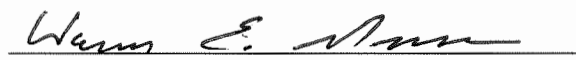
MAYOR

PARTY OF THE FIRST PART

ATTEST:

\_\_\_\_\_  
CITY CLERK

  
PARTY OF THE SECOND PART

  
PARTY OF THE SECOND PART



**City of Shawnee**  
**Community Development Department**  
222 N. Broadway  
Shawnee, OK 74801  
(405) 878-1665 Fax (405) 878-1587  
[www.ShawneeOK.org](http://www.ShawneeOK.org)

**SHAWNEE TWIN LAKES CABIN SITE LEASES**  
**SUMMARY/INSPECTION REPORT – FOR RENEWALS/TRANSFERS**

|                                                                                                 |                                                                                              |                            |
|-------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|----------------------------|
| <b>Date</b>                                                                                     | 02/04/2016                                                                                   | <b>License No. #028509</b> |
| <b>Type</b>                                                                                     | <input type="checkbox"/> Renewal <input checked="" type="checkbox"/> Transfer (Fee: \$1,000) |                            |
| <b>Commission Meeting Date</b>                                                                  | February 16 <sup>th</sup> , 2016                                                             |                            |
| <b>Property Address</b>                                                                         | 17236 MAGNINO RD.                                                                            |                            |
| <b>Lake Site Location</b>                                                                       | LOT 10 MAGNINO A TRACT                                                                       |                            |
| <b>Lease Dates</b>                                                                              | 02/16/2016 – 02/16/2046                                                                      |                            |
| <b>Lease Fee (changes annually)</b>                                                             | \$676.00                                                                                     |                            |
| <b>Inspection Fee</b>                                                                           | \$75.00    Applicable: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No   |                            |
| <b>Lessee (Transfer To)</b>                                                                     |                                                                                              |                            |
| <b>Name(s)</b>                                                                                  | DEREK & KARLA BAPTISTE                                                                       |                            |
| <b>Address</b>                                                                                  | 30602 HARDESTY RD<br>MCLOUD, OK 74851                                                        |                            |
| <b>Phone</b>                                                                                    | 405-570-8348                                                                                 |                            |
| <b>Current Lessee (Transfer From)</b> <span style="float: right;"><i>(if applicable)</i></span> |                                                                                              |                            |
| <b>Name(s)</b>                                                                                  | ALENE TOPPING                                                                                |                            |
| <b>Address</b>                                                                                  | 17236 MAGNINO RD<br>SHAWNEE, OK 74804                                                        |                            |
| <b>Phone</b>                                                                                    | 405-613-5987                                                                                 |                            |
| <b>Inspection Information</b>                                                                   |                                                                                              |                            |
| <b>Inspection Required</b>                                                                      | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No                          |                            |
| <b>DEQ Report on File</b>                                                                       | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No                          |                            |
| <b>Type of Septic System</b>                                                                    | <input checked="" type="checkbox"/> Conventional <input type="checkbox"/> Aerobic            |                            |
| <b>Last Inspected/Pumped</b>                                                                    | 07/02/2012                                                                                   |                            |
| <b>Misc. Comments</b>                                                                           |                                                                                              |                            |
| <b>Total Charges Paid: \$1,676.00</b>                                                           |                                                                                              |                            |

**PLEASE READ CAREFULLY**

THIS LEASE IS NOT TRANSFERABLE AND IS SUBJECT TO CANCELLATION BY THE CITY FOR ANY VIOLATIONS OF THE TERMS THEREOF AS MORE SPECIFICALLY SET FORTH IN SECTION 16-326 OF THE SHAWNEE MUNICIPAL CODE:

**CABIN SITE LEASE  
LEASE# 028509**

STATE OF OKLAHOMA, POTTAWATOMIE COUNTY, SS:

This Lease made and entered into in duplicate this date of February 16<sup>th</sup>, 2016 by and between the CITY OF SHAWNEE, a municipal Corporation, PARTY OF THE FIRST PART, and

DEREK BAPTISTE  
of 30602 HARDESTY RD MCLOUD OK 74851 ,  
KARLA BAPTISTE  
of 30602 HARDESTY RD MCLOUD OK 74851,  
PARTY OF THE SECOND PART.

WITNESSETH: That the first party in consideration of the sum of \$ 676.00 dollars for 2016, does hereby acknowledge receipt of the applicable rental fee, and other good and valuable considerations, does by these presents demise, lease and let unto the second party the following described real estate situated on, and a part of the site, owned by the first party as a City Reservoir and known as Shawnee Twin Lake No. 1, in the County of Pottawatomie State of Oklahoma, to-wit:

**17236 MAGNINO RD  
LOT 10 MAGNINO A TRACT**

TO HAVE AND TO HOLD SAME UNTO the second party for a term of thirty (30) years from the date hereof.

IT IS FURTHER mutually understood and agreed by and between the parties hereto as follows:

The said party of the second part shall and will and does hereby agree to pay to the first party annual lease payments as set forth in "Exhibit A", payable yearly in advance. The City shall retain the right to adjust the lease rate schedule at the termination of the original 30-year lease or at such time that a transfer is approved in accordance with Section 16-321 of the Shawnee Municipal Code (hereafter "SMC").

That at the expiration of the primary term hereof, the lessee shall have the right and option to renew said lease for an additional period of thirty (30) years under the terms and conditions set forth in Section 16-321 SMC. There is no limit to the number of times a lease can be renewed.

The premises of all lots leased by the City shall at all times be kept clean and maintained in a sanitary condition by the lessee. There is a 25-foot lakeshore buffer that extends landward of the ordinary high water mark on all leased lots for the purpose of watershed protection. This area shall not be used by the general public, except during an emergency situation. Within this buffer, leaseholders are encouraged to preserve existing native vegetation. Docks and other approved structures may be located within the buffer area. Fertilizers and other chemicals shall not be used within the buffer area. All other applicable City regulations and rules apply

That in addition to the possession of the property so leased, the lessee shall have the right and privilege of a site for a boat house and boat dock on the land owned by the City adjoining and immediately in front of a lot leased, which said boat house shall be erected and maintained by and at the cost of the lessee on ground not to exceed an area of thirty (30) feet by thirty (30) feet, which said boat house shall never be used as a place of human habitation, and which said boat house or boat dock shall conform to the provisions of Section 16-325 SMC, and that said boat dock or boat house shall be the private property of the lessee, who shall have the right of ingress and egress to and from the same, subject to the rights of the public as set forth herein. The lessee shall agree to keep said lot and boat house and dock in a clean and sanitary condition, and to maintain the same in a safe condition, and the City as lessor shall in no manner be liable to lessee for any damages suffered by lessee to said lot or boat house or dock, or the improvements thereon on account of the rise and fall of the water line of said lake, or for the enlargement or decrease by the City of the size of said lake, or on account of any rule or regulation that may hereafter be adopted by lessor, governing the regulations of said lake, and lessee agrees to hold the lessor free and harmless from all damages suffered by him or by any other person, on account of personal injuries or loss of property that may incur upon said lot, boat house or boat dock.

That the lessee agrees to lease the premises **AS IS** from the lessor with the knowledge and understanding that the lessor does not guarantee access to lots. Should the Lessee determine that an access road is necessary to reach his/her lot from a road already in existence, lessee agrees to use his/her own funds to create said access road. Lessee further agrees that upon access road completion it shall not be a private road, but rather, will be available for public use, including, but not limited to, allowing neighbor lots to connect to it to improve access to their lots or to allow joint access to bordering lots upon the one access road. The location of any access road to be constructed by the lessee must be approved by the City Engineer of the City of Shawnee prior to the beginning of construction.

That should the lessee construct any building or other structure, said construction will be in accordance to City of Shawnee development regulations. Lessee agrees that prior to commencing construction on any structure on the leased premises he/she will obtain an approved building permit from the City.

That lessee is solely responsible for determining the flood elevation on the leased premises and is required to satisfy lessor that prior to any construction on the leased premises the determination of the flood elevation has been done correctly and that any structure or building to be constructed on the leased premises be above the flood elevation. **LESSOR EXPRESSLY MAKES NO WARRANTIES OR REPRESENTATIONS AS TO SAFETY FROM FLOODING ON THE LEASED PREMISES AND LESSEE EXPRESSLY RELEASES THE LESSOR FROM ANY LIABILITY DUE TO FLOOD DAMAGE, BOTH PERSONAL AND PROPERTY, OCCURRING ON THE LEASED PREMISES FROM ANY CAUSE OR CONDITION.**

That all sanitary facilities to be constructed on the premises shall be wholly contained on the leased premises. Sanitary facilities, include, but are not limited to, septic tanks and lateral lines.

All septic systems and waste disposal systems on leased lake lots shall be inspected and subject the standards set forth in Chapter 16 SMC. The leaseholder shall have sixty (60) days to correct any defects found in the system. Corrections not made within the allotted time shall be grounds for the City to cancel the lease of the leaseholder.

That no lease shall be assigned or sublet, but lessee may at any time during the term of his/her lease, sell and transfer to other parties the improvements on the lot leased by him/her.

That in the event of the sale of the improvements by the lessee, the transfer shall not become effective until approved by the Board of Commissioners of the City of Shawnee at a regular or adjourned meeting held for that purpose and the City as lessor reserves the right to reject and disapprove any transfer when in its opinion it would be to the best interests of the City and its inhabitants to do so. If the transfer is approved, a new lease shall be entered into between the purchaser and the City, and a transfer charge is hereby fixed and established in the sum of one-thousand dollars (\$1000.00) to be paid to the City prior to said transfer in accordance with Section 16-322 SMC.

That the lessee shall be the owner of all improvements which may be placed by him or her, said improvements including cabins or other buildings and boat houses constitute personal property and lessee shall have the right to remove same from the lot at the termination of the lease, subject to the following: whenever a lease has been cancelled by the City as provided herein or by ordinance, the lessee or owner of said improvements shall remove the same within sixty (60) days of the date of the said cancellation of the lease and upon failure to do so, said improvements shall revert to and become the property of the City of Shawnee. And it shall have the right, without further notice or demand to take immediate possession of all said improvements and these will belong to the first party or its assigns, as liquidated damages for the non-fulfillment of the lease by lessee and for the use and rental thereof.

That the said second party does hereby release the City of Shawnee of any claim or claims for damages by reason of the cancellation of the said lease aforesaid.

That the second party shall at all times during the term of this lease be subject to and does hereby agree to abide by and conform to any rules, regulations or ordinances now in force, or that may hereafter be adopted by the City of Shawnee, governing the regulation of said lake and within the described premises, as to fishing, hunting, boating and other recreational activities upon and around said water reservoir, and to conform to and abide by all further rules, regulations and ordinances now in force, or that hereafter may be adopted by the City of Shawnee, Oklahoma, governing the regulations of said premises and lake.

The City Commission may upon a showing of intentional disregard for the terms of the lease and this division or other city ordinance pertaining to the lake, cancel the city lease upon 30 days notice to the lessee by mailing a copy of such notice to the lessee at his/her last known address. If a lease is cancelled either by the city or the lessee of a city-owned lot prior to the expiration of the lease term, the lessee shall pay the city an early termination fee of \$1,000 in exchange for a release of liability from the remaining term.

That this lease shall be binding upon the representatives, heirs, and assigns and successors in interest of the parties hereto.

It is understood by the parties hereto that a failure to comply with the terms of said Cabin Site Lease shall constitute a misdemeanor and any person, firm, or corporation convicted of such violation shall be punished by a fine not exceeding five hundred dollars (\$500.00) plus costs, or imprisonment for a term not exceeding thirty (30) days, or by such fine and imprisonment.

IN WITNESS WHEREOF, party of the first part has caused its name to be affixed hereto by the Mayor of the City of Shawnee, Oklahoma, and attested by the City Clerk, and the party of the second part hereunto affixed his/her name the day and year first above written.

CITY OF SHAWNEE, OKLAHOMA  
A Municipal Corporation,

BY: \_\_\_\_\_

MAYOR

PARTY OF THE FIRST PART

ATTEST:

\_\_\_\_\_  
CITY CLERK

  
PARTY OF THE SECOND PART

  
PARTY OF THE SECOND PART

**Regular Board of Commissioners**

Meeting Date: 02/16/2016

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

---

Information

Title of Item for Agenda

Consider approval of Consent Agenda:

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Attachments

*No file(s) attached.*

---

**Regular Board of Commissioners**

**3.**

Meeting Date: 02/16/2016

Audit Presentation

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

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Information

Title of Item for Agenda

Presentation of Fiscal Year 2014-2015 Audit.

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Attachments

*No file(s) attached.*

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**Regular Board of Commissioners**

**4.**

Meeting Date: 02/16/2016

Fire Station 2 Agreement

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

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Information

Title of Item for Agenda

Authorize staff to enter into an agreement with Fritz Baily Architects of Tulsa, Oklahoma to provide design, engineering and biddable construction documents for the repair and renovation of Fire Station #2 located at 1401 N. Bryan. *(Deferred from February 1, 2016 meeting.)*

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Attachments

Agreement

---

# CITY OF SHAWNEE FIRE DEPARTMENT

16 West 9<sup>th</sup> Street  
P (405) 878-1671 | F (405) 878-1618



## ADMINISTRATION

**Dru Tischer**, Fire Chief  
(405) 878-1556

**Andy Starkey**, Deputy Fire Chief  
(405) 878-1538

**Clarice Brock**, Secretary  
(405) 878-1671

DATE: January 26, 2016  
TO: Mayor, Vice Mayor and City Commissioners  
CC: Justin Erickson, City Manager; John Krywicki, City Engineer; Mary Ann Karns, City Attorney  
FROM: Dru Tischer, Fire Chief  
SUBJECT: Request permission to enter into agreement with Fritz Baily Architects (**Bryan Street Fire Station No. 2 Rehab Project**)

As a result of the Request for Qualifications process, staff is requesting permission to enter into an agreement with Fritz Baily Architects of Tulsa, Oklahoma to provide architectural design services for the design and construction management of the Bryan Street Fire Station No. 2 Rehab Project. Fritz Baily was one of ten firms that responded to our RFQ for this project. The project committee, comprised of City Manager Justin Erickson, Fire Chief Dru Tischer, City Engineer John Krywicki and Deputy Fire Chief Andy Starkey, selected a list of four candidates to be interviewed based on information submitted by each firm and discussions with past clients of those firms. During these interviews, Fritz Baily was selected as the most qualified firm for this project based on their prior experience with fire station design and renovation, the strong recommendations of their past clients and their ability to deliver services in a timely manner. Per our request, Fritz Baily submitted contract language with a cost proposal for the project in the amount of \$123,000. After several meetings and discussions, we now have contract language that is acceptable to staff and a reduced cost proposal for the project in the amount of \$106,500. As shown in Exhibit D of the attached contract, the time frame allows for construction to begin within 6 months of notice to proceed. Staff is recommending approval of the attached contract language for the \$106,500 total amount.

# AIA<sup>®</sup> Document B101<sup>™</sup> – 2007

## Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the 16th day of December  
in the year 2015  
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:  
(Name, legal status, address and other information)

City of Shawnee  
16 W. 9th Street  
Shawnee, OK 74801

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

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

Fritz Baily, P.C.  
1836 S. Baltimore Avenue  
Tulsa, OK 74114

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

Fire Station No. 2 Rehab  
1401 N. Bryan Street, Shawnee, OK 74801

The Owner and Architect agree as follows:

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## EXHIBIT A INITIAL INFORMATION

### ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article ) and in optional Exhibit A, Initial Information:

*(Complete Exhibit A, Initial Information, and incorporate it into the Agreement at Section 13.2, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)*

§ 1.2 The Owner's anticipated dates for commencement of construction and Substantial Completion of the Work are set forth below:

- .1 Commencement of construction date:

To be decided.

- .2 Substantial Completion date:

To be decided.

§ 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

## ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost.

*(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)*

.1 General Liability

\$1,000,000.00

.2 Automobile Liability

\$1,000,000.00

.3 Workers' Compensation

\$100,000.00

.4 Professional Liability

\$1,000,000.00

## ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in Article 3 are Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

§ 3.1.5 The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

### § 3.2 SCHEMATIC DESIGN PHASE SERVICES

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services including NFPA 1500.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project's requirements agreed upon with the Owner, the Architect shall prepare and present for the Owner's approval a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

### § 3.3 DESIGN DEVELOPMENT PHASE SERVICES

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work.

§ 3.3.3 The Architect shall submit the Design Development documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

### § 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

### § 3.5 BIDDING OR NEGOTIATION PHASE SERVICES

#### § 3.5.1 GENERAL

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

#### § 3.5.2 COMPETITIVE BIDDING

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by

1. procuring the reproduction of Bidding Documents for distribution to prospective bidders;
2. distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
3. organizing and conducting a pre-bid conference for prospective bidders;
4. preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and

- 3 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

### § 3.5.3 NEGOTIATED PROPOSALS

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by

- 1 procuring the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;
- 2 organizing and participating in selection interviews with prospective contractors; and
- 3 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

### § 3.6 CONSTRUCTION PHASE SERVICES

#### § 3.6.1 GENERAL

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2007, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201-2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

#### § 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2007, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

### § 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

### § 3.6.4 SUBMITTALS

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

#### § 3.6.5 CHANGES IN THE WORK

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

#### § 3.6.6 PROJECT COMPLETION

§ 3.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

#### ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2.

*(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)*

| Additional Services                                                   | Responsibility<br>(Architect, Owner<br>or<br>Not Provided) | Location of Service Description<br>(Section 4.2 below or in an exhibit<br>attached to this document and<br>identified below) |
|-----------------------------------------------------------------------|------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| § 4.1.1 Programming                                                   | A                                                          | Basic Service                                                                                                                |
| § 4.1.2 Multiple preliminary designs                                  | A                                                          | Basic Service                                                                                                                |
| § 4.1.3 Measured drawings                                             | A                                                          | Basic Service                                                                                                                |
| § 4.1.4 Existing facilities surveys                                   | A                                                          | Basic Services                                                                                                               |
| § 4.1.5 Site Evaluation and Planning (B203™-2007)                     | NP                                                         |                                                                                                                              |
| § 4.1.6 Building information modeling                                 | A                                                          | Basic Services                                                                                                               |
| § 4.1.7 Civil engineering                                             | NP                                                         | Separate Fee                                                                                                                 |
| § 4.1.8 Landscape design                                              | NP                                                         |                                                                                                                              |
| § 4.1.9 Architectural Interior Design (B252™-2007)                    | NP                                                         |                                                                                                                              |
| § 4.1.10 Value Analysis (B204™-2007)                                  | NP                                                         |                                                                                                                              |
| § 4.1.11 Detailed cost estimating                                     | A                                                          | Basic Service                                                                                                                |
| § 4.1.12 On-site project representation                               | A                                                          | Limited Site Visits - see Sec. 4.3.3.2                                                                                       |
| § 4.1.13 Conformed construction documents                             | NP                                                         |                                                                                                                              |
| § 4.1.14 As-designed Record Drawings                                  | A                                                          | Basic Services                                                                                                               |
| § 4.1.15 As-constructed Record Drawings                               | A                                                          | Basic Services                                                                                                               |
| § 4.1.16 Post occupancy evaluation                                    | NP                                                         |                                                                                                                              |
| § 4.1.17 Facility Support Services (B210™-2007)                       | NP                                                         |                                                                                                                              |
| § 4.1.18 Tenant-related services                                      | NP                                                         |                                                                                                                              |
| § 4.1.19 Coordination of Owner's consultants                          | A                                                          | Basic Services                                                                                                               |
| § 4.1.20 Telecommunications/data design                               | NP                                                         |                                                                                                                              |
| § 4.1.21 Security Evaluation and Planning<br>(B206™-2007)             | NP                                                         |                                                                                                                              |
| § 4.1.22 Commissioning (B211™-2007)                                   | NP                                                         |                                                                                                                              |
| § 4.1.23 Extensive environmentally responsible design                 | NP                                                         |                                                                                                                              |
| § 4.1.24 LEED® Certification (B214™-2007)                             | NP                                                         |                                                                                                                              |
| § 4.1.25 Fast-track design services                                   | NP                                                         |                                                                                                                              |
| § 4.1.26 Historic Preservation (B205™-2007)                           | NP                                                         |                                                                                                                              |
| § 4.1.27 Furniture, Furnishings, and Equipment Design<br>(B253™-2007) | NP                                                         |                                                                                                                              |
|                                                                       |                                                            |                                                                                                                              |
|                                                                       |                                                            |                                                                                                                              |
|                                                                       |                                                            |                                                                                                                              |

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

~~§ 4.3.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services until the Architect receives the Owner's written authorization:~~

- ~~1. Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;~~
- ~~2. Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;~~
- ~~3. Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;~~
- ~~4. Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;~~
- ~~5. Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;~~
- ~~6. Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;~~
- ~~7. Preparation for, and attendance at, a public presentation, meeting or hearing;~~
- ~~8. Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;~~
- ~~9. Evaluation of the qualifications of bidders or persons providing proposals;~~
- ~~10. Consultation concerning replacement of Work resulting from fire or other cause during construction; or~~
- ~~11. Assistance to the Initial Decision Maker, if other than the Architect.~~

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services; notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of these services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- ~~1. Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;~~
- ~~2. Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;~~
- ~~3. Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;~~
- ~~4. Evaluating an extensive number of Claims as the Initial Decision Maker;~~
- ~~5. Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or~~
- ~~6. To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion identified in Initial Information, whichever is earlier.~~

§ 4.3.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- ~~1. Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor.~~
- ~~2. Two (4) visits per month to the site by the Architect over the duration of the Project during construction or as mutually~~
- ~~3. Two ( 2 ) inspections for any portion of the Work to determine whether such portion of the needed Work is substantially complete in accordance with the requirements of the Contract Documents.~~
- ~~4. Two ( 2 ) inspections for any portion of the Work to determine final completion~~

§ 4.3.4 If the services covered by this Agreement have not been completed within thirty-six ( 36 ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

## ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 5.2 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

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

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsurface conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 5.7 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

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

§ 5.9 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.10 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

§ 5.11 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.12 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

## ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 4.

§ 6.4 If the Bidding or Negotiation Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

## ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication or derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 GENERAL

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

### § 8.2 MEDIATION

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

~~§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.~~

~~§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:~~

~~(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, we do not subsequently agree in writing to a binding dispute resolution method other than litigation; the dispute will be resolved in a court of competent jurisdiction.)~~

☐ ~~Arbitration pursuant to Section 8.3 of this Agreement~~

☒ ~~Litigation in a court of competent jurisdiction~~

☐ ~~Other (Specify)~~

### **§ 8.3 ARBITRATION**

~~§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.~~

~~§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.~~

~~§ 8.3.2 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

~~§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

### **§ 8.3.4 CONSOLIDATION OR JOINDER**

~~§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

~~§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.~~

## ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

§ 9.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

## ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the laws of the State of Oklahoma, without regard to conflicts of law provisions. Jurisdiction and venue shall be Pottawatomie County District Court, Shawnee, Oklahoma.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

#### ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation.)*

See Exhibit D

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)*

As mutually agreed to by both parties.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation.)*

As mutually agreed to by both parties.

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus ten percent ( 10%), or as otherwise stated below.

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

**SEE EXHIBIT D**

|                                          |                                   |
|------------------------------------------|-----------------------------------|
| <del>Schematic Design Phase:</del>       | <del>Twenty percent ( 20%)</del>  |
| <del>Design Development Phase:</del>     | <del>Fifteen percent ( 15%)</del> |
| <del>Construction Documents Phase:</del> | <del>Forty percent ( 40%)</del>   |
| <del>Bidding or Negotiation Phase:</del> | <del>Five percent ( 5%)</del>     |
| <del>Construction Phase:</del>           | <del>Twenty percent ( 20%)</del>  |

Total Basic Compensation: one hundred percent (100.00%)

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. (If applicable, attach an exhibit of hourly billing rates or insert them below.)

See Exhibit B.

| Employee or Category | Rate |
|----------------------|------|
|----------------------|------|

**§ 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES**

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

1. Transportation and authorized out-of-town travel and subsistence;
2. Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
3. Fees paid for securing approval of authorities having jurisdiction over the Project;
4. Printing, reproductions, plots, standard form documents;
5. Postage, handling and delivery;
6. Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
7. Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
8. Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
9. All taxes levied on professional services and on reimbursable expenses;
10. Site office expenses; and
11. Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Ten percent ( 10%) of the expenses incurred.

#### § 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

Five-thousand dollars (\$5,000.00)

#### § 11.10 PAYMENTS TO THE ARCHITECT

##### § 11.10.1 An initial payment of

Zero Dollars

(\$ 0.00 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.  
(Insert rate of monthly or annual interest agreed upon.)

§ 11.10.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

#### ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

#### ARTICLE 13 SCOPE OF THE AGREEMENT

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

§ 13.2 This Agreement is comprised of the following documents listed below:

- 1 AIA Document B101™-2007, Standard Form Agreement Between Owner and Architect
- 2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:

# NON-COLLUSION AFFIDAVIT

STATE OF OKLAHOMA

§§:

COUNTY OF POTTAWATOMIE

Ted Baily, AIA of lawful age, being first duly sworn, on oath says that he/she is the agent authorized by the VENDOR to submit the attached Proposal. Affiant further states that the VENDOR has not been a party to any collusion among the Proposers in restraint of freedom of competition by agreement to Propose at a fixed price or to refrain from submitting a Proposal; or with any City official or employee as to quantity, quality, or price in the prospective contract, or any other terms of said prospective contract; or in any discussions between the Proposers and any City official concerning exchange of money or other thing of value for special consideration in the awarding of a contract; that the undersigned Proposer has not paid, given or donated or agreed to pay, give or donate to any officer or employee of the City of Shawnee, Oklahoma, any money or other thing of value, either directly or indirectly, in the procuring of the award of a contract pursuant to this Proposal.

Fritz Baily, P.C.

FIRM NAME

By: [Signature]

Sworn before me this 27th day of January, 2016

[Signature]

Notary Public

My commission expires 07.17.2016



## BUSINESS RELATIONSHIP AFFIDAVIT

STATE OF OKLAHOMA

SS-

COUNTY OF POTTAWATOMIE

Ted Bailey, P.C. of lawful age, being first duly sworn, in oath says that he/she is the agent authorized by the VENDOR to submit the attached Proposal. Affiant further states that the nature of any partnership, joint venture, or other business relationship presently in effect or which existed within one (1) year prior to the date of this statement with any party to the prospective contract is as follows:

none

Affiant further states that any such business relationship presently in effect or which existed within one (1) year prior to the date of this statement between any officer or director of the Proposing company and any other party to the prospective contract is as follows:

none

Affiant further states that the names of all persons having such business relationships and the positions they hold with their respective companies or firms are as follows:

none

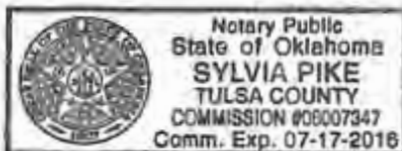
(If none of the business relationships herein above mentioned exists, affiant should so state.)

[Signature]  
AFFIANT

Sworn before me this 27th day of January, 2016

[Signature]  
Notary Public

My commission expires 07-17-2016



3 Other documents:

(List other documents, if any, including Exhibit A, Initial Information, and additional scopes of service, if any, forming part of the Agreement.)

Exhibit A - Document B101-2007

Exhibit B - Hourly Rate Schedule

Exhibit C - Project Description

Exhibit D - Compensation

OWNER:

CITY OF SHAWNEE

A Municipal Corporation

(SEAL)

BY \_\_\_\_\_

ATTEST:

NAME Justin Erickson

TITLE City Manager

Phyllis Loftis, CMC, City Clerk

APPROVED AS TO FORM AND LEGALITY THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2015.

MARY ANN KARNS, CITY ATTORNEY

(SEAL)

CONTRACTOR:

ATTEST:

Fritz Bailly, P.C.  
(name of firm)

BY [Signature]

BY [Signature]

(signature)

(signature)

NAME Tedrick Bailly

NAME Ted Bailly, AIA

(printed)

(printed)

TITLE SECRETARY

TITLE President

(Secretary/Treasurer)

(President/Vice President)

ADDRESS

1836 S. Baltimore Ave.  
Tulsa, OK 74119



# AIA<sup>®</sup> Document B101<sup>™</sup> – 2007 Exhibit A

## Initial Information

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

Fire Station No. 2 Rehab  
1401 N. Bryan Street, Shawnee, OK 74801

THE OWNER:  
(Name, legal status and address)

City of Shawnee  
16 W. 9th Street  
Shawnee, OK 74801

THE ARCHITECT:  
(Name, legal status and address)

Fritz Baily, P.C.  
1836 S. Baltimore Avenue  
Tulsa, OK 74114

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

This Agreement is based on the following information.

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution" or "to be determined later by mutual agreement.")

### ARTICLE A.1 PROJECT INFORMATION

#### § A.1.1 The Owner's program for the Project:

(Identify documentation or state the manner in which the program will be developed.)

See Exhibit C.

#### § A.1.2 The Project's physical characteristics:

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

The existing Fire Station No. 2 is located at 1401 N. Bryan Street in Shawnee, OK. The existing station is a single story and is approximately 6,000 square feet.

§ A.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1  
(Provide total, and if known, a line item break down.)

Not to exceed \$1,200,000.00

§ A.1.4 The Owner's other anticipated scheduling information, if any, not provided in Section 4.2:

§ A.1.5 The Owner intends the following procurement or delivery method for the Project:  
(Identify method such as competitive bid, negotiated contract, or construction management.)

Competitive bidding to select a General Contractor.

§ A.1.6 Other Project information:  
(Identify special characteristics or needs of the Project not provided elsewhere, such as environmentally responsible design or historic preservation requirements.)

The existing Fire Station No. 2 has had mold issues and has had it remediated. There is the possibility that mold may have developed again. The Architect does not provide environmental services and any related services are not included in this agreement.

## ARTICLE A.2 PROJECT TEAM

§ A.2.1 The Owner identifies the following representative in accordance with Section 5.3:  
(List name, address and other information.)

Dru Tischer - Fire Chief

16 West Ninth, Shawnee, OK 74801 Email: dtischer@shawneecok.org

Andy Starkey - Assistant Fire Chief

16 West Ninth, Shawnee, OK 74801 Email: astarkey@shawneecok.org

John Krywicki - City Engineer

222 N. Broadway, Shawnee, OK 74801 Email: jkrywicki@shawneecok.org

§ A.2.2 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:  
(List name, address and other information.)

§ A.2.3 The Owner will retain the following consultants and contractors:  
(List discipline and, if known, identify them by name and address.)

Don Collins  
Collins Design Service  
112 Allee St.  
Clemson, SC 29631  
(864) 654-1841 - Studio  
(864) 653-0378 - Cell  
firestationdesign@gmail.com

§ A.2.4 The Architect identifies the following representative in accordance with Section 3.3:  
(List name, address and other information.)

Whit Todd, AIA Email: wtodd@fritzbailey.com  
Fritz Bailey, P.C.  
1836 S. Baltimore Ave.  
Tulsa, OK 74119

§ A.2.5 The Architect will retain the consultants identified in Sections A.2.5.1 and A.2.5.2.  
(List discipline and, if known, identify them by name, legal status, address and other information.)

§ A.2.5.1 Consultants retained under Basic Services:

1 Structural Engineer  
Wallace Engineering  
200 East Mathew Brady  
Tulsa, OK 74103

2 Mechanical Engineer  
HP Engineering  
1836 S. Baltimore Ave.  
Tulsa, OK 74119

- 3 Electrical Engineer  
HP Engineering  
1836 S. Baltimore Ave.  
Tulsa, OK 74119

§ A.2.5.2 Consultants retained under Additional Services:

Civil Engineer (if approved)

Wallace Engineering  
200 East Mathew Brady  
Tulsa, OK 74103

§ A.2.6 Other Initial Information on which the Agreement is based:  
(Provide other Initial Information.)

## EXHIBIT B

### *Fritz Baily, P.C. Hourly Rates*

| <u>Personnel</u>           | <u>Amount</u> |
|----------------------------|---------------|
| Principal                  | \$160.00      |
| Project Manager            | \$125.00      |
| Senior Designer            | \$125.00      |
| Construction Administrator | \$ 100.00     |
| Documents Coordinator      | \$ 95.00      |
| Designer                   | \$ 90.00      |
| Interior Designer          | \$ 80.00      |
| Senior Technician          | \$ 80.00      |
| Technician                 | \$ 65.00      |
| Program Coordinator        | \$ 60.00      |
| Clerical/Support           | \$ 55.00      |

#### PROJECT DESCRIPTION

The project consists of providing A/E services to provide biddable Contract Documents and services during construction for the remodel and/or redesign of Fire Station No. 2 located at 1401 Bryan Street, Shawnee, OK. The Owner desires a functional and effective Fire Station facility with strong emphasis on efficient space utilization and effective site aesthetics.

The existing Fire Station No. 2 went online in 1999. There have been major site drainage issues and building quality issues that have resulted in water damage, mold, and other building failures. The building was abandoned as an active fire station and is now used as a storage facility and houses several fire department trucks.

The architecture services to be provided includes: Architecture, Structural Engineering, Mechanical/Plumbing Engineering, Electrical Engineering and Interior Design. Civil Engineering is to be provided by the city engineer and is not included in the Architect's scope of work. Services during construction for the site civil improvements is also not included in the Architect's scope of work. The drawings and specifications for the civil engineering (produced and provided by the city) will be incorporated into the Architect's bid documents so that a single contractor will be utilized for both projects. The civil engineering work will be an "alternate" for bidding purposes and shall be administered during the construction phase by the city.

Partial Demolition, Reuse Existing Foundation, Slab and Metal Structure:

The complete demolition of the building and site improvements except for the building foundation, slab and metal building structure. This will entail rebuilding the site drainage, site paving, building envelope systems, MEP systems, and building interiors. Civil engineering services are not included in the architect's services.

## EXHIBIT D

### SEQUENCE OF SERVICES AND COMPENSATION

If mutually agreed to by both parties, the Architect's Compensation will be adjusted if the Cost of the Work substantially exceeds \$1,100,000.

We propose a two phase process to deliver the design services. We propose this because the demolition of the existing envelope might remove structural elements or could damage required structural elements. The structural integrity of the structural frame after demolition is complete needs to be determined. Also, the architectural detailing cannot occur until the structural frame is exposed.

#### PHASE ONE

Phase one entails:

- The visual evaluation of the existing building by the Architect and the Structural Engineer. The Structural Engineer is a consultant to the Architect.
- A biddable document that outlines the scope of the selective demolition that is required for the Architect and Structural Engineer to conduct a more thorough visual inspection of the existing building structural system.
- The Architect shall assist the city with obtaining bids from contractors to provide the selective demolition services.
- The selected contractor shall enter into an agreement with the city to provide the required demolition services and the contractor shall selectively demolish components of the building as outlined in the bid documents.
- The Architect and Structural Engineer shall evaluate the exposed structure and shall issue a report of their findings. The report shall be used as the basis of design for the second phase of the project.

#### PHASE TWO

Using the report that was produced during Phase One of the project, the Architect and it's consultants shall provide architectural design services as outlined in the agreement. Phase two entails the typical phases of an architectural project as outlined in the agreement:

- Schematic Design
- Design Development
- Construction Documents
- Bidding
- Services during Construction

#### FEES

##### PHASE ONE

Twelve thousand five hundred dollars (\$12,500)

##### PHASE TWO

Ninety four thousand dollars (\$94,000) provided in the following phases:

- Schematic Design \$9,000
- Design Development \$15,000
- Construction Documents \$41,000
- Bidding \$6,000
- Services during Construction \$23,000

#### CIVIL ENGINEERING SERVICES, SCOPE AND COORDINATION

The city shall provide the civil engineering services required of the project. The architect's services extend to the exterior face of the building and five feet beyond the building envelope for utilities. The civil engineering services provided by the city shall begin at the face of the building envelope outward and shall include utilities up to five feet of the building envelope. The city and the Architect shall coordinate the interface of building elements as needed. The Architect is not responsible for the design services of the civil engineer. The Architect's services during construction does not include the work beyond the design services provided by the Architect.

#### TIME FRAME

##### Phase One

Three weeks from notice to proceed (based on a week to select a contractor).

##### Phase Two

- Schematic Design Three weeks (begins once city has approved report from phase one)
- Design development Three weeks
- Construction documents Four weeks
- Bidding Four weeks (Bidding is to begin in the first part of July, 2016)
- Construction Six Months

This schedule provides a week of flex time to allow bidding to begin the first week of July, 2016.

**Regular Board of Commissioners**

**5.**

Meeting Date: 02/16/2016

Fire Station 2 Budget Amd

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

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Information

Title of Item for Agenda

Discussion, consideration and possible action to approve a Budget Amendment for design, engineering and biddable construction documents for the repair and renovation of Fire Station #2 located at 1401 N. Bryan. *Transfer from General Fund to Capital Fund. (Deferred from February 1, 2016 meeting.)*

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Attachments

Budget Amd

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**Estimated Revenue, Fund Balance, or Transfers IN**

| Fund Number | Account Number | Project Code | Line Item | Description  | Balance Before Amendment | Amount of Amendment Increase (Decrease) | Balance After Amendment |
|-------------|----------------|--------------|-----------|--------------|--------------------------|-----------------------------------------|-------------------------|
| 001         | 3001           |              |           | Fund Balance | 6,278,515.00             | (120,000.00)                            | 6,158,515.00            |
|             |                |              |           |              |                          |                                         |                         |
|             |                |              |           |              |                          |                                         |                         |
|             |                |              |           |              |                          |                                         |                         |
|             |                |              |           |              |                          |                                         |                         |
|             |                |              |           |              |                          |                                         |                         |
|             |                |              |           |              |                          |                                         |                         |
|             |                |              |           | Total        | -                        | (120,000.00)                            | (120,000.00)            |

### Appropriations

[illegible]

Approved by the City Commission this  
02/01/2016

Explanation of Budget Amendment:  
To move money to pay for firestation  
will be paid back once some debt is paid off  
in capital fund

Approved:

Mayor \_\_\_\_\_

Attest:

City Clerk

Posted By \_\_\_\_\_ Date \_\_\_\_\_ BA# \_\_\_\_\_ Pkt.# \_\_\_\_\_

**Estimated Revenue, Fund Balance, or Transfers IN**

| Fund Number | Account Number | Project Code | Line Item | Description  | Balance Before Amendment | Amount of Amendment Increase (Decrease) | Balance After Amendment |
|-------------|----------------|--------------|-----------|--------------|--------------------------|-----------------------------------------|-------------------------|
| 301         | 4901           |              |           | Fund Balance | -                        | 120,000.00                              | 120,000.00              |
|             |                |              |           |              |                          |                                         |                         |
|             |                |              |           |              |                          |                                         |                         |
|             |                |              |           |              |                          |                                         |                         |
|             |                |              |           |              |                          |                                         |                         |
|             |                |              |           |              |                          |                                         |                         |
|             |                |              |           |              |                          |                                         |                         |
|             |                |              |           | Total        | -                        | 120,000.00                              | 120,000.00              |

### Appropriations

| Fund Number | Account Number | Project Code | Line Item | Description                 | Balance Before Amendment | Amount of Amendment Increase (Decrease) | Balance After Amendment |
|-------------|----------------|--------------|-----------|-----------------------------|--------------------------|-----------------------------------------|-------------------------|
| 301         | 5-0720-5420    |              |           | Capital Outlay- Suppression | 718,244.00               | 120,000.00                              | 838,244.00              |
|             |                |              |           |                             |                          |                                         |                         |
|             |                |              |           |                             |                          |                                         |                         |
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|             |                |              |           |                             |                          |                                         |                         |
|             |                |              |           |                             |                          |                                         |                         |
|             |                |              |           |                             |                          |                                         |                         |
|             |                |              |           |                             |                          |                                         |                         |
|             |                |              |           |                             | -                        | -                                       | -                       |
|             |                |              |           |                             | 718,244.00               | 120,000.00                              | 838,244.00              |

Approved by the City Commission this  
02/01/2016

Explanation of Budget Amendment:  
Loan from General fund reserves to pay  
for firestation rehab consultant- will be paid back

Approved:

Mayor \_\_\_\_\_  
Attest: \_\_\_\_\_

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

Posted By \_\_\_\_\_ Date \_\_\_\_\_ BA# \_\_\_\_\_ Pkt.# \_\_\_\_\_

**Regular Board of Commissioners**

**6.**

Meeting Date: 02/16/2016

Absentee Shawnee Agreement

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

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**Information**

Title of Item for Agenda

Discussion, consideration and possible action to approve a Cooperation Agreement with the Absentee Shawnee Tribe of Oklahoma.

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**Attachments**

Absentee Reso

Absentee Agreement

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# **ABSENTEE SHAWNEE HOUSING AUTHORITY**

P. O. Box 425 • 107 North Kimberly • Shawnee, Oklahoma 74802-0425

## **RESOLUTION # 2016-05**

**JANUARY 27, 2016**

**A RESOLUTION APPROVING THE COOPERATIVE AGREEMENT BETWEEN THE BOARD OF COMMISSIONERS OF THE CITY OF SHAWNEE AND THE HOUSING AUTHORITY OF THE ABSENTEE SHAWNEE TRIBE.**

**WHEREAS, pursuant to Section 101 of the Native American Housing Assistance and Self-Determination Act of 1996, as amended, 25 USC 4111-4211, and Sections 1057(D) and 1066 of the Oklahoma State Housing Authority Act, 63 O.S.1051-1084, the Authority may use funds obtained pursuant to the Block Grant Program for rental or lease-purchase dwelling units that are owned by the Authority ("Authority-Owned Units") only if (i) such Authority-Owned Units are exempted from real and personal property taxation by all Taxing Bodies and the City and the Authority have entered into this Cooperative Agreement.**

**WHEREAS, the Authority and the City deem it to be in their mutual best interest to reach an understanding and agreement as to the treatment of the Authority's Housing Activities and Authority-Owned Units for tax purposes, and the provision of Public Services to those Authority-Owned Units.**

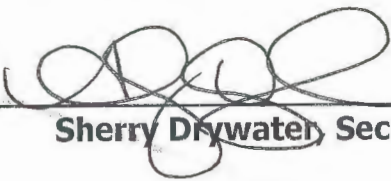
**WHEREAS, the Authority represents to the City that the beneficial interest in, and management control over, the Housing Activities contemplated by the cooperative agreement will be held by the Authority, and the Authority is therefore the only necessary party to fully satisfy the actions contemplated by the cooperative agreement.**

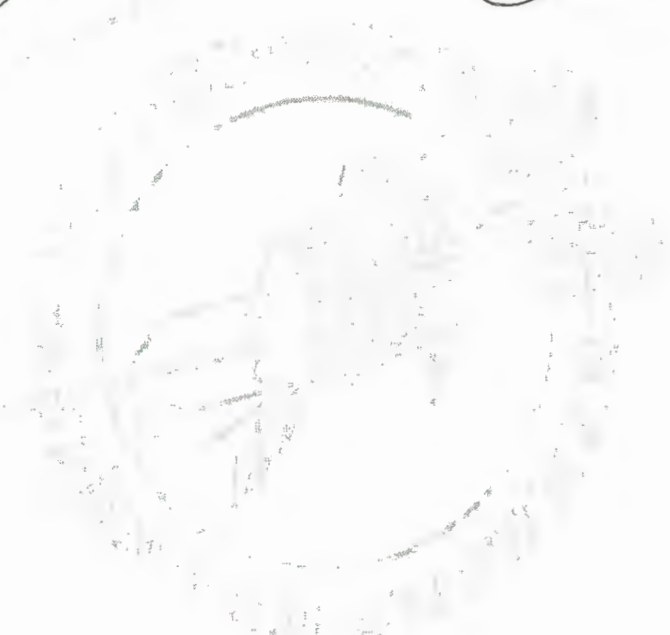
**THEREFORE BE IT RESOLVED, the Board of Commissioners of the Absentee Shawnee Housing Authority approves Resolution #2016-05 approving the Cooperative Agreement between the Board of Commissioners of the City of Shawnee and the Housing Authority of the Absentee Shawnee Tribe.**

**ATTEST:**



  
Michael Affentranger, Chairman

  
Sherry Drywater, Secretary

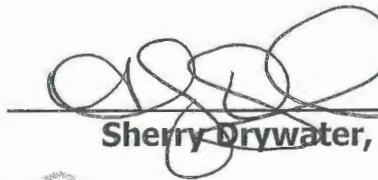


**Resolution #2016-05**  
**January Regular Monthly Meeting**  
**Page 2**

**CERTIFICATION**

**We, the duly appointed officers of the Housing Authority of the Absentee Shawnee Tribe of Indians of Oklahoma certify that this Resolution was duly adopted at the Regular Meeting of the Housing Authority of the Absentee Shawnee Tribe of Indians of Oklahoma on the 27th day of January, 2016 by a vote of 4 for, 0 against, and 0 abstentions.**

  
\_\_\_\_\_  
**Michael Affentranger, Chairman**

  
\_\_\_\_\_  
**Sherry Drywater, Secretary**



## **COOPERATION AGREEMENT**

This Agreement is entered into as of \_\_\_\_\_, 2016 (“Effective Date”), by and between the Housing Authority of the Absentee Shawnee Tribe of Oklahoma, an agency and instrumentality of the State of Oklahoma and the Absentee Shawnee Tribe of Oklahoma, a federally-recognized Indian Tribe (the “Authority”), and the City of Shawnee, a Municipal Corporation organized under the laws of the State of Oklahoma (the “City”).

WHEREAS the Authority plans to engage in housing-related activities within the geographic boundaries of the City on lands which have not been taken into trust for the benefit of the Absentee Shawnee Tribe of Oklahoma (the “Tribe”), which activities may include one or more of the following:

- (a) mortgage payment assistance to tribal members;
- (b) rental payment assistance to tribal members;
- (c) construction, ownership, leasing and management of low-income and/or subsidized housing for tribal members and their families;
- (d) construction, ownership, leasing and management of other real estate units, including health clinics, recreational complexes, senior services facilities, cultural centers, youth outreach facilities, counseling centers and similar tribally-owned facilities to serve tribal members and their families;
- (e) home repair/renovation assistance for tribal members; and
- (f) other similar housing-related programs,

using funds provided under the block grant program established under Title I of the Native American Housing Assistance and Self-Determination Act of 1996, as amended (the “Block Grant Program”). All of the foregoing activities are hereby referred to as the “Housing Activities;”

AND WHEREAS, pursuant to Section 101 of the Native American Housing Assistance and Self-Determination Act of 1996, as amended, 25 USC §§ 4111-4211, and Sections 1057(D) and 1066 of the Oklahoma State Housing Authority Act, 63 O.S. §§ 1051-1084, the Authority may use funds obtained pursuant to the Block Grant Program for rental or lease-purchase dwelling units that are owned by the Authority (“Authority-Owned Units”) only if (i) such Authority-Owned Units are exempted from real and personal property taxation by all Taxing Bodies (as defined below) and (ii) the City and the Authority have entered into this Agreement;

AND WHEREAS, the Authority and the City deem it to be in their mutual best interest to reach an understanding and agreement as to the treatment of the Authority’s Housing Activities and Authority-Owned Units for tax purposes, and the provision of Public Services (as defined below) to those Authority-Owned Units;

AND WHEREAS, the Authority represents to the City that the beneficial interest in, and management control over, the Housing Activities contemplated by this Agreement will be held by the Authority, and that the Authority is therefore the only necessary party to fully satisfy the actions contemplated by this Agreement.

WITNESSETH:

In consideration of the mutual covenants hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Definitions. Whenever used in this Agreement:

- (a) "Authority" shall have the meaning set forth in the Preamble to this Agreement.
- (b) "Authority-Owned Unit" shall have the meaning set forth in the Preamble to this Agreement, it being understood that housing units that are not owned by the Authority, that are not funded under the Block Grant Program, or that are located on trust or restricted lands, shall not be considered "Authority-Owned Units" for purposes of this Agreement, and this Agreement shall not in any way bind the parties with respect to such housing units. If Authority-Owned Units have been constructed on non-trust lands, and such lands are subsequently put into the Federal trust, such Authority-Owned Units shall be removed from the definition of Authority-Owned Units as set forth herein, and this Agreement shall no longer govern such housing units or bind the parties with respect thereto.
- (c) "Tribe" shall have the meaning set forth in the Preamble to this Agreement.
- (d) "City" shall have the meaning set forth in the Preamble to this Agreement.
- (e) "Housing Activities" shall have the meaning set forth in the Preamble to this Agreement, it being understood that housing activities that are not funded under the Block Grant Program, or that are located on trust lands, shall not be considered "Housing Activities" for purposes of this Agreement, and this Agreement shall not in any way bind the parties with respect to such housing activities. If Housing Activities have been conducted on non-trust land, and such lands are subsequently put into the Federal trust, such Housing Activities shall be removed from the definition of Housing Activities as set forth herein, and this Agreement shall no longer govern such housing activities or bind the parties with respect thereto.
- (f) "Public Services" shall mean police protection services; fire protection services; ambulance services; sewer services; trash and refuse disposal services; water services; public gas, heat, oil and electrical services,

and similar public utilities services; publicly-funded sidewalk construction and maintenance services; road construction and maintenance services, drainage maintenance and control services; emergency services; code enforcement services; and similar services, benefits and duties to the extent ordinarily provided by the City.

2. Provision of Public Services. The City shall furnish or cause to be furnished to the Authority-Owned Units, Public Services of the same character and kind, under the same terms, and to the same extent as provided to other dwellings, buildings, residents and inhabitants within the geographic boundaries of the City.

3. No Effect on Separate Charges to Persons Receiving Services. Nothing herein shall be construed as an assumption by the Authority of any responsibility for payment for services to individual participants residing in an Authority-Owned Unit, such as emergency medical transport services, and water and utilities charges. The City may bill such individual participants for such services, provided that such charges shall be at the same rate and based on the same terms that are applicable to the general population of the City.

4. Compliance with Laws, Standards and Requirements. Insofar as the City may lawfully do so, it will (i) accept grants of easements necessary for the conduct of Housing Activities, (ii) grant such variances from the building code of the City and make such changes to the zoning of any project site as are reasonable and necessary and (iii) otherwise cooperate with the Authority to the greatest extent feasible in connection with the development and administration of Housing Activities. The Authority agrees that each Authority-Owned Unit will be constructed, used and maintained in accordance with all ordinances, standards and requirements of the City (including zoning) that are imposed by law and that otherwise would be applicable based on the location and character of the Authority-Owned Unit. The Authority also agrees to cause each person who owns, occupies or uses such Authority-Owned Unit to agree to comply with such ordinances, standards and requirements.

5. Information. Upon request, the Authority shall furnish to the City a list of the current officers of the Authority authorized to conduct business on behalf of the Authority.

6. Police and Enforcement Authorities. The Authority agrees not to exercise its sovereign powers to exclude law enforcement officials or emergency first-responders from any Authority-Owned Unit.

7. Application; Assignment. Due to its nature as an agency and political subdivision of the Tribe, this Agreement shall inure to the benefit of the Authority as well as the Tribe. If at any time title to, or possession of, any Authority-Owned Unit is held by any public body, governmental agency or public-private partnership authorized by the Authority or Tribe to engage in the development or operation of low-income housing, all terms and provisions of this Agreement shall inure to the benefit of and may be enforced

by such public body, governmental agency or public-private partnership. Beyond the above stated application, no party may assign this Agreement without the prior, written consent of the other party.

8. No Effect on Jurisdiction. Nothing in this Agreement shall be construed to withdraw, limit or expand jurisdiction of the City, the State of Oklahoma, the Authority, the Absentee Shawnee Tribe of Oklahoma, any other Indian tribe, or any federal, tribal or State court with respect to the City, the Authority, the Tribe, or any person, corporation, or other entity or subject matter.

9. Term. This Agreement shall terminate on December 31, 2020, but shall automatically renew on an annual basis thereafter until cancelled by either party with a minimum of sixty (60) days written notice. Nothing in this Agreement shall prevent the parties by mutual written agreement duly approved by both parties from establishing an earlier or later termination date or otherwise modifying this Agreement. Either party may unilaterally terminate this Agreement without cause by giving the other party one hundred eighty (180) days written notice. Both parties agree that should either invoke unilateral termination that the terminating party will meet at least twice within sixty (60) days of providing notice, if the non-terminating party so requests.

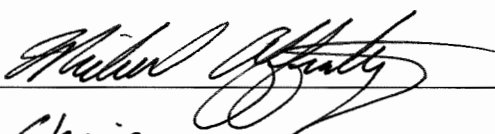
10. Modification. This Agreement may only be modified by a writing signed by the party against whom such modifications are sought to be enforced.

11. No Waiver of Rights under Agreement. The failure by any party to exercise any of its rights under this Agreement in the event of a breach of this Agreement shall not be deemed a waiver of those rights nor a waiver of any subsequent breach.

12. Scope. This Agreement contains all terms and conditions agreed upon by the parties. This Agreement supersedes all contracts, arrangements, discussions, commitments and offers of any kind or nature, oral or written, made by the parties at any time prior to the date of this Agreement. The terms of this Agreement supersede the terms of the Cooperation Agreement between the parties dated May 19, 1997, and thereby terminate the same.

In Witness Whereof, the Authority and the City have executed this Agreement as of the date first set forth above.

HOUSING AUTHORITY OF THE  
ABSENTEE SHAWNEE TRIBE OF OKLAHOMA  
Pursuant to Resolution of the Board of Commissioners  
dated 11/27, 2016

By:   
Its: Chairman

CITY OF SHAWNEE

Pursuant to Resolution of the City Council dated  
\_\_\_\_\_, 2016

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

Its: \_\_\_\_\_

(SEAL)

ATTEST:

\_\_\_\_\_  
Phyllis Loftis, CMC, City Clerk

Approved as to form and legality this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mary Ann Karns, City Attorney

**Regular Board of Commissioners**

**7.**

Meeting Date: 02/16/2016

S14-15 Shawnee Auto Mall

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

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**Information**

Title of Item for Agenda

Consideration of approval of a Final Plat for Shawnee Auto Mall located on Shawnee Mall Drive, east of Union. Case No. S14-15 Applicant:Huitt-Zollars, Inc. *(Deferred from January 19, 2015 City Commission Meeting.)*

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**Attachments**

Staff Report

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RECOMMENDATION TO:

MAYOR  
BOARD OF CITY COMMISSIONERS  
CITY OF SHAWNEE

RECOMMENDATION FROM:

CITY OF SHAWNEE  
PLANNING COMMISSION

SUBJECT:

APPLICANT: Huitt-Zollars, INC  
FOR: Final Plat for Shawnee Auto Mall  
LOCATION: Shawnee Mall Dr., East of Union Street,  
Shawnee, OK  
PROJECT# 151126 CASE# S14-15

PLANNING COMMISSION MEETING DATE: February 3<sup>rd</sup>, 2016

PLANNING COMMISSION RECOMMENDATION: Approval w/ following conditions:

1. Final construction documents must be approved by the City Engineer prior to construction.
2. The final engineered drainage plan must be approved by the City Engineer prior to construction.
3. Landscape Plans shall be submitted concurrent with the building permit.
4. Six (6' ) foot sidewalk required along the I-40 service road frontage and four (4' ) sidewalk required along the interior collector road, Auto Mall Drive.
5. All other applicable City standards apply.

VOTE OF THE PLANNING COMMISSION:

*MEMBERS PRESENT: 7*

| MEMBERS:              | 1ST | 2ND | AYE | NAY | ABSTAIN | COMMENTS |
|-----------------------|-----|-----|-----|-----|---------|----------|
| MORTON                |     |     | X   |     |         |          |
| CLINARD               |     |     | X   |     |         |          |
| KERBS                 | X   |     | X   |     |         |          |
| BERGSTEN (CHAIRMAN)   |     |     | X   |     |         |          |
| COWEN (VICE-CHAIRMAN) |     |     | X   |     |         |          |
| KIENZLE               |     |     | X   |     |         |          |
| AFFENTRANGER          |     | X   | X   |     |         |          |

RESPECTFULLY SUBMITTED,

*Cheyenne Lincoln*

SECRETARY, PLANNING COMMISSION

ACTION BY CITY COMMISSION:

PUBLIC HEARING SET: \_\_\_\_\_

DATE OF ACTION: \_\_\_\_\_

ADOPTED \_\_\_\_\_ DENIED \_\_\_\_\_

# FINAL PLAT APPLICATION FOR THE CITY OF SHAWNEE

Please provide a submittal letter, 6-24 X 36 maps, 1-8 1/2 x 14 map, 1 electronic map and filing fees upon submitting this application. Please call 878-1616 with any questions.

APPLICANT Huitt-Zollars, Inc. for Cooper Shawnee Investments, LLC  
APPLICANT ADDRESS 2832 W. Wilshire Blvd., Ste. 200 OKla. City, OK 73116  
APPLICANT PHONE NUMBERS (405) 842-0363  
EMAIL ADDRESS brandonc@huitt-zollars.com

NAME OF PLAT Shawnee Auto Mall  
LOCATION On Shawnee Mall Drive west of Harrison St. NE 1/4 Sec. 31. T11N-R4E  
NUMBER OF ACRES 21.0 ± Ae. NUMBER OF LOTS 4

FOR 2 ACRE LOTS OR GREATER DEVELOPMENTS: FEE: \$325.00  
PLUS \$3.00 PER LOT UP TO FIFTY (50) LOTS NUMBER OF LOTS 4 \$331.00  
PLUS \$1.00 PER LOTS OVER FIFTY (50) LOTS NUMBER OF LOTS \_\_\_\_\_  
TOTAL COST \_\_\_\_\_

FOR LESS THAN 2 ACRE LOTS: FEE: \$325.00  
PLUS \$2.00 PER LOT UP TO FIFTY (50) LOTS NUMBER OF LOTS \_\_\_\_\_  
PLUS \$1.00 PER LOTS OVER FIFTY (50) LOTS NUMBER OF LOTS \_\_\_\_\_  
TOTAL COST \_\_\_\_\_

## OWNER/DEVELOPER INFORMATION:

NAME Cooper Shawnee Investments, LLC, Attn: Timothy J. Smith  
ADDRESS 32 N.W. 144<sup>th</sup> Circle, Ste. A, Edmond, OK 73013  
CONTACT NUMBERS (405) 919-0282  
EMAIL ADDRESS tsmith@okeproperties.com

## PROJECT ENGINEER INFORMATION:

NAME Huitt-Zollars, Inc. Attn: Brandon Coon  
ADDRESS 2832 W. Wilshire Blvd., Ste. 200, OKla. City, OK 73116  
CONTACT NUMBERS (405) 842-0363  
EMAIL ADDRESS brandonc@huitt-zollars.com

FOR STAFF USE ONLY

PROJECT NUMBER: 1511216 CASE NUMBER: 514-15

DATE: 11-2-15 AMOUNT PAID: \$337.00 RECEIPT NO. 01809600



**City of Shawnee**  
**Community Development Department**  
222 N. Broadway  
Shawnee, OK 74801  
(405) 878-1665 Fax (405) 878-1587  
[www.ShawneeOK.org](http://www.ShawneeOK.org)

**STAFF REPORT**  
**Final Plat**  
**Case #S14 -15**

TO: Shawnee Planning Commission

AGENDA: February 3, 2016

RE: Shawnee Auto Mall Addition, Final Plat

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**PROPOSAL**

The applicant, Huitt-Zollars, Inc., is requesting Final Plat approval for four (4) lots on a twenty-one (21) Acre property intended for the construction of multiple car dealerships. The site is located north-east of the I-40 service road and Union Street. The subject site is zoned C-3 (Highway Commercial) and is currently vacant. Preliminary Plat approval was received on August 17, 2015.

**GENERAL INFORMATION**

|                                       |                                           |
|---------------------------------------|-------------------------------------------|
| <b>Applicant</b>                      | Huitt-Zollars, Inc.                       |
| <b>Owner(s)</b>                       | Cooper Shawnee Investments LLC            |
| <b>Site Location/Address</b>          | Shawnee Mall Drive, east of Union Street. |
| <b>Current Site Zoning</b>            | C-3 (Highway Commercial)                  |
| <b>Parcel Size</b>                    | 21 Acres (Approximate)                    |
| <b>Proposed Use</b>                   | Car dealership                            |
| <b>Comprehensive Plan Designation</b> | Commercial                                |
| <b>Existing Land Use</b>              | Vacant                                    |
| <b>Surrounding Zoning</b>             | Commercial (C-3) and Agricultural (A-1)   |



**Figure 1:** Aerial view of site – approximate total area outlined in red.

## **STAFF REVIEW AND ANALYSIS**

Staff has review the final plat and all supporting documents. The proposed development will consist of the following details:

- Twenty-one (21) Acre land area.
- Four (4) total lots at roughly 4.5 Acres each.
- One (1) public access drive (Auto Mall Drive) located off of Shawnee Mall Drive as a cul-de-sac.
- A Stormwater retention pond along the northern extent of the property.
- Planned to complete in two (2) phases.
- Six (6') foot sidewalk required along the I-40 service road frontage and four (4') sidewalk required along the interior collector road, Auto Mall Drive.
- Cul-de-sac to exceed five-hundred (500') feet variance approved during preliminary plat.

As dictated through preliminary plat approval, the proposed development is consistent with current land use in the area, the designated zoning, and the Shawnee Comprehensive Plan for this area (Figure 4.2). The City Engineer has reviewed the plat and has agreed it is sufficient for approval, with conditions.

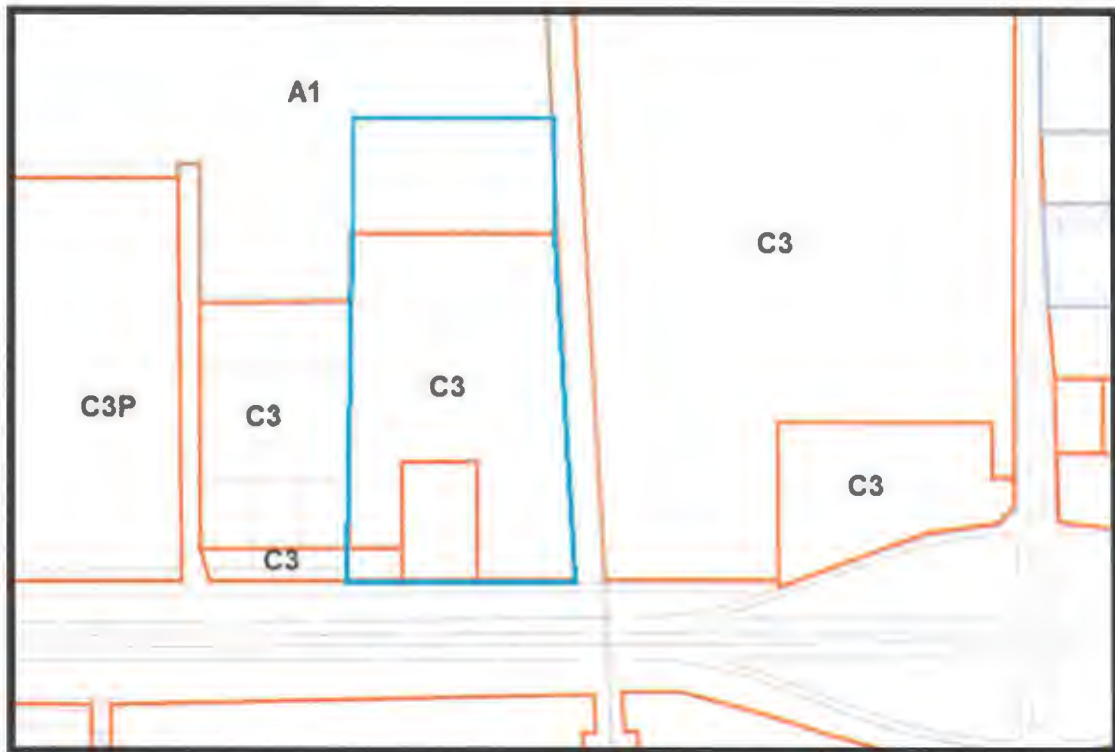
### **STAFF RECOMMENDATION**

The technical aspects of the Final Plat have been reviewed by the City Engineer and other appropriate staff. Staff does recommend approval of the Final Plat, with the following conditions:

1. Final construction documents must be approved by the City Engineer prior to construction.
2. The final engineered drainage plan must be approved by the City Engineer prior to construction.
3. Landscape Plans shall be submitted concurrent with the building permit.
4. Six (6') foot sidewalk required along the I-40 service road frontage and four (4') sidewalk required along the interior collector road, Auto Mall Drive.
5. All other applicable City standards apply.

### **Attachments**

1. Figure 1: Aerial view of site
2. Figure 2: Zoning Map
3. Figure 3: Future Comprehensive Plan Map
4. Exhibit 1: Final Plat
5. Exhibit 2: Preliminary Plat



**Figure 2:** Zoning Map of site – approximate total area outlined in red.



**Figure 3:** Future Comprehensive Plan Map – approximate total area outlined in red.

EXHIBIT 7

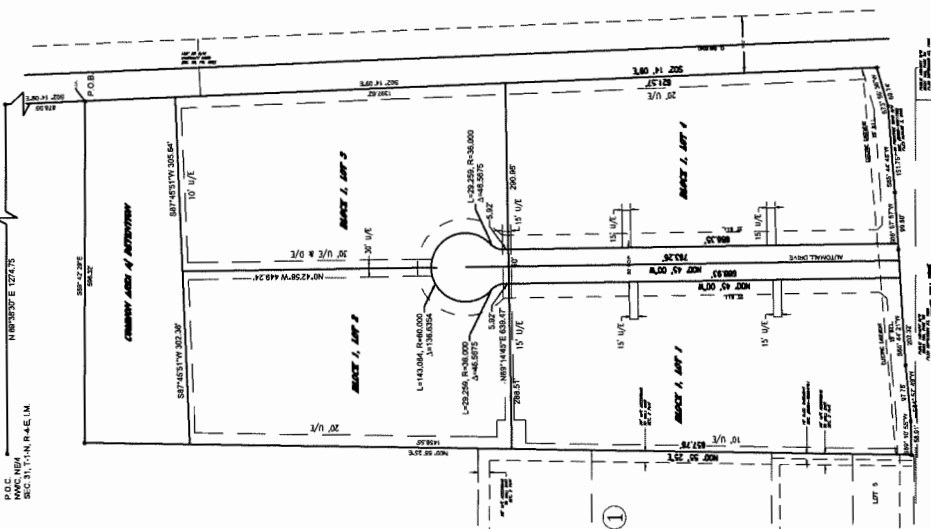
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ASSUMED NORTH 89°30' EAST ALONG THE  
 NORTH LINE OF THE NE/4, SEC. 31, T-11-N, R-

BACKS OF BEARING

LHM= LIMITS NO ACCESS  
 B.L.= BUILDING LINE  
 U/F= UTILITY EASEMENT  
 P.O.C.= POINT OF COMMENCEMENT  
 P.O.B.= POINT OF BEGINNING

LEGEND



SCALE: 1"=100'

**SHAWNEE AUTO MALL ADDITION**  
OWNER/DEVELOPER  
COOPER SHAWNEE INVESTMENTS, LLC  
32 NW 144 Circle, Ste. A  
Edmond, Oklahoma 73013

PLAT BY: HUITT-ZOLLARS, INC.  
CA 1489 EXP. 6-30-17  
2832 W. WILSHIRE BLVD.  
OKLAHOMA CITY, OKLAHOMA  
405-842-0363  
R304973.01  
CUST. 105

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    D --> E[SHERIFF'S REPORT]
    E --> F[RESTRICTION]
    F --> G[RESTRICTOR'S REPORT]
  
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**Regular Board of Commissioners**

**8.**

Meeting Date: 02/16/2016

P15-15 1500 E Independence

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

---

**Information**

Title of Item for Agenda

A public hearing and consideration of an ordinance to rezone property located at 1500 East Independence Street from R-1; Single Family Residential District to R-2; Combined Residential District. Case No. P15-15 Applicant: The Landrun Group, LLC (*Deferred from January 19, 2016 meeting.*)

---

**Attachments**

P15-15 Staff Report

P15-15 Protest Ltrs

P15-15 Ordinance

---

RECOMMENDATION TO:

MAYOR  
BOARD OF CITY COMMISSIONERS  
CITY OF SHAWNEE

RECOMMENDATION FROM:

CITY OF SHAWNEE  
PLANNING COMMISSION

SUBJECT:

APPLICANT: The Landrun Group, LLC  
FOR: Rezone from R-1; Single Family Residential District  
to R-2; Combined Residential District  
LOCATION: 1500 E. Independence St., Shawnee, OK  
PROJECT#: 151169 Case# P15-15

LEGAL DESCRIPTION:

SEE OWNERSHIP LIST

CURRENT CLASSIFICATION:

R-1; Single Family Residential District

REQUESTED CLASSIFICATION:

R-2; Combined Residential District

PROPOSED PROPERTY USE:

Duplexes

PLANNING COMMISSION MEETING DATE: February 3<sup>rd</sup>, 2016

PLANNING COMMISSION RECOMMENDATION: Deny

VOTE OF THE PLANNING COMMISSION:

*MEMBERS PRESENT:* 7

| MEMBERS:              | 1ST | 2ND | AYE | NAY | ABSTAIN | COMMENTS |
|-----------------------|-----|-----|-----|-----|---------|----------|
| MORTON                |     |     | X   |     |         |          |
| CLINARD               | X   |     | X   |     |         |          |
| KERBS                 |     |     | X   |     |         |          |
| BERGSTEN (CHAIRMAN)   |     |     | X   |     |         |          |
| COWEN (VICE-CHAIRMAN) |     |     |     | X   |         |          |
| KIENZLE               |     | X   | X   |     |         |          |
| AFFENTRANGER          |     |     |     | X   |         |          |

RESPECTFULLY SUBMITTED,

*Cheyenne Lincoln*

SECRETARY, PLANNING COMMISSION

ACTION BY CITY COMMISSION:

PUBLIC HEARING SET: \_\_\_\_\_

DATE OF ACTION: \_\_\_\_\_

ADOPTED \_\_\_\_\_ DENIED \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

CITY OF SHAWNEE  
222 N. BROADWAY  
SHAWNEE, OK 74801

PLANNING DEPARTMENT  
PHONE: (405) 878-1666  
FAX: (405) 878-1587

**PLANNING COMMISSION APPLICATION**  
**PROJECT NO. B1116A CASE NO. D15-13**

**REQUEST:**

Rezoning X Rezoning w/Conditional Use Permit \_\_\_\_\_ Conditional Use Permit \_\_\_\_\_  
Planned Unit Development \_\_\_\_\_

I, the undersigned, do hereby respectfully make application and petition to the City Commission to amend the zoning map, and to change the zoning district of the Shawnee area, from R1 District to R2 District, as hereinafter requested, and in support of this application, the following facts are shown:

**PROPERTY LOCATION (STREET ADDRESS):** 1500 East Independence

**LEGAL DESCRIPTION:** See Exhibit 1

**PROPERTY OWNER (S):** Marical Brothers Real Estate

**PROPERTY AGENT (APPLICANT):** The Land Run Group, LLC

**APPLICANT'S ADDRESS:** PO Box 1584

**CITY:** Shawnee **STATE:** OK **ZIP:** 74802-1584

**EMAIL ADDRESS:** landruncgroup@landruncgroup.com

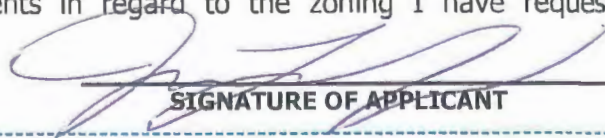
**TELEPHONE NUMBER:** (405) 273-4222 **CONTACT NUMBER:** (405) 273-4222

**DIMENSIONS OF PROPERTY:** AREA 12 acres <sup>MOL</sup> WIDTH 400' MOL  
LENGTH 1315' MOL FRONTAGE 400' MOL

**CURRENT ZONING:** R1 **CURRENT USE:** Single Family Residential

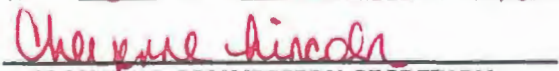
**PROPOSED ZONING:** R2 **PROPOSED USE:** Multi Family & Single Family Residential

With the filing of this application, I acknowledge that I have been informed of off-street parking, fencing and paving requirements in regard to the zoning I have requested as witnessed by my signature.

  
**SIGNATURE OF APPLICANT**

(FOR STAFF USE ONLY)

Filed in the office of the Planning Department, 222 N. Broadway, this 10<sup>th</sup> day of November 20 13

  
**PLANNING COMMISSION SECRETARY**

**REZONING &/OR C.U.P FEE \$** 280.00  
**RECEIPT NO.** 01815198

**PLANNED UNIT DEVELOPMENT FEE \$** 550.00  
**SIGN DEPOSIT \$** 50.00

(Refundable if Applicant returns 48 hrs. after City Commission Meeting)

**PLANNING COMMISSION ACTION:** \_\_\_\_\_ **DATE:** \_\_\_\_\_  
**CITY COMMISSION ACTION:** \_\_\_\_\_ **DATE:** \_\_\_\_\_  
**PLACE ON ZONING MAP:** \_\_\_\_\_ **ORDINANCE NO.:** \_\_\_\_\_

CITY OF SHAWNEE  
PUBLIC HEARING NOTICE  
CASE #P15-15

Notice is hereby given that the City of Shawnee, Oklahoma, will conduct a public hearing on a proposed Rezone of property located within the City of Shawnee.

The property requesting rezoning is described as follows:

A tract of land described as beginning 660 feet N89°43'27"E of the Southwest Corner of the Southeast Quarter (SW/4 SE/4) of Section Eight (8), Township Ten (10) North, Range Four (4) East of the Indian Meridian, Pottawatomie County, Oklahoma; thence N00°16'33"W a distance of 1314.50 feet to a point on the North line of the S/2 SE/4; thence N89°19'27"E a distance of 397.66 feet; thence S00°16'33"E a distance of 1314.50 feet; thence S89°43'27"W a distance of 397.66 feet to the point of beginning.

|                                  |                                                |
|----------------------------------|------------------------------------------------|
| General Location Known As:       | <u>1500 E. Independence St., Shawnee, OK</u>   |
| Current Zoning Classification:   | <u>R-1; Single Family Residential District</u> |
| Requested Zoning Classification: | <u>R-2; Combined Residential District</u>      |
| Proposed Use of Property:        | <u>Duplex</u>                                  |
| Applicant:                       | <u>The Landrun Group, LLC</u>                  |

The "Zoning Map of the City of Shawnee, Oklahoma" will be amended accordingly to reflect such change if approved by the City Commission.

The public hearings will be held in the City Commission Chambers in City Hall, 16 W. 9<sup>th</sup> St. Shawnee, Oklahoma, as follows:

|                                 |               |                                     |
|---------------------------------|---------------|-------------------------------------|
| January 6 <sup>th</sup> , 2016  | AT 1:30 P.M.: | CITY OF SHAWNEE PLANNING COMMISSION |
| January 19 <sup>th</sup> , 2016 | AT 6:30 P.M.: | CITY OF SHAWNEE CITY COMMISSION     |

At this time any interested citizen of Shawnee, Oklahoma will have the opportunity to appear and be heard with regard to the rezone. The Commission reserves the right to limit discussion and debate on the proposed rezone in the public hearing, in which event those persons appearing in support or opposition of the proposed rezone will be allotted equal time. Any formal protest must be filed in writing with the City Clerk during normal working hours before 5:00 p.m. a minimum of three (3) days prior to the hearing. If there are any questions about the proposal, or you need additional information prior to the public hearing, please contact the Planning Department at 878-1616. A copy of the application is available for public inspection during normal working hours in the Planning Secretary's office at 222 N. Broadway.

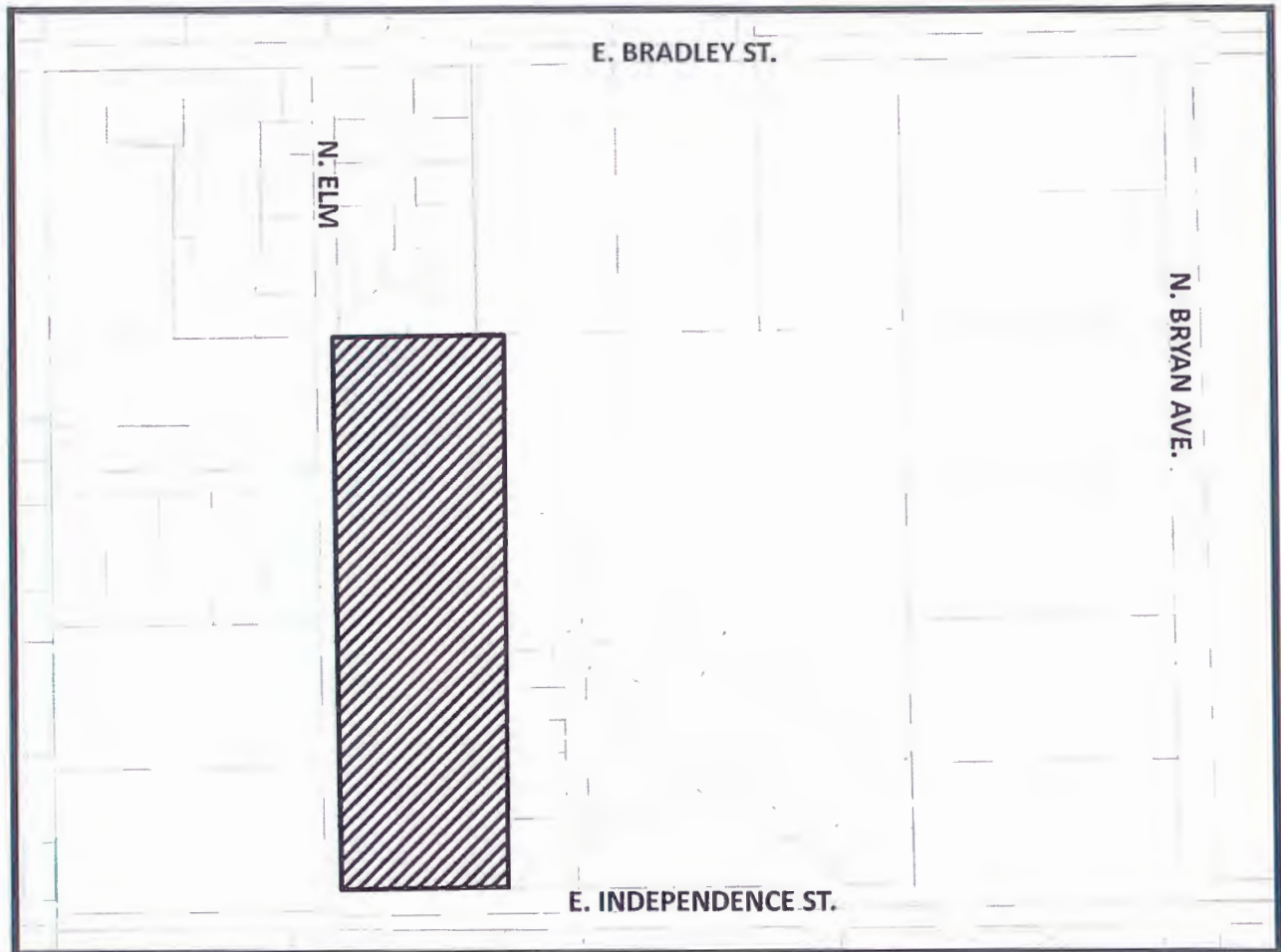
Witness my hand this 11<sup>th</sup> day of December, 2015.



*Krisa Lasyone, Deputy*  
for Phyllis Loftis, City Clerk

LOCATION MAP

CASE# P15-15



STATE OF OKLAHOMA )  
 ) §:  
COUNTY OF POTTAWATOMIE )

By: Jason Waldrop

By:

Jason Waldroup  
 Abstractor License No. 1400  
 OAB Certificate of Authority # 017  
 File No. 2087504-SH99

**OWNERSHIP LIST****ORDER NO. 2087504**DATE PREPARED: November 12, 2015  
EFFECTIVE DATE: November 2, 2015 at 7:30 a.m.

| OWNER                                                                           | LOT | BLK | ADDITION                                                                                                                                                            |
|---------------------------------------------------------------------------------|-----|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| EADS CLAYTON H & JUDY KAYE<br>106 HUNTINGTON CT<br>SHAWNEE OK 74801-0000        |     |     | 27-SU BEG 660'E SW/C SE N657.25'<br>E397.66' S657.25' W397.66' POB. &<br>TR BEG 660'E & 657.25'N SW/C SE<br>N657.25' E397.6 6' S657.25'<br>W397.66' POB 11.91 Acres |
| MACGILFREY EDWARD J<br>21500 CACIFA ST. # 92<br>WOODLAND HILLS CA 91367-0000    |     |     | BRADLEY'S 2ND LOT 8 BEG SW/C<br>LOT 8 E335' N295.6' E145' S112'<br>E140' S54.40' W99.83' S129.40'<br>W184.48'POB                                                    |
| WIGINTON DALE E<br>1510 N ELM<br>SHAWNEE OK 74804-0000                          |     |     | BRADLEY'S 2ND S80' OF N112' OF<br>E140' LOT 8                                                                                                                       |
| SWEARINGEN THOMAS & ESPERANZA<br>1214 CHARLES DR<br>SHAWNEE OK 74804-0000       |     |     | BRADLEY'S 2ND PT LOT 8 COMM<br>SW/C LOT 8 TH E520'POB N129.40'<br>E99.83' S129.20' W100.52'                                                                         |
| JACKSON FRED M JR<br>4600 WOODGATE CT<br>LOOMIS CA 95650-0000                   |     |     | BRADLEY'S 2ND N32' OF E140'<br>LOT 8 & S199.15' OF E140' LOT 7<br>LESS A TR BEG 61.4'N SE/C LOT 7<br>W140' N137.75' E140' S137.75' POB<br>2008-15534                |
| LOWE JIM D<br>1404 CHARLES DR<br>SHAWNEE OK 74804-0000                          |     |     | BRADLEY'S 2ND 1/2 UNDIV INT.<br>IN LOT 7 BEG 247'E NW/C LOT 7<br>S148.6' E142' S180' ETC.                                                                           |
| LOWE JIM<br>1404 CHARLES DR<br>SHAWNEE OK 74804-0000                            |     |     | BRADLEY'S 2ND BEG SW/C LOT 7<br>E389' N180' W214' S31.4' W25' S139'<br>W150' S9.6' POB                                                                              |
| HOBBS BELINDA G<br>P O BOX 3634<br>SHAWNEE OK 74802-3634                        | 1   | 2   | LAIRWOOD ESTATES BLK 2 LOT<br>1 1.00 Lots                                                                                                                           |
| CLIMER DAN B & KATHRYN M<br>3 DUSTIN CIR<br>SHAWNEE OK 74804-0000               | 2   | 2   | LAIRWOOD ESTATES BLK 2 LOT<br>2 1.00 Lots                                                                                                                           |
| STEWART MICHAEL R & JULIA C<br>5 DUSTIN CIR<br>SHAWNEE OK 74804-0000            | 3   | 2   | LAIRWOOD ESTATES BLK 2 LOT<br>3 1.00 Lots                                                                                                                           |
| HALL KEVIN D & DIANA<br>2 DUSTIN CIR<br>SHAWNEE OK 74804-0000                   |     |     | LAIRWOOD ESTATES BLK 1 BEG<br>SE/C LOT 4 W145' N105' E145'<br>S104.14' POB                                                                                          |
| COURTNEY WAYNE L & SUSAN K<br>TRUST<br>4 DUSTIN CIRCLE<br>SHAWNEE OK 74804-0000 | 3   | 1   | LAIRWOOD ESTATES BLK 1 LOT<br>3 1.00 Lots                                                                                                                           |
| KLAUS ROGER<br>6 DUSTIN CIR<br>SHAWNEE OK 74804-0000                            | 2   | 1   | LAIRWOOD ESTATES BLK 1 LOT<br>2 1.00 Lots                                                                                                                           |
| HARRIS FRANK R & VALERIE M<br>1800 N ELM<br>SHAWNEE OK 74804-0000               |     |     | LAIRWOOD ESTATES BLK 1 LOT<br>4 LESS BEG SE/C LOT 4 W145'<br>N105' E145' S104.14' POB 1.00 Lots                                                                     |

|                                                                                                        |    |   |                                                                                                                                              |
|--------------------------------------------------------------------------------------------------------|----|---|----------------------------------------------------------------------------------------------------------------------------------------------|
| RILEY CONNIE<br>13 CHEYENNE<br>SHAWNEE OK 74801-0000                                                   |    |   | BRADLEY'S 1 <sup>ST</sup> BEG SW/C LOT 10<br>TH W 330 N 220 E 330 S 220 POB                                                                  |
| BDC HOMES LLC<br>% JOHN F BARRETT<br>1210 GORDON COOPER<br>SHAWNEE OK 74801-0000                       |    |   | BRADLEY'S 1ST THE WEST 25' OF<br>A TRACT OF LAND DESCRIBED<br>AS THE E305' LOT 9 & N90' OF<br>E305' LOT 10                                   |
| HEMBREE SHELLEY K<br>1702 AUTUMN LANE<br>SHAWNEE OK 74801-0000                                         |    |   | BRIARWOOD ESTATES LOT 6 &<br>TR BEG AT SW/C LOT 5 TH<br>N33.07' N78°E65.27' TH<br>SW53°79.04' POB 1.25 Lots                                  |
| TUCKER MICHAEL R & SABRA S<br>1704 AUTUMN LN<br>SHAWNEE OK 74801-0000                                  | 5  |   | BRIARWOOD ESTATES LOT 5<br>LESS TR                                                                                                           |
| SHETTY 2012 REVOC TRUST<br>1706 AUTUMN LN<br>SHAWNEE OK 74801-0000                                     | 4  |   | BRIARWOOD ESTATES LOT 4<br>1.00 Lots                                                                                                         |
| CHAPMAN WILLIAM A & COLEEN P<br>1701 AUTUMN LN<br>SHAWNEE OK 74804-0000                                |    |   | BRIARWOOD ESTATES LOT 7 &<br>BEG SW/C OF LOT 7<br>BROARWOOD ESTATES-REPLAT<br>BLK 11 BRADLEY'S 1ST TH S25'<br>E160' N25' W160' POB 1.00 Lots |
| SMITH GREGORY J & KIMBERLY F<br>1703 AUTUMN LN<br>SHAWNEE OK 74804-0000                                | 8  |   | BRIARWOOD ESTATES LOT 8<br>1.00 Lots                                                                                                         |
| COLUMBUS RONNIE R & JULIA F<br>1705 AUTUMN LN<br>SHAWNEE OK 74801-0000                                 | 9  |   | BRIARWOOD ESTATES LOT 9<br>1.00 Lots                                                                                                         |
| HILL CHARLES F JR & MARY M<br>TRUSTEES OF HILL FAMILY TRUST<br>1705 E BRADLEY<br>SHAWNEE OK 74802-1341 | 12 |   | BRADLEY'S 1ST LOT 12 4.70<br>Acres                                                                                                           |
| HILL CHARLES F JR & MARY M<br>TRUSTEES OF HILL FAMILY TRUST<br>1705 E BRADLEY<br>SHAWNEE OK 74804-0000 |    |   | A TR IN SE BEG 1057.66' E &<br>967.40' N SW/C TH N 350' E 931.67'<br>S 973.34' N56°W 1119.44' POB<br>LESS .24 AC TO HONEYFARM<br>14.10 Acres |
| PECK ROBERT G & BETTY A TRUST<br>1706 WILDWOOD<br>SHAWNEE OK 74801-                                    | 8  | 1 | EMERALD FOREST BLK 1 LOT 8                                                                                                                   |
| HOWARD TODD & STARLA<br>1704 WILDWOOD<br>SHAWNEE OK 74804-0000                                         | 9  | 1 | EMERALD FOREST BLK 1 LOT 9<br>1.00 Lots                                                                                                      |
| FEH GODWIN<br>1511 MESA VERDE<br>SHAWNEE OK 74801-0000                                                 | 10 | 1 | EMERALD FOREST BLK 1 LOT 10                                                                                                                  |
| HALL LARRY JOE & RONDA L<br>1513 MESA VERDE<br>SHAWNEE OK 74804-0000                                   | 11 | 1 | EMERALD FOREST BLK 1 LOT 11                                                                                                                  |
| BOONE BONNIE S &<br>CHRISTOPHER ASTON<br>1516 MESA VERDE<br>SHAWNEE OK 74804-0000                      | 12 | 1 | EMERALD FOREST BLK 1 LOT 12                                                                                                                  |
| POYER JAMES REID II & TAMARA L<br>1514 MESA VERDE<br>SHAWNEE OK 74804-0000                             | 13 | 1 | EMERALD FOREST BLK 1 LOT 13<br>1.00 Lots                                                                                                     |
| PARSONS GLEN R<br>1512 MESA VERDE<br>SHAWNEE OK 74801-0000                                             | 14 | 1 | EMERALD FOREST BLK 1 LOT 14<br>TOD STEVEN R PARSONS &<br>DAVID A PARSONS 2013-7616                                                           |

|                                                                                   |    |   |                                                     |
|-----------------------------------------------------------------------------------|----|---|-----------------------------------------------------|
| MCSPAREN ARTHUR & CRYSTAL<br>1510 MESA VERDE<br>SHAWNEE OK 74804                  | 15 | 1 | EMERALD FOREST BLK 1 LOT 15                         |
| JACOBS CARL E JR & JANA S<br>1508 MESA VERDE<br>SHAWNEE OK 74801-0000             | 16 | 1 | EMERALD FOREST BLK 1 LOT 16                         |
| BALL LUVERNE & RANDALL<br>1506 MESA VERDE<br>SHAWNEE OK 74801-0000                | 17 | 1 | EMERALD FOREST BLK 1 LOT 17                         |
| ADKISON JENNY LOU<br>1504 MESA VERDE<br>SHAWNEE OK 74804-0000                     | 18 | 1 | EMERALD FOREST BLK 1 LOT 18                         |
| MCCOIN BILL<br>1502 MESA VERDE<br>SHAWNEE OK 74804-0000                           | 19 | 1 | EMERALD FOREST BLK 1 LOT 19                         |
| BURNETT BOBBY G & JOANN W<br>1500 MESA VERDE<br>SHAWNEE OK 74804-0000             | 20 | 1 | EMERALD FOREST BLK 1 LOT 20                         |
| AKIN FRED DEAN<br>1501 MESA VERDE<br>SHAWNEE OK 74804-0000                        | 21 | 1 | EMERALD FOREST BLK 1 LOT 21                         |
| CRANE TONIA ANN & CAMERON K<br>1503 MESA VERDE<br>SHAWNEE OK 74804-0000           | 22 | 1 | EMERALD FOREST BLK 1 LOT 22                         |
| BROWN JEFF & ALLISON<br>REVOCABLE TRUST<br>1705 WILDWOOD<br>SHAWNEE OK 74804-0000 | 23 | 1 | EMERALD FOREST BLK 1 LOT 23                         |
| WARD SHANNON T & MARY ANN<br>1707 WILDWOOD<br>SHAWNEE OK 74804-0000               | 24 | 1 | EMERALD FOREST BLK 1 LOT 24                         |
| WATSON GLENN V & LORINE P<br>TRUST<br>1925 E BRADLEY<br>SHAWNEE OK 74804-0000     | 13 |   | BRADLEY'S 1ST S305' LOT 13<br>W/EASEMENT 2.35 Acres |
| SCHOOL LAND<br>SCHOOL #93<br>SHAWNEE OK -0                                        |    | C | LARKINS MEADOW BLK C 1.00<br>Lots                   |
| JONES BRITT JR & DOLORES<br>2 SEQUOYAH<br>SHAWNEE OK 74801-0000                   | 2  | B | LARKINS MEADOW BLK B LOT 2<br>1.00 Lots             |
| ASKAY RAYMOND & MARIE<br>4 SEQUOYAH<br>SHAWNEE OK 74801-0000                      | 3  | B | LARKINS MEADOW BLK B LOT 3<br>1.00 Lots             |
| MILLER DAVID A & AIMEE M<br>102 BAKER ST<br>SHAWNEE OK 74801-0000                 | 4  | B | LARKINS MEADOW BLK B LOT 4<br>1.00 Lots             |
| STARNES KEATH E<br>8 SEQUOYAH<br>SHAWNEE OK 74804-0000                            | 5  | B | LARKINS MEADOW BLK B LOT 5<br>1.00 Lots             |
| MORMAN CHURCH<br>XXXXXXXXXX<br>SHAWNEE OK 74801-0000                              | 1  | B | LARKINS MEADOW BLK B LOT 1<br>1.00 Lots             |
| STREET CATHY L & DEBRA GARCIA<br>14051 CARNELL ST<br>WHITTIER CA 90605-0000       | 5  | 6 | LARKINS MEADOW BLK 6 LOT 5<br>1.00 Lots             |
| CHAKENATHO CORENE<br>7 APACHE<br>SHAWNEE OK 74804-0000                            | 4  | 6 | LARKINS MEADOW BLK 6 LOT 4<br>1.00 Lots             |

|                                                                            |   |   |                                                            |
|----------------------------------------------------------------------------|---|---|------------------------------------------------------------|
| HARROD KAYE STEELE FAMILY TRUST<br>1303 W FARRALL<br>SHAWNEE OK 74801-0000 | 3 | 6 | LARKINS MEADOW BLK 6 LOT 3<br>1.00 Lots                    |
| SAXON STEVEN E & LISA D<br>1816 OAKRIDGE DRIVE<br>SEMINOLE OK 74868-0000   | 2 | 6 | LARKINS MEADOW BLK 6 LOT 2<br>1.00 Lots                    |
| HARROD KAYE STEELE FAMILY TRUST<br>1303 W FARRALL<br>SHAWNEE OK 74801-0000 | 1 | 6 | LARKINS MEADOW BLK 6 LOT 1<br>1.00 Lots                    |
| EXLEY WINSTON B & LINDA F<br>P O BOX 1092<br>SHAWNEE OK 74802-7092         |   | 7 | LARKINS MEADOW BLK 7 N60'<br>LOT 13                        |
| RODGERS JOHN R<br>4 APACHE<br>SHAWNEE OK 74801-0000                        |   | 7 | LARKINS MEADOW BLK 7 N55'<br>LOT 12 & S15' LOT 13          |
| WILSON JOQUETA<br>36204 HARDESTY RD<br>SHAWNEE OK 74801-0000               |   | 7 | LARKINS MEADOW BLK 7 N50'<br>LOT 11 & S10' LOT 12          |
| SAMPLE STEVEN & CISSILI<br>8 APACHE<br>SHAWNEE OK 74801-0000               |   | 7 | LARKINS MEADOW BLK 7 N40'<br>LOT 10 & S15' LOT 11          |
| SMITH KRISTIN<br>807 N KIMBERLY<br>TECUMSEH OK 74873-0000                  |   | 7 | LARKINS MEADOW BLK 7 N37'<br>LOT 9 & S25' LOT 10 1.00 Lots |
| SIMS DARRELL D & CAROLYN M<br>7 ARAPAHO<br>SHAWNEE OK 74801-0000           | 4 | 7 | LARKINS MEADOW BLK 7 LOT 4<br>1.00 Lots                    |
| STEWART THOMAS M & JOYCE C<br>5 ARAPAHO<br>SHAWNEE OK 74801-0000           | 3 | 7 | LARKINS MEADOW BLK 7 LOT 3<br>1.00 Lots                    |
| JORDAN CLAUDE L & SUSAN<br>3 ARAPAHO<br>SHAWNEE OK 74801-0000              | 2 | 7 | LARKINS MEADOW 2ND BLK 7<br>LOT 2 1.00 Lots                |
| DEES GEORGE W & FRANCES L<br>ET AL<br>1 ARAPAHO<br>SHAWNEE OK 74801-0000   | 1 | 7 | LARKINS MEADOW BLK 7 LOT 1                                 |



**City of Shawnee**  
**Community Development Department**  
222 N. Broadway  
Shawnee, OK 74801  
(405) 878-1665 Fax (405) 878-1587  
[www.ShawneeOK.org](http://www.ShawneeOK.org)

**STAFF REPORT**  
**REZONE**  
**CASE #P15-15**

TO: Shawnee Planning Commission

AGENDA: February 3, 2016

RE: Rezone Request - R1: Single Family Residential District to R2:  
Combined Residential District

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**PROPOSAL**

The applicant is requesting a rezone from R-1: Single Family Residential District to R-2: Combined Residential District to develop a series of duplexes. The subject site is approximately 12 Acres in size and is generally located on the north-east corner of East Independence and North Elm.

**GENERAL INFORMATION**

|                                       |                                        |
|---------------------------------------|----------------------------------------|
| <b>Applicant</b>                      | The Land Run Group, LLC                |
| <b>Owner</b>                          | Marical Brothers Real Estate           |
| <b>Site Location/Address</b>          | 1500 E. Independence                   |
| <b>Current Site Zoning</b>            | R1: Single Family Residential District |
| <b>Proposed Zoning</b>                | R2: Combined Residential District      |
| <b>Property Area</b>                  | 12 Acres                               |
| <b>Current Use</b>                    | Single Family Residential              |
| <b>Proposed Use</b>                   | Duplex Development                     |
| <b>Comprehensive Plan Designation</b> | Residential                            |

|                             |                                                                                                                        |
|-----------------------------|------------------------------------------------------------------------------------------------------------------------|
| <b>Existing Land Use</b>    | Undeveloped                                                                                                            |
| <b>Surrounding Land Use</b> | Residential/Rural Agricultural                                                                                         |
| <b>Surrounding Zoning</b>   | A1: Rural Agricultural<br>C1: Neighborhood Commercial<br>R1: Single Family Residential<br>R3: Multi-Family Residential |

## STAFF REVIEW AND ANALYSIS

The applicant is requesting approval to rezone the property from R-1 to R-2 (Combined Residential District) in order to develop a series of duplexes intended for rental purposes. According to the applicant the building of the duplexes will be done in phases, instead of a full, compressive buildout of the site.

The applicant has purchased the subject property making this site independently owned; therefore, R-2 is the appropriate zoning request for the intended use.

There are a number of items to consider for this case, so first will be provided an explanation of Staff's approach to considering such a rezone:

**1. What is the current zoning on the subject property?**

R-1 (Single Family Residential). This zoning designation allows only single family residential homes.

**2. What types of zoning designations exist in the general area?**

R-1 zoning is the primary zoning classification in this area, to the north, south, east, and portions to the west. However, the properties fronting Independence St. directly adjacent to the west are C-1 (Neighborhood Commercial District), C-2 (Limited Office District), and R-3 (Multi-family Residential).

**3. According the 2005 Shawnee Comprehensive Plan, what future land use designation is dedicated for both the property, and the area?**

The zoning designation for both the property and a large portion of the general area is "Residential," which is described as, "*Within the Residential category, conventional one-family detached dwellings represent the primary use, although two-family units such as duplexes and 'granny flats' are acceptable throughout the area. . . When appropriate, other uses may include multifamily residential activity and neighborhood commercial*" (Shawnee Comprehensive Plan P. 4-26).

**4. Would such a zoning request be consistent with past and present allowances the City offers?**

There are a number of items to consider when answering this question. The subject property fronts upon a major arterial, Independence Street. Other examples of major arterials in Shawnee would include: Kickapoo, Harrison, MacArthur, and Highland. If we explore trends and allowances along these major roads, we discover consistent multi-family and high density commercial allowances (Figure 4).

In regards to Independence Street, directly west of the subject property, there is already an approved R-3 (Multi-family Residential) zoning district and some commercial allowances. Less than a half-mile west, there are two multi-family establishments that exist along Independence Street. An interpretation of the code would say that a rezone from R-1 to R-2 would not only be consistent to allowances already allowed in the immediate area, but less dense than the neighboring R-3 designation. Such a rezone is also consistent with identical allowances along our other major arterials in Shawnee.

**5. Based on size of the property, what further requirements will the property owner have to comply with before any structures are built?**

Being that the property is approximately twelve (12) acres in size and the intent is to build numerous duplexes / single family homes, the project will have to go through the platting process outlined in the City of Shawnee Subdivision Regulations.

If the rezone is approved, the developer will have to first submit a preliminary plat. A preliminary plat requires the developer to show several items, a few of which include:

- a. A general layout of the site, including roads, utilities, sidewalks, and number of lots intended for the site.
- b. Where the increased storm water runoff from building out the site will be managed (i.e. storm water detention / retention) and released at a pre-development rate.
- c. It shall be shown that all portions of the design are in conformance with R-2 zoning.

Once approved, construction documents must be provided to prove that all infrastructure and storm water plans will be constructed to the satisfaction of City requirements. These requirements are ensured before a final plat will be approved.

An extensive number of protests letters have been received for this case, as many as 38. For better understanding, the major complaints will be summarized with Staff commentary:

1. The surrounding property predominately consists of single family residences.

The surrounding area is, in fact, primary single family residential in nature. Though this is true and deserves consideration, the City has allowed similar or higher density rezones in the immediate area, which begs the question, are we being consistent on how we interpret these requests based on past and present decisions?

2. A fear that the subject rezone will negatively affect property values.

Being so early in the redevelopment process, it is merely speculative to make assumptions on density, or quality of development, or quality of occupants for that matter. For that reason, such a claim is premature and without evidence to prove it will affect property values.

3. An already existing flooding issue that will only be worse with increased development.

During the platting process, the site developers are required to produce a storm water drainage study, proving that the on-site storm water management method used will contain and release runoff at pre-development rates. They are not obligated to fix a regional issue, but simply not make it worse.

4. Traffic flow along the narrow Elm Street, further compounded with on-street parking.

This is a genuine concern. A requirement from the City, during platting, is half street improvements along Elm Street. Even with the half street improvement, there is a concern for traffic congestion and potential on-street parking. Consideration for internal street access may have to be considered.

5. Current development offers an element of city convenience and country living.

While this is true, the subject property exists within central Shawnee which is prime land for development. As the property sits today, development of single family residential homes can already occur.

6. High density developments generally have higher crime rates, low ownership pride and exceed parking needs.

The intended developer on this site has similar developments in town, including Golden Acres Cottages. It has been suggested by the developer that, similar to

Golden Acres, a property association will be established allowing all maintenance and utilities to be centralized. Provided to these renters will be property maintenance and all parking will be adequate for City standards. The properties the developer currently maintains rent for \$1,200 - \$1,400 per month, indicating a proven quality product and certain standard of living. Also, higher crime rates associated with Golden Acres, or all duplex developments has not been proven to correlate with higher crime rates.

7. Increased traffic, noise, pollution, and increased danger to the health and safety of children.

Increased traffic, noise, and pollution are effects of any development, including the single family residential allowances already accepted on this site. The health and safety of children will be a very serious concern when considering any development in Shawnee. Based on the proximity to Sequoyah Elementary School, Staff will require sidewalks along both Elm Street and Independence to provide ideal walking space for children and citizens alike.



**Figure 1:** Aerial view of the site – approximate total area outlined in red.

As the subject case is for a rezone, no site plan has been required at this point. If the property is rezoned, the developer is ultimately bound only to the minimum standards of

City Code. To put that in perspective, as many as 31 lots (62 rental units) or more could likely fit on the property. Though Staff may find no objection to a rezone specifically, the scope of development being 12 Acres is quite large in size. That too should be a factor for consideration.

A sometimes unfortunate design of the city's development procedure is that 300' mailing notice and notice provided to the newspaper is only produced during the rezone of any project. Once approved, the platting procedures require no such notice. In fact, once rezoned, a developer is bound only to meet minimum standards for R-2 zoning, with certain modification by the Planning Director, if found necessary. Once rezoned, the property can be sold, allowing any buyer the rights to the designated zoning.

Staff does present an alternative that could perhaps be beneficial to all concerned. If the applicant were to propose a rezone to a Planned Unit Development (PUD) instead, certain requirements will provide a degree of certainty as to what will be developed on site. Unlike a traditional rezone, a PUD requires a Design Statement and Plan Map. The Design Statement specifies many particulars of a project that must be followed, including:

1. Type of land use
2. Residential densities
3. Development regulations
4. Locations of specific elements of the development, such as open space, landscaping, and screening.

Based on the substantial size of the development, Staff would not be opposed to suggesting any progress should be made in the form of a PUD, allowing a degree of design certainty to remain on that property, whether sold or developed as intended. Through a PUD there could perhaps be flexibility for both the developer and the City to require landscaping and a mix of single family residential, as an example.

Based on the general consistency with the Shawnee Comprehensive Plan and the Shawnee Zoning Code, Staff has no objection to the proposed zone change from R-1 (Single Family Residential) to R-2 (Combined Residential District). However, based on size of the development, requesting the rezone be posed as a PUD would be beneficial to all decision makers.

## **STAFF RECOMMENDATION**

Staff has **no objection** for the proposed rezone from ***R1 (Single Family Residential)*** to ***R2 (Combined Residential District)*** for the subject property. However, Staff does suggest a rezone to PUD might provide more influence on design to better account for concerns..

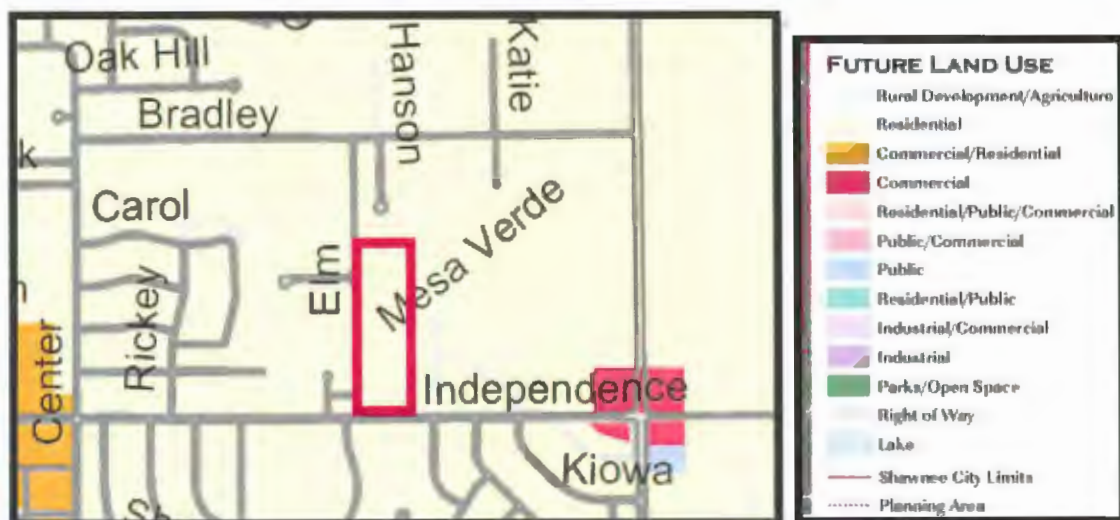
## **Attachments**

1. Figure 1: Aerial view of site

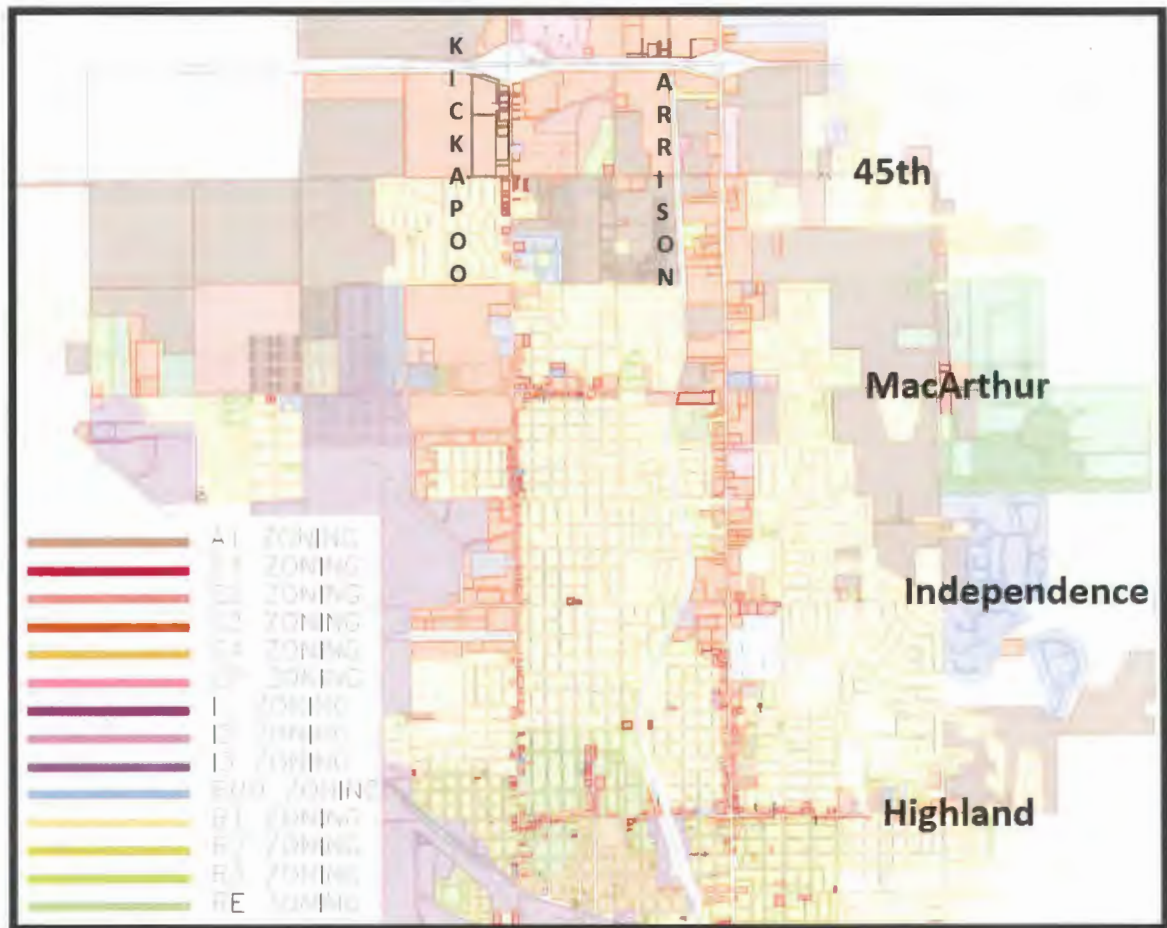
2. Figure 2: Zoning Map
3. Figure 3: Future Land Use Map
4. Figure 4: Zoning Consistency Map
5. Exhibit 1: Letters of Protest.



**Figure 2:** Zoning Map of site – approximate total area outlined in red.



**Figure 3:** Shawnee Comprehensive Plan: Future Land Use Map – approximate total area outlined in red



**Figure 4:** Zoning Consistency Map: Provided to show the correlation between major arterials and high density commercial and residential development.

**EXHIBIT**  
**1**

CITY OF SHAWNEE PLANNING COMMISSION/CITY OF SHAWNEE CITY COMMISSION

REGARDING CASE #P15-15

I am protesting the rezoning of the property "General Location Known As" 1500 E. Independence St., Shawnee, OK from R-1 to R-2.

The surrounding property predominately consists of single family residences and I am vehemently opposed to this zoning change that will negatively affect property values, traffic flow along the narrow Elm Avenue and increased flooding in the area of my residence.

Any concentrated development along Elm Avenue increases the possibility of flooding and on-street parking which will turn this narrow two lane into a narrow one lane. Vehicles already have to pull to the shoulder when meeting school buses, sanitation trucks, etc.

Thank you for your consideration.

Frank Harris

*Frank Harris 12-29-2015*

1800 N Elm Ave.

Shawnee, OK 74804

**RECEIVED**

**DEC 30 2015**

**PLANNING / CODE**

## Oppositions To Changing the Proposed Zoning Request From R 1 To R 2

1. The current surrounding infrastructures are designed for low density residential living. Elm street is currently a fragile asphalt base surface and in disrepair. This street does not currently meet the necessary width for safe passing of oncoming traffic. Traffic load cannot not be increased in it's current state
2. Current developments around proposal are low density housing by design and enjoy an element of city convience and country living.
3. The current nearby Fire station is being vacated and would strain resources from other facilities in emergencies.
4. High density developments generally have higher crime rates, low ownership pride and exceed parking needs. Look at developers current Golden Acre development.
5. Elm street currently floods across the proposed development at the North end creek. Any build up of elevation would concentrate higher flood situations on Elm street.
6. R2 development by design and architecture can be regarded as Compounds that do not fit in low density neighborhoods.

Dan Climer

3 Dustin Circle off Elm

RECEIVED

DEC 31 2015

PLANNING / CODE

# Opposition of case #P15-15

Wednesday, December 30, 2015

8:53 PM

Reid and Tammy Poyer  
1514 Mesa Verde  
Shawnee, OK 74804



Dear Sir/Madam,

City of Shawnee Planning Commission:

Propose rejection of erected duplexes adjacent to Emerald Forest

I write in connection with the above property rezoning application. I wish to object strongly to the development of these duplexes in this location.

Having these duplexes adjacent to the Emerald Forest addition would increase traffic, noise and pollution.

Furthermore, there would be a concern for upkeep of the property with no known residential restrictions. A single resident addition would keep our property values high and in the opposite, a chance of our property decreasing value with the erection of the multiple family duplexes.

Furthermore, it would be of best interest to keep the property as a R-1 zone as originally intended to keep the quality of growth at highest standards in our town.

Regards,

Reid and Tammy Poyer

 12-30-15  
 12-30-15

RECEIVED

JAN 01 2016

PLANNING / CODE

December 31, 2015

Shawnee Planning Department  
Attn: Cheyenne  
405-878-1587

Re: Rezone of property Case #P15-15

To Whom It May Concern:

We, Todd and Starla Howard, have lived in the neighborhood of Emerald Forest, for the past 10 years at 1704 Wildwood.

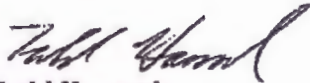
We have been informed as to the rezoning effort and are opposed to it. This is not a positive endeavor for our neighborhood of Emerald Forest on Mesa Verde and Wildwood.

This rezoning will draw additional traffic around the school, which is likely to present additional risk/danger to the health and safety of our children. This property is on a corner, at a bus stop, in a school zone; therefore, there is much concern for traffic and congestion. Flooding and drainage is also an issue for homes in Emerald Forest and surrounding neighborhoods. Crime is also another factor. Noise and other nuisances are other issues. Another huge concern is home value diminution for the homes in Emerald Forest as well as other nearby neighborhoods.

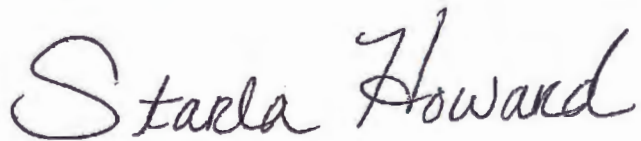
As homeowners and residents of Emerald Forest, we believe that the rezoning will have a significant impact on the character and quality not only of our neighborhood, but of the township as a whole. Fear of decreased property value and concern of investments are valid reasons and concerns for opposing this rezoning. This zoning change could adversely impact many neighborhoods in the township. The rezoning also may mean a tax increase. The new development may not enlarge the tax base enough to pay for the new schoolrooms and additional county services its residents may require. Rezoning can promote neighborhood decay and speed the demise of the single family neighborhood. Zoning is meant to preserve this, not endanger or attack this.

Again, we do not support zoning case #P15-15.

Sincerely,



Todd Howard  
1704 Wildwood



Starla Howard  
1704 Wildwood

RECEIVED

JAN 01 2016

PLANNING / CODE

Bobby G. Burnett  
1500 Mesa Verde  
Shawnee, OK 74804

RECEIVED

JAN 04 2016

CITY CLERK

To: City Clerk, Shawnee, OK

Subject: Rezoning of Property located at 1500 E. Independence St.

Purpose: To protest the rezoning of this property to allow Duplex Apartments to be built.

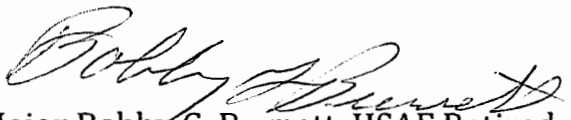
My property joins this property and rezoning will lower the value of all property in Emerald Forest Sub-division.

I sold property on E, Briarwood and moved into a duplex on Ella Lane near McArthur and Leo Streets. I lived there for a year and a half, before moving for safety reasons. I looked out my front window one day to see six black unmarked SUVs and law enforcement officers dressed like a swat team armed with AK-47 automatic rifles in the front of the duplex across the street. They had two of the residents, handcuffed standing in the front yard. A Shawnee patrol car showed up about 30 minutes after the raid started. There was not any shots fired because those accosted cooperated with the police. These were new duplexes and for the first year it was nice and quiet. Then people started moving in who were not what I call good neighbors.

From what I hear on the news and read in the Newspaper, most crimes in residential areas are committed in apartment complexes. A stray bullet could hit my house or other houses in Emerald Forest. I survived 25 years of military service and wanted to live out my retirement years with my wife in a peaceful community. Duplexes conjoining my property will not make for a peaceful situation.

Request you not approve the rezoning of this property to allow duplexes to be built.

Sincerely,



Major Bobby G. Burnett, USAF Retired

405 343 8809

8  
RECEIVED

JAN 11 2016

CITY CLERK

1504 Mesa Verde  
Shawnee, Ok 74804  
405-837-7891  
9 January 2016

To: The Mayor, City Manager and City Commissioners of Shawnee, OK:

Subject: Rezoning of Property on Independence and Elm Street from R-1 to R-2

I found out by accident that a meeting was held by the Planning Commission without my knowledge concerning a change of Zoning on **property Formerly known as the "Carpenter Property" from R-1 to R-2 on 6 Jan 2016**. I never received a written notice from the Planning Commission stating "their desire to change zoning on this property" so I could "voice my opinion" about this situation. I should have received written correspondence from your committee concerning my property since I have lived in Emerald Forest on Mesa Verde for 16 years.

I cannot see why the Planning Commissioners thinks changing the Zoning from R-1 to R-2 is the correct thing to do considering the surrounding area is already zoned as R-1 "Residential". Having rental apartments placed in a residential area will hurt the resale value of Emerald Forest and the homeowner properties around it. It devalues the area. Because no one wants to live behind or in front of rental housing areas due to the noise, increased crime and a lack of enforcement of animal control.

The owners of the apartment area and the people renting there will have no stake in the property. The owners of the rental properties in Oklahoma City are constantly on the news about not keeping their properties up. Shawnee, I doubt will have a better outcome since more than likely the owners will not be from Shawnee. And even if they are from Shawnee-trying to force an owner to keep up their property is almost impossible.

**I am asking the Commissioners not to approve the deferral because the will of the citizens were subjugated by the will of the Planning Commission.**



Jenny Lou Adkison

RECEIVED

JAN 11 2016

CITY CLERK

Jan 10, 2016

Attn: Shawnee City Commissioners

As a homeowner in Emerald Forest and a member of the association my husband and I want to request that the rezoning of the property at Independence and Elm Street from R-1 to R-2 be rejected by the City Commissioners. We feel this change in zoning would not be an advantage for the people living in our zone. This could effect water flow and decrease the value of our homes in years to come.

Our property is in a Flood zone and with a heavy rain we have seen water from the creek about 80 feet from our back door. Our concern is with building multiple home in that area could change the flow of water and maybe increase the flow of water at the back of our home.

We also are concerned that if the homes built in that area are not in the price range of homes in this are that could affect the value of our home.

When this issue of rezoning comes before you please consider our concerns and reject rezoning at the corner of Independence and Elm Streets.

Jim & Shirley Gregory  
1712 Wildwood  
Emerald Forest  
405-273-0870

10  
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JAN 11 2016  
CITY CLERK

To the Commission:

I simply ask that you do not rezone The property in question.

Having lived at 1710 Wildwood for going on 20 years, I do not see any advantage for myself or other residents in the area, in regard to having the property rezoned. I will skip the logical and obvious problems ( you should hear scores of them), and ask instead who could possibly believe this is a good change that is being considered?

Thank you for your consideration. MK

  
1710 Wildwood (Mike Kischer)  
275-9408

January 07, 2016

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JAN 11 2016  
CITY CLERK

Shawnee Planning Dept  
Shawnee City Commissioners  
Shawnee City Mayor

Re: Rezoning of property located at 1500 E Independence (Case #P15-15)

To Whom It May Concern:

We live at 1508 Mesa Verde in the neighborhood of Emerald Forest. We do not support the rezoning of the property listed above from R1 to R2. We believe that this rezoning will have a negative impact on the quality of the neighborhood & significantly bring down the property value of our home's.

We have amply rental property in Shawnee and we believe the city should be focusing on development of more single family home ownership housing additions.

**Again, we ask that you do not approve the rezoning of this property!**

Sincerely,

Carl & Jana Jacobs  
1508 Mesa Verde  
Shawnee, OK. 74804  
405-761-8646

Handwritten signatures of Carl and Jana Jacobs. The signature for Jana is on top, and the signature for Carl is below it, both in cursive script.

RECEIVED

JAN 11 2016

CITY CLERK

City of Shawnee

Public Hearing Case #P15-15

11 Jan 2016

To: City of Shawnee City Commissioners, Mayor Wes Mainord, City Manager  
Justin Erickson

I oppose rezoning of the location known as 1500 E, Independence St, Shawnee Ok. This location is classified as R-1 Single Family Residential District. The city planning commission wants to rezone this area to R-2 a combined residential district with a proposed use of the property as Duplex's. The duplex's will back up within 10 to 20 feet from my fence and this is will affect my property value, cause noise. My property tax's and my street will be affected more than I want. I thought when I bought my home it would be in a Single Family Resident District as I moved from the same kind of housing that is being proposed in Stillwater OK. The people living in the duplex's had two to three familys living in them and up to 6 vehicles parking in the street and on the grass and the noise was all times of the night. If this is rezoned to R-2 and duplex's are built this tax payer will be moving.



Arthur T. McSparen

1510 Mesa Verde

405-202-6268

RECEIVED

JAN 11 2016

CITY CLERK

City of Shawnee

Public Hearing Case #P15-15

11 Jan 2016

To: City of Shawnee City Commissioners, Mayor Wes Mainord, City Manager  
Justin Erickson

I oppose rezoning of the location known as 1500 E, Independence St, Shawnee Ok. This location is classified as R-1 Single Family Residential District. The city planning commission wants to rezone this area to R-2 a combined residential district with a proposed use of the property as Duplex's. The duplex's will back up within 10 feet from my fence and this is will affect my property value, cause noise. My property tax's and my street will be affected more than I want. I thought when I bought my home it would be in a Single Family Resident District. The people living in the duplex's can have three familys living in them and up to 3 vehicles parking in the street and on the grass and the noise will be all the time of the night. I have had rental property and I had good renters that were run off because of the people that lived next door that were dealing and stealing from the neighbors. If this is rezoned to R-2 and duplex's are built this tax payer will be totally unhappy. I feel that I should be represented in my request by the city of Shawnee Ok for this to remain R-1!

  
Glen Parsons

1512 Mesa Verde

405-830-3726

RECEIVED

JAN 11 2016

CITY CLERK

January 10, 2016

City of Shawnee

Re: Rezone of property Case #P15-15

To Whom It May Concern:

We, William and Coleen Chapman are the owners of the home and property at 1701 Autumn Lane in the Briarwood Addition. Our property lies directly north of the property being considered for rezoning. We have lived here for 22 years, and have lived in the neighborhood a total of 26 years. We have maintained a portion of the property in question for the 22 years we have lived at 1701 Autumn Lane, providing lawn care to the area up to and the tree line behind our home.

We have been informed of the efforts to rezone the property adjacent and directly south of our property from single residence homes to that of multiple family residences. We are opposed to this effort. This proposed project is not a positive one for our neighborhood in the Briarwood Addition, nor is it beneficial to the surrounding neighborhoods.

Our primary concern involves the devaluation of our property with the construction of smaller duplexes of far lesser value than our home. Also, the probability that these duplexes will become rental property which will lead to further devaluation of all properties in this area is a concern. We understand that included in the proposal is a children's park. Although we are not opposed to children's parks in general, we feel and have seen evidence in other neighborhoods that many times neighborhood parks fall into disrepair from vandalism and lack of upkeep – this is especially concerning in a neighborhood with rental properties.

Another issue is the problem with drainage and flooding on Autumn Lane which is likely to worsen with development of this area directly south of our property. In the wooded area behind us is a low lying creek bed – developing this area would change this natural landscape and the benefits that the creek provides for natural

drainage to the area. Raising the ground level in this area would impair the already compromised drainage leading to potential flooding on Autumn Ln. Preservation of the creek bed and the area surrounding the creek should be considered a high priority in any development plan for this area.

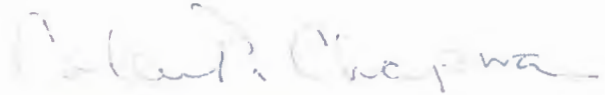
We believe that the rezoning will have a detrimental effect on the quality of our neighborhood and on the surrounding neighborhoods. We have invested in a quality neighborhood and do not wish for property values to decrease. As this area proposed likely will be marketed towards families, the school system will need to adjust, the possibility of needing to add schoolrooms to accommodate more students leading to a need for more taxes to pay for this and for other city services to the area.

Because of the reasons mentioned above, we do not support rezoning Case #P15-15.

Sincerely,



William A. Chapman  
1701 Autumn Lane  
(405)275-4743



Coleen P. Chapman  
1701 Autumn Lane  
(405)275-4743

1513 Mesa Verde  
Shawnee, OK 74804  
January 10, 2016

7

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JAN 11 2016  
CITY CLERK

RE: Rezoning 1500 E. Independence

Sent to Mayor Mainord, Commissioners Agee, Dykstra, Shaw, Hall:

We hope you will join us in our opposition to rezoning 1500 E. Independence from R-1 to R-2. We agree with most of the arguments and evidence you will read in other letters, but will repeat here the arguments we think are most weighty.

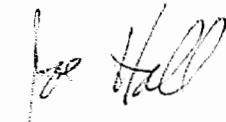
The property is in the midst of a sea of R-1 zoning, the exceptions being a former retirement residence just west of the lot and two duplexes on Elm. We believe that degrading this area with as many as 35 combined rental housing units is damaging to the area's future and possibly to its present status as a single-family residential area. The city commissioners, while needing to ensure the economic viability of Shawnee builders, should not let this concern cause you to lose sight of a major purpose of zoning, which is to preserve the integrity of residential areas.

We have maintained an active neighborhood association in Emerald Forest. We make certain that the neighborhood covenant is upheld and that standards of neatness are maintained. Whereas owners of single family units at 1500 Independence might be inclined to maintain such standards, many examples suggest that people in combined rental housing units would be less inclined to do so.

Finally, people on the west side of Mesa Verde, after dealing with excessive run-off from the 1500 E. Independence lot for years, could have housing units built within thirty feet of their back doors if the zoning is changed to R-2, since the set-back behind such houses is only ten feet and some of the Mesa Verde houses have only twenty feet behind their houses. This would be only one result of over-dense housing in this part of Shawnee, where single family units are the rule.

We hope that these concerns, along with issues described in other letters you have received, will lead you to reject the request to change the zoning from R-1 to R-2.

Sincerely,

  
Joe Hall

  
Ronda Hall

January 9, 2016

City Commissioners  
City of Shawnee Mayor Wes Mainord  
City Manager Justin Erickson

6  
RECEIVED

JAN 11 2016

CITY CLERK

Re: Rezone of property Case #P15-15

To Whom It May Concern:

We, Todd and Starla Howard, have lived in the neighborhood of Emerald Forest, for the past 10 years at 1704 Wildwood.

We have been informed as to the rezoning effort and are opposed to it. This is not a positive endeavor for our neighborhood of Emerald Forest on Mesa Verde and Wildwood.

This rezoning will draw additional traffic around the school, which is likely to present additional risk/danger to the health and safety of our children. This property is on a corner, at a bus stop, in a school zone; therefore, there is much concern for traffic and congestion. Flooding and drainage is also an issue for homes in Emerald Forest and surrounding neighborhoods. Crime is also another factor. Noise and other nuisances are other issues. Another huge concern is home value diminution for the homes in Emerald Forest as well as other nearby neighborhoods.

As homeowners and residents of Emerald Forest, we believe that the rezoning will have a significant impact on the character and quality not only of our neighborhood, but of the township as a whole. Fear of decreased property value and concern of investments are valid reasons and concerns for opposing this rezoning. This zoning change could adversely impact many neighborhoods in the township. The rezoning also may mean a tax increase. The new development may not enlarge the tax base enough to pay for the new schoolrooms and additional county services its residents may require. Rezoning can promote neighborhood decay and speed the demise of the single family neighborhood. Zoning is meant to preserve this, not endanger or attack this.

On another note, I have taught at Will Rogers Elementary School in the Shawnee Public School system for 20 years. In this time I have witnessed first hand these types of developments that come in to our communities and districts labeled "high income" but our community has never been able to support "high income" rental property and therefore become low income, Section 8, Native American, tribal housing. These developments also have a very high mobility rate which in turn effects a school system/district dramatically in a very negative way.

In the 20 years of teaching I have serviced these type families and have witnessed the high mobility rate at which these families move about the community. Will Rogers has gone from 32% free and reduced lunches to 97% free and reduced lunches based on poverty rate since properties such as these developed in our district. This is not beneficial to school

districts (test scores, class size, teacher student ratio, etc.). I also realize that many community members earn a living by buying, selling, building and renting properties such as these. We as a community cannot continue to cater to this endeavor. There is a healthy balance to be maintained (agricultural, residential, commercial, R-1, R-2, etc.). Our rental property percentage is just as much or more than our single family home properties.

This is why the planning committee, commissioners and mayor are in place to maintain this healthy balance. It is not a question of the quality of materials, craftsmanship or intent. It is a question of is this a healthy balance for our community, this particular neighborhood, location, school district, etc. The high mobility rate will also cause this development to decrease in appearance and value thus decreasing surrounding property values. We can also not compare Golden Acres or other developments such as these to the intended development. Each neighborhood, location, community, district has it's own individual impact and issues. Golden Acres is zoned much differently at a much higher standard than this intended development and has a very different impact on that area's property value.

This why we are here today to ask the committee, commission and mayor to please maintain a healthy balance and deny the rezoning of property case #P15-15.

Sincerely,



Todd Howard  
1704 Wildwood  
405-214-9414



Starla Howard  
1704 Wildwood  
405-214-9414

To Whom it May Concern:

Subject::DEVELOPMENT OF PROPERTY OF FORMER CARPENTER ESTATE AND REZONING  
FROM R 1 TO R 2.

I am a resident of Emerald Forest. My husband, Bob Peck and I chose to build a custom home here 18 years ago. We protest the development and rezoning of the Carpenter Property. We do not want duplexes and rentals next to our homes!! We are very proud of Emerald Forest. We have a very active Homeowners Association. We have near 100% participation in assessment of dues. We want to maintain the integrity of our homes ! Most all the homes here are custom built. To have rental property on our back side would devalue our homes.

Betty and Bob Peck  
1706 Wildwood  
Shawnee, Oklahoma, 74804

*Betty A Peck*  
*405-273-3449*



RECEIVED  
JAN 11 2016  
CITY CLERK

To Whom it May Concern:

Subject: DEVELOPMENT OF PROPERTY OF FORMER CARPENTER ESTATE AND REZONING  
FROM R 1 TO R 2.

I am a resident of Emerald Forest. My husband, Bob Peck and I chose to build a custom home here 18 years ago. We protest the development and rezoning of the Carpenter Property. We do not want duplexes and rentals next to our homes!! We are very proud of Emerald Forest. We have a very active Homeowners Association. We have near 100% participation in assessment of dues. We want to maintain the integrity of our homes! Most all the homes here are custom built. To have rental property on our back side would devalue our homes.

Betty and Bob Peck  
1706 Wildwood  
Shawnee, Oklahoma, 74804

*Betty a Peck*  
405-273-3449

RECEIVED  
JAN 11 2015  
CITY CLERK

Monday, January 11, 2016

Re: Case #P15-15

Dear City Commissioners,

I am president of the Emerald Forest Home Owners' Association and own a property (1516 Mesa Verde) that abuts directly to the east of the property referred to in case #P15-15. I OPPOSE THE PROPOSED REZONING FROM R-1 TO R-2 of 1500 E. Independence Street. I ask you to NOT APPROVE the deferral recommended by the City Planning Commission because the will of the citizens was subjugated by the will of the Planning Commission. I further ask you to NOT APPROVE the proposed rezoning from R-1 to R-2 of 1500 E. Independence St.

I and my fellow Emerald Forest homeowners have substantial investments in our homes; homes that are valued at two, three or even four hundred thousand dollars. We are concerned that the proposed development of the neighboring property into rental properties, especially duplex rental properties as stated by the developers, as allowed under the proposed R-2 rezoning, will negatively impact the values of our homes in the Emerald Forest neighborhood. Now some would say that the claim that neighboring rental properties will reduce property values, while widely believed, is anecdotal at best. Indeed, at the City Planning Commission meeting (January 6<sup>th</sup>) the City Planner, Justin Debruin, stated that he had not read anything to substantiate the claim. However, a<sup>2015</sup> research study by Wendy Usrey in the Department of Economics at the Colorado State University, College of Business showed that "Rentals within ¼ mile of a sold home had a negative impact on price." My property, and most if not all the Emerald Forest neighborhood, **lies within a quarter mile of the proposed rental properties**. Hence I and my fellow Emerald Forest homeowners believe our concern that our property values will be reduced is valid.

I would also point out that it is not just the homeowners in Emerald Forest that are concerned. From the petitions that have been circulated, homeowners residing on Autumn Lane to the north, on Dustin Circle and N. Elm street to the west, and on Sequoyah, Apache, Arapaho and others to the south are also concerned about the negative impact of the proposed development and are opposed to the rezoning of 1500 E. Independence from R-1 to R-2.

On looking to these surrounding neighborhoods I would point out that 1500 E. Independence is almost completely surrounded by either R-1 or A-1 zoning: Emerald Forest to the east is R-1, Autumn Lane to the north is R-1, Dustin Circle and N. Elm street are R-1 and A-1 (according to the website) and it is R-1 on the south side of Independence. The exception is very small piece of C-1 zoning on the north-west corner of Elm and Independence. Thus, the current R-1 zoning is more consistent with the area than the proposed R-2 zoning.

In addition to the negative effect on home values, and possibly contributing to the negative impact rental property has, I and my fellow Emerald Forest homeowners are concerned about increased crime in our neighborhood because of the proposed rental development. Several of our homeowners moved to Emerald Forest from neighborhoods with increasing numbers of rental properties close by to escape the increasing crime rates. They also cited increasing noise and traffic. At least two of the homeowners have stated that they would sell and move elsewhere if the proposed rental development proceeds especially the kind of rental property allowed under R-2 zoning.

For those of us with homes on the west side of Mesa Verde (including myself) and those on the south end of Autumn Lane, properties that directly abut 1500 E. Independence, we are very concerned about the 10

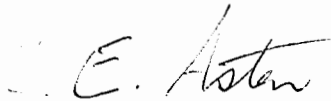
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JAN 11 2016  
CITY CLERK

foot easement allowed under R-2 zoning compared to the 20 foot easement allowed under R-1. 10 feet is simply too close.

I and my fellow Emerald Forest homeowners have other concerns such as ensuring adequate planning for water run-off. However, these are tangential to the zoning question and will be addressed when the plans for R-1 development are presented.

I and my fellow Emerald Forest homeowners see no benefit, only detriment, with re-zoning. Therefore, to reiterate, I ask you to NOT APPROVE the deferral recommended by the City Planning Commission and to NOT APPROVE the proposed rezoning from R-1 to R-2 of 1500 E. Independence St.

Sincerely,

A handwritten signature in cursive script that reads "C. E. Aston". The signature is written in dark ink and is positioned above the typed name and address.

C. E. Aston  
President of the Emerald Forest Homeowners' Association  
Resident of 1516 Mesa Verde  
Phone: 405 314-0737

cc'd City of Shawnee Mayor Wes Mainord,  
City Manager Justin Erickson

Bonnie Boone  
1516 Mesa Verde  
Shawnee, OK 74804

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JAN 11 2016  
CITY CLERK

To Honorable City Commissioners, Mayor Wes Mainord, and City Manager Justin Erickson:

As Treasurer of the Emerald Forest Homeowner's Association and longest residing resident of EF, (since 1995), I hereby do formally protest the rezoning of 1500 E. independence (the former Carpenter property) on the corner of Independence and Elm. The proposed rezoning from single residential to multi-residential will bring on more liabilities than advantages.

1. Lower property values of residential housing in the area. Despite what Justin Debruin quoted at the public hearing on 01/06/2016 "To speculate what could happen would be unfair" (concerning making judgments without more concrete plans from the developer) I counter than it is UNFAIR to us as property owners to disregard our legitimate concerns with such a flippant remark especially in the light that the proposed builders DO NOT EVEN OWN the said property yet and at least had enough sense to make the purchase contract contingent on rezoning! In addition a deferral will in NO WAY SHAPE OR FORM alleviate our concerns no matter who is involved or how long it is discussed. What part of WE DO NOT WANT RENTAL PROPERTY BUILT NEXT TO OUR RESIDENTIAL DIVISION do some of the planning commissioners and planning employees NOT UNDERSTAND?! Two of our homeowners are currently renting their properties against the covenants (the city will do nothing to help us on this issue) and the high turnover and delinquent behavior of adolescent renters have resulted in our personal ornamental lawn property and that of our neighbors being destroyed. The creek behind us is a natural draw for children's curiosity and I don't want more children of like mentality trespassing onto our properties. This is something that undoubtedly would happen especially if the zoning were to be degraded from R1 to R2.
2. Diminish the enjoyment of our neighborhood because of increase traffic, noise and crime. This at worst would cause increased chance of sex-offenders/predators and/or drug dealers living very near a public elementary school. Background checks of renters will not prevent the "boyfriend" from moving into a rental property. At best this rezoning will put children at risk when crossing the street to get to an open space to play (Sequoyah School playground). I went to Golden Acres myself to see what kind of housing would be built and it should have been named "Concrete Acres" as a more accurate description and the only significant grass I saw was what was required on a 10 foot easement from the curb!

We do not support the development of this property as planned by the out of area developers, who do NOT PLAN ON LIVING in the habitats they build (or in Shawnee for that matter)—they are from Ada, OK.

Please do the will of the long standing citizens of this community. This whole case #P15-15 reeks of clandestine modus operandi and abuse of political power. Please do not partake of it and do not enforce it on us. I don't see how even one of you in good conscience could be in favor of rezoning if you would just put yourself in our shoes (houses) and utilize the Golden Rule. Our decisions result in consequences and because of the poor decision the Carpenters made by not selling to Frank Bryant of the former Bryant Builders we are as a community now dealing with its consequences. Do not contribute to another poor decision please! Vote against deferment and against rezoning this property and keep it R1!

Thank you for your earnest consideration and for exercising responsibility to our long standing citizens.

*Bonnie Boone, D.V.M. 01/11/2016*

Bonnie Boone, D.V.M. resident of 1516 Mesa Verde for over 20 years. 823-3546

# Opposition of case #P15-15

Wednesday, December 30, 2015

8:53 PM

Reid and Tammy Poyer  
1514 Mesa Verde  
Shawnee, OK 74804

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JAN 11 2016  
CITY CLERK

✧

City of Shawnee Mayor Wes Mainord:

Propose rejection of erected duplexes and re-zoning to R-2 adjacent to Emerald Forest

I write in connection with the above property rezoning application. I wish to object strongly to the development of these duplexes in this location.

Having these duplexes adjacent to the Emerald Forest addition would increase traffic, noise and pollution.

Furthermore, there would be a concern for upkeep of the property with no known residential restrictions. A single resident addition would keep our property values high and in the opposite, a chance of our property decreasing value with the erection of the multiple family duplexes. With the residents being rotating instead of permanent, there will be no sense of owning or taking care of the property as a single residence would be. The intentions would be for the duplexes to start out in appearance nice and look new, but soon after, they would take on the appearance of the typical rental property pride of upkeep. We also know the easement on the back of our property would be 10 ft. if zoned for an R-2 vs. the 20ft if kept as an R-1 zoning. This would be a major loss of privacy and would be concerning for any owner backing up to this R-2 property.

Furthermore, it would be of best interest to keep the property as a R-1 zone as originally intended to keep the quality of growth at highest standards in our town.

Regards,

Reid and Tammy Poyer



J. Roger Henson  
1709 Wildwood  
Shawnee, OK 74804-1803

January 10, 2016

City of Shawnee  
9th and Broadway  
Shawnee, Oklahoma

**RECEIVED**  
**JAN 11 2016**  
**CITY CLERK**

Attn: Wes Mainard, Mayor  
Linda Agee, Commissioner  
James Harrod, Commissioner  
Keith Hall, Commissioner  
Lesa Shaw, Commissioner  
Micheal Dykstra, Commissioner  
Justin Erickson, City Manager

Re: Request for Change of Zoning from R-1 to R-2  
Case Number P-15-15  
Applicant: Landrun Group LLC  
Property Address: 1500 East Independence, Shawnee

To the Honorable Mayor, Commissioners and City Manager,

As an owner of our home in Emerald Forest, we formally protest on both substantive and procedural grounds the Application of Landrun Group LLC which was filed with the City of Shawnee as P15-15. The Application requested a zoning change from R-1 to R-2.

1. When we purchased our home in 2000, the tract of land which is the subject of the application ("Carpenter Property") was occupied as a single family residence and had been for many years. The City's website revealed that the property as of January, 2014 was zoned A-1. I understand that within the last two years the zoning was changed to R-1 which is consistent with its historical use and the zoning of Emerald Forest, the real property contiguous to the Carpenter Property.

The prior zoning change to R-1 was not protested. The use would remain consistent with its historical use. It was hoped that the Carpenter's Property would be developed with single family residences consistent with the quality and value of not only the houses and homes in Emerald Forest but also the houses and homes located across Elm Street on Dustin Circle and the houses and homes located to the north in Briarwood Estates.

A review of the Zoning Code that went into effect July 2, 2014, reveals much in common between R-1 and R-2 such as the maximum building height of 35 feet, which allows for two-story structures. Notwithstanding the commonality of the two zoning classifications, there are significant differences between R-1 and R-2. Under R-2, Use is expanded to include duplex, triplex, townhouses, residential care homes, and residential child care facilities. Table 22-160.4.1 Density and Dimensional Standards by Zone reveals a very significant difference that directly impacts the quality of life and value of the homes of my neighbors that live on the west side of Mesa Verde Drive. The rear yard setback minimum is ten (10) feet. Under R-2, a developer can build a two-story triplex 10 feet from neighbors' backyards. Privacy is compromised. The quality of life and value of the homes on Mesa Verde Drive diminishes which reduces the quality of life and value of all the other homes in the small addition of Emerald Forest.

At the Planning Commission hearing, when the applicant was asked about the development details, he could not or would not disclose any. To paraphrase the response, "It depends on the zoning."

2. Historically, there have been buffers between duplexes and higher value residential property. For example, in the late 1960's, Larkins Meadows was developed. Duplexes were built on the east side of Cheyenne Street abutting Bryan Street. On the west side of Cheyenne Street were smaller single family residential homes. The more substantial homes were located further in the interior of the addition.

Another example is in Country Club Addition. The more substantial homes located on North Troon Circle south of Augusta Drive are buffered by a green belt composed of a creek and vegetation from the smaller garden homes located on Augusta Court. The same substantial homes located on North Troon Circle south of Augusta Drive are buffered by Augusta Drive and a brick wall from the smaller homes located on North Troon Circle north of Augusta Drive.

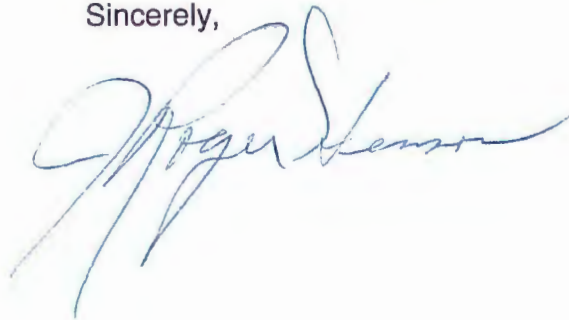
Unlike a wide green belt, or creek, there is nothing to buffer the homes in Emerald Forest from the effects of a development of duplexes, triplexes or townhouses on the property identified in the Application.

3. On a procedural note, the planning commission initially voted 5 to 2 against a motion to approve the application as submitted. Subsequently, the Planning Commission voted to postpone consideration until the next Planning Commission meeting. It is now my understanding that the City Commission

may consider the application. If the City Commission does, in fact, consider the application of Landrun Group, LLC, it would appear that it will be doing so contrary to Section 22-210.5 of the Zoning Code which requires a vote of the Planning Commission to approve the application as submitted, or as amended, or be approved subject to such modification as the Planning Commission shall deem appropriate to carry out the Comprehensive Plan.

We respectfully request that the City Commission deny the application of Landrun Group, PLLC in Case Number P15-15 for the reasons that the current zoning of R-1 is consistent with the use of the surrounding property and particularly Emerald Forest; it would allow the owner a reasonable return on the land as zoned; and it would retain the single family residence character in the surrounding area.

Sincerely,

A handwritten signature in blue ink, appearing to read "Roger Hanson". The signature is fluid and cursive, with a large initial "R" and "H".

January 26, 2016

Shawnee City Planning Commission  
Shawnee, Okla.

**Re: Case #P15-15**

Dear Commission:

This is a **letter of protest** against the rezoning of the former Carpenter property (Independence and Elm) from R-1 to R-2 (duplexes for rental).

We built our home at 9 Dustin Circle 35 years ago. It has been a safe, quiet area that we have been happy to rear our children, and now enjoy watching our young grandchildren play and ride their bikes. It is our concern that this safety will be compromised with transient neighbors and increased traffic in the area if multifamily rental property is built near our street.

The issue of property value is very important to us. We (and our neighborhood) have worked diligently over the years to maintain our quality of homes. That property value that we have improved over the years will greatly diminish if this rezoning occurs. It saddens us to watch this happen due to opportunistic non-local investors.

Additionally, the R2 zoning is very broad in scope. It could allow future multi-family developments to be built that would vary from the initial developers stated project. Finally, Shawnee needs more developed land for single home housing. We urge the developer to pursue that endeavor.

Initially when the land was sold (Carpenters), it was intended for single-family homes. Now, due to the resale of the land, the intention of the property has changed.

We implore you to deny the rezoning of this property.

Sincerely,



Greg and Karen Wall  
9 Dustin Circle  
Shawnee, Ok. 74804

RECEIVED

JAN 28 2016

CITY CLERK

Brian Dude

1709 Autumn Lane • Shawnee, OK 74804 • Phone: 405-990-4140



Jan. 28, 2016

Lesia Shaw  
Ward 5 Commissioner  
City of Shawnee  
16 W 9<sup>th</sup> St.  
Shawnee, OK 74801

Dear Commissioner Shaw:

I am writing to you to express my concern regarding Case #P15-15 which addresses the rezoning of the former Carpenter property located at the intersection of Independence and Elm from R-1 to R-2.

As a relatively recent arrival in Shawnee, and thus involved in the local real estate market, I am extremely troubled by the prospect of a rezoning decision that could have significant negative implications on my property value, as well as the property values of my neighbors.

Since purchasing our home in May, we have enjoyed the quietness and neighborliness we have found. We often walk our child and dog up and down Bradley, Elm and Independence and the surrounding neighborhoods. We have always felt safe doing so.

In my view, building a development like the one proposed by the Landrun group, not only is not a "fit" for the area based on the surrounding neighborhoods, but would also have a significant deleterious effect on the quiet, family-oriented atmosphere of the area.

Most significant, however, is the potential for a substantial loss of property value on our home. Based on the research I have seen, the impact of this development could be such that it would be untenable for our family to stay in our current home without suffering a significant financial blow.

In short, a development of this sort in our backyard is NOT what we signed up for when we moved to the area last year. As I'm sure you'll be inundated with similar correspondence from fellow Ward 5 residents, I urge you to do everything in your power to prevent this rezoning.

Thank you for your time and attention to this matter.

Sincerely,

Brian Dude

RECEIVED  
JAN 28 2016  
CITY CLERK

**From concerned citizens and home owners to the City of Shawnee Case #P15-15**

Notice is hereby given to the Commissioners of the City of Shawnee that the following citizens  
OPPOSE the proposed Rezone of property located within the City of Shawnee.

**RECEIVED**

The property requesting rezoning is described as follows:

**JAN 11 2016**

A tract of land described as beginning 660 feet N89°43'27"E of the Southwest Corner of the Southeast Quarter (SW/4 SE/4) of Section Eight (8), Township Ten (10) North, Range Four (4) East of the Indian Meridian, Pottawatomie County, Oklahoma; thence N00°16'33"W a distance of 1314.50 feet to a point on the North line of the S/2 SE/4; thence N89°19'27"E a distance of 397.66 feet; thence S00°16'33"E a distance of 1314.50 feet; thence S89°43'27"W a distance of 397.66 feet to the point of beginning.

**CITY CLERK**

General Location Known As: 1500 E. Independence St., Shawnee, OK  
Current Zoning Classification: R -1: Single Family Residential District  
Requested Zoning Classification: R-2: Combined Residential District  
Proposed Use of Property: Duplex  
Applicant: The Landrun Group, LLC

We the following live in the residential area whose property values and life would be adversely affected by the proposed change in the zoning. We feel that the City of Shawnee Commissioners are public servants elected to represent the citizens of Shawnee especially the stakeholders who are property owners that would be directly affected. We respectfully request that you as Commissioners follow the will of the people and not developer/speculators that do not plan on living in the habitats that they build.

| Name        | Address          | Phone        | Date    |
|-------------|------------------|--------------|---------|
| (M. Lipe)   | 14 Sequoyah Blvd | 760-7721     | 1/10/16 |
| Janet Lipe  | " "              | 273-1993     | 1/10/16 |
| Don Lipe    | ✓                | 974-1005     | 1/10/16 |
| Don Lipe    | 12 Sequoyah      | 875-6722     | 1/10/16 |
| Harri Holt  | 13 Sequoyah      | 878-6922     | 1/10/16 |
| Don Lipe    | 6 Sequoyah       | 481-3888     | 1/10/16 |
| Don Lipe    | 6 Sequoyah       | 915-9562     | 1/10/16 |
| Ray Askay   | 4 Sequoyah Blvd  | 405-273-1759 | 1-10-16 |
| Marie Askay | 4 Sequoyah Blvd  | 405-273-1759 | 1-10-16 |

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| Name            | Address         | Phone        | Date    |
|-----------------|-----------------|--------------|---------|
| Betty Williams  | 20 Str 2 Pk     | 217325-15    | 1/10/16 |
| Gerard Lamason  | 22 Arapaho Dr   | 432-9874     | 1/10/16 |
| Sherril Lamason | 22 Arapaho Dr.  | 4054813703   | 1/10/16 |
| Holone Pratt    | Armando         | 405-273-7749 | 1/10/16 |
| Garrett Bol     | 19 Kiowa        |              | 1-10-16 |
| Sharon King     | 23 "            |              | 1-10-16 |
| Art McLean      | 27 Kiowa        | 405-397-4365 | 1-10-16 |
| Kennedy         | 24 Kiowa        | 405-481-0954 | 1-10-16 |
| Patricia Hine   | 22 Kiowa        | 4054817105   | 1-10-16 |
| Sue Coleman     | 8 Kiowa         | 405-273-1651 | 1-10-16 |
| Charles Coleman | 8 Kiowa         | 405-273-1651 | 1-10-16 |
| ALLEA KRAUSE    | 4 Kiowa         | 405-273-3562 | 1-10-16 |
| Robert Thompson | 2 Larkin Dr     |              |         |
| JAMES LYONS     | 10 LARKINS PARK | 405-273-4629 | 1-10-16 |
| Kay Lyons       | 10 Larkins Park | 273-4629     | 1-10-16 |
| Cadence McLean  | 15 Larkins Plac | 214-7771     | 1-10-16 |
| John H          | 7 Larkins Pl    | 479-264-1504 | 1-10-16 |
| Don Hill        | 1501 West Lark  | 405-563-3008 | 1-10-16 |
| Paul & Ellen    | 5 Larkins       | 405-273-2622 | 1/10/16 |
|                 |                 |              |         |
|                 |                 |              |         |

**From concerned citizens and home owners to the City of Shawnee Case #P15-15**

Notice is hereby given to the Commissioners of the City of Shawnee that the following citizens OPPOSE the proposed Rezone of property located within the City of Shawnee.

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General Location Known As: 1500 E. Independence St., Shawnee, OK  
 Current Zoning Classification: R -1; Single Family Residential District  
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 Proposed Use of Property: Duplex  
 Applicant: The Landrun Group, LLC

**RECEIVED**  
**JAN 11 2016**  
**CITY CLERK**

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| Name            | Address        | Phone        | Date     |
|-----------------|----------------|--------------|----------|
| JAY DEES        | 6005 N BRYAN   | 405 570 3916 | 1-9-16   |
| France Deas     | 1 Arapaho Dr.  | 405-275-0577 | 1-9-16   |
| Paula Jordan    | 3 Arapaho      | 405-833-8955 | 1/9/2016 |
| Tom Stewart     | 5 Arapaho Dr.  | 405 275-6032 | 1/9/16   |
| Joyce Stewart   | 5 Arapaho Dr.  | 405 275-6032 | 1/9/16   |
| Lebbie McDaniel | 9 Arapaho Dr.  | 405 none     | 1/9/16   |
| Howard McDaniel | 9 Arapaho Dr.  |              | 1/9/16   |
| Brianne Waring  | "              | 405 877 0606 | 1/9/16   |
| Dale Keese      | 10 Arapaho Dr. | 405-314-0827 | 1-9-16   |

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| Name             | Address                                   | Phone          | Date     |
|------------------|-------------------------------------------|----------------|----------|
| Courtney Dodson  | 1 Apache Ln. Shawnee, OK <sup>74801</sup> | 580-387-9037   | 01/09/16 |
| Alvin S. Edg     | 2 Apache St                               | 405-618-7058   | 01/09/16 |
| Loette Pordley   | 5 Apache                                  | 325-0570       | 1-9-16   |
| Gene Landersdale | 4 Orange, Shawnee, OK 74801               | 273-9295       | 1-9-16   |
| Jim Dabek        | 28 Apache                                 | 325-8744       | 1-1-16   |
| Bill T.          | 30 Apache                                 | 214-0028       | 1/9/16   |
| Max W. D.        | 32 Apache                                 | 418-8420       | 1/9/16   |
| Jessie Kutt      | 31 Apache                                 | 981-6104       | 1/9/16   |
| Tom Miller       | 34 Apache                                 | 915-9626       | 1/9/16   |
| Jeff Morgan      | 40 Apache                                 | 637-1851       | 1-10-16  |
| Mike Hunt        | 33 Apache                                 | 273-6786       | 1-10-16  |
| 1-10-16          | 1-10-16                                   | 205 816274     | 1-1-16   |
| Barbara Johnson  | 23 Apache Dr.                             | (405) 414-8802 | 1/10/15  |
| Richard Thompson | 1 Kiowa                                   | 432 5223       | 1/10/16  |
| Cyler Herring    | 1 Kiowa                                   | 745-2152       | 1-10-16  |
| W. D.            | 5 Kiowa                                   | 256-3561       | 1-10-16  |
| W. D.            | 5 Kiowa                                   | 306 7197       | 1-10-16  |
| Aaron Rowley     | 7 Kiowa                                   | 990-7466       | 1-10-16  |
| Marsha Rowley    | 7 Kiowa                                   | 227-1460       | 1-10-16  |
| Kay Jek          | 11 Kiowa                                  | 550 0902       | 1-10-16  |
|                  |                                           |                |          |

**From concerned citizens and home owners to the City of Shawnee Case #P15-15**

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| Name            | Address         | Phone                  | Date       |
|-----------------|-----------------|------------------------|------------|
| Wayne C. Gentry | 4 DUSTIN CIRCLE | 273 0439               |            |
| Greg Wall       | 9 Dustin Circle | <del>273</del> 41-0192 | 1-10-16    |
| Karen Wall      | " " "           | 227-4705               | 1-10-16    |
| Michael Butcher | 7 Dustin Circle | 640-7904               | 1/10/16    |
| Tom Leedy       | 1616 N Elm      | 405-474-3639           | 1/10/16    |
| Robert Spawver  | 1808 N. Elm     | 405-924-2588           | 01/10/2016 |
|                 |                 |                        |            |
|                 |                 |                        |            |
|                 |                 |                        |            |

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| Name                 | Address          | Phone        | Date   |
|----------------------|------------------|--------------|--------|
| Shelley Hembree      | 1702 Autumn Lane | 405-317-1290 | 1-9-16 |
| Shelley Hembree      | 1702 AUTUMN LANE | " 625-4281   | 1-9-16 |
| Rob Hembree          | 1703 Autumn Lane | 405 249 5543 | 1-9-16 |
| K Smith              | 1703 Autumn Ln   | 405 273 0713 | 1/9/16 |
| Ron + Julie Columbus | 1705 Autumn Ln.  | 405-808-6320 | 1/9/16 |
| Julie Smith          | 1707 Autumn Ln   | 405 584-2951 | 1/9/16 |
| Tawa Anderson        | 1708 Autumn Lane | 405-481-7421 | 1/9/16 |
| Vanessa Anderson     | 1708 Autumn Lane | 405-481-7421 | 1/9/16 |
| Kathy Santino        | 1712 Autumn Lane | 405-620-7811 | 1/9/16 |

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[illegible]

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| Name                     | Address                | Phone               | Date            |
|--------------------------|------------------------|---------------------|-----------------|
| <i>E. E. Arkin</i>       | <i>1516 Mesa Verde</i> | <i>405 878 8082</i> | <i>1/9/2016</i> |
| <i>Bonnie Boone</i>      | <i>1516 Mesa Verde</i> | <i>405 823-3546</i> | <i>1/9/2016</i> |
| <i>Leslie Shaw</i>       | <i>1714 Wildwood</i>   | <i>405 584-9505</i> | <i>01-09-16</i> |
| <i>Myra Simon</i>        | <i>1709 Wildwood</i>   | <i>405-275-3705</i> | <i>1-9-16</i>   |
| <i>Shirley Gregory</i>   | <i>1712 Wildwood</i>   | <i>405-273 0840</i> | <i>1-9-16</i>   |
| <i>Jim Gregory</i>       | <i>1712 Wildwood</i>   | <i>405 273 0820</i> | <i>1-9-16</i>   |
| <i>Art McSparrin</i>     | <i>1510 Mesa Verde</i> | <i>405-202-6268</i> | <i>1-9-16</i>   |
| <i>D. D. [Signature]</i> | <i>1711 Wildwood</i>   | <i>405 830-9653</i> | <i>1-9-16</i>   |
| <i>Bill McCon</i>        | <i>1502 Mesa Verde</i> | <i>405-223-8246</i> | <i>1-9-16</i>   |

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| Name           | Address          | Phone          | Date     |
|----------------|------------------|----------------|----------|
| GLEN PARSONS   | 1512 MESA VERDE  | 8303726        | 1-9-16   |
| Starla Howard  | 1704 Wildwood    | 214-9414       | 1-9-16   |
| JOE HALL       | 1513 MESA VERDE  | 203-1319       | 1-9-16   |
| JoAnn Burnett  | 1500 Mesa Verde  | 343-8435       | 1-9-16   |
| Bob Burnett    | 1500 Mesa Verde  | 343-8809       | 1-9-16   |
| Yvonne Jacob   | 508 Mesa Verde   | 761-8646       | 1-9-16   |
| Jenny Adkins   | 1504 Mesa Verde  | 273-7891       | 01-09-16 |
| Carl Jacob     | 1508 Mesa Verde  | 761-4044       | 1-9-16   |
| Jim K          | 1514 Mesa Verde  | 380-3236       | 1-9-16   |
| Janny Poyer    | 1514 Mesa Verde  | 249-6904       | 1-9-16   |
| Toot Howard    | 1704 W. Wildwood | 214-9414       | 1-9-16   |
| Betty Peck     | 1704 Wildwood    | 273-3449       | 1-9-16   |
| Cheryl Lanning | 1708 Wildwood    | 596-0980       | 1-9-16   |
| Robert Lanning | 1712 Wildwood    | 273-5980       | 1-9-16   |
| Bobby C. Blair | 1716 Wildwood    | 214-9765       | 1-9-2016 |
| Chris Anthony  | 1720 Wildwood    | 512-1543       | 1-9-2016 |
| RJ VanZant     | 1715 Wildwood    | 273-5994       | 1-9-2016 |
| Sandra VanZant | 1715 Wildwood    | 273-5994       | 1-9-2016 |
| Jenna Hall     | 1513 Mesa Verde  | 788-9465       | 1-10-16  |
| Thomas A. Felt | 511 Mesa Verde   | 788-8155       | 1-10-16  |
| Myra W         | 1707 Wildwood    | (405) 613-9837 | 1/10/16  |

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[illegible]

January 29, 2016

Shawnee City Clerk  
16 W. 9<sup>th</sup>  
Shawnee, OK 74801

RECEIVED  
JAN 29 2016  
CITY CLERK

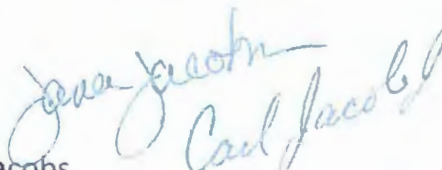
Regarding: Case #P15=15 Property at Elm & Independence subject to rezoning

To Whom It May Concern,

After meeting with the developers last night and hearing of their plans for the property listed above **we are still opposed to the rezoning from R-1 to R-2.** Our property on Mesa Verde would directly adjoin the proposed rental complex and the negative financial impact on our proper would be significant.

We purchased our home because it is located in a residential area of Shawnee away from rental complexes and we want to keep it this way. It's obvious from looking at much of the rental property already located around Shawnee that renters do not take the same pride in their property as homeowners do. We also feel that the additional number of people by building duplexes as opposed to single family homes would increase traffic, noise & crime.

We can see no benefit to our community by rezoning this property to R-2 and would ask that you vote this proposal down.

  
Carl & Jana Jacobs  
1508 Mesa Verde  
Shawnee, OK. 74804

CC: Shawnee City Planning Committee &  
Shawnee City Commissioners

Letter of Protest

January 28, 2016

City of Shawnee Planning Commission  
City Hall  
16 W 9<sup>th</sup> St.  
Shawnee, Ok. 74801

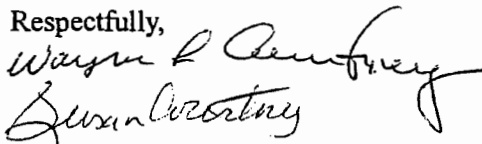
Re: Re-Zoning Case # P15-15

Dear Sirs:

We are writing this letter in protest of the proposed rezoning of the former Carpenter property (Independence & Elm) from R-1 to R-2 . We have lived at 4 Dustin Circle off Elm Street for 29 years and are strongly against the zoning change. This quiet district of single family homes has provided our family and our neighbors the privacy and security that we had envisioned when we bought our home in the particular area of Shawnee.

Of primary concern is the potential dramatic increase in traffic on the streets in the immediate vicinity that already are in marginal condition, That being said, we see no positive results from changing the zoning status of this property either for our neighborhood or the city of Shawnee.

Respectfully,



Wayne and Susan Courtney  
4 Dustin Circle  
Shawnee ,Oklahoma 74804

405-273-0439

RECEIVED

JAN 29 2016

CITY CLERK

Re: Rezoning of former Carpenter property(Independence & Elm) from R-1 to R-2  
(duplexes for rental)

Case # 15-15

City Clerk Shawnee

28 Jan 2016

Subject: Letter of Protest against the R1 to R2 rezoning by case #15-15

I feel this will decrease my residential property value due this change is right across my fence (10 feet) and if this is approved who will take care of the property between the fence's and who will see to it that no more than one family lives in the duplex? What will be put in place to eliminate the noise that comes across the fence when you have duplex this close to my home? What about my privacy if you build two-story dwellings 10 feet from my fence? Will my tax's go down with my property value going down because of the crime that could come into the area? Who will ensure that the rodent (rats) & snakes are kept to a minimum? What about the traffic increase who going to pay for the street improvements?



1510 Mesa Verde

Shawnee Ok 74804

405-202-6268

RECEIVED  
JAN 29 2016  
CITY CLERK

Larry & Diana Inman  
1520 N. Elm Avenue  
PO Box 3551  
Shawnee, Oklahoma 74802-3551  
405.273.7677 (H) 405.323.6070 (Cell)  
[Carpenter-n-Wife@sbcglobal.net](mailto:Carpenter-n-Wife@sbcglobal.net)

TO: City of Shawnee, OK, Planning Commission  
RE: Case #P15-15 Rezoning of former Carpenter property from R-1 to R-2

Friday 29 January 2016

Sirs:

We live at 1520 N. Elm Avenue, directly across from the property in question. We strongly object to the proposed development of the "Carpenter Property" as presented at the homeowner's meeting on 28 January 2016.

- 1) Turning this property into a large rental sub-division will have a definite negative impact on property values for those of us living adjacent to the development.
- 2) The presence of numerous driveways emptying onto Elm Avenue will create a traffic problem for everyone.
- 3) The traffic increase will endanger both the children living in the area and the many pedestrians who walk on Elm Avenue.
- 4) We have and are continuing to invest in our own property and find this proposed rezoning distressing.

Please do not approve this zoning change as presented by The Landrun Group and Marical Brothers Real Estate.

Sincerely,


Larry & Diana Inman

RECEIVED  
JAN 29 2016  
CITY CLERK

Dale Wiginton  
1510 N. Elm Avenue  
Shawnee, Oklahoma 74801  
405.214.5657

TO: City of Shawnee, OK, Planning Commission  
RE: Case #P15-15 Rezoning of former Carpenter property from R-1 to R-2

Friday January 29, 2016

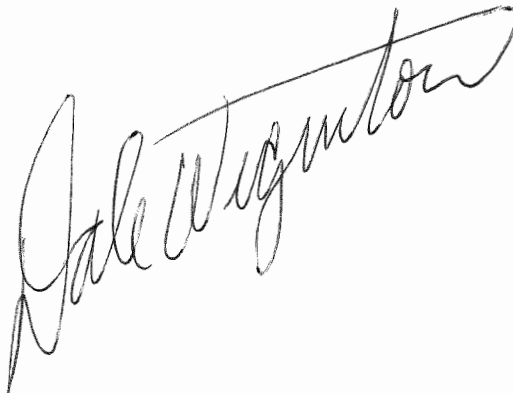
Sirs:

I live at 1510 N. Elm Avenue, across from the property in question. I am strongly opposed to the proposal for the "Carpenter Property" as presented at the homeowner's meeting on January 28, 2016.

- 1) Turning this property into a large rental sub-division will negatively impact property values for those of us living adjacent to the development.
- 2) A large number of driveways emptying onto Elm Avenue will create a traffic problem.
- 3) The traffic increase will endanger both the children living in the area and the many pedestrians who walk on Elm Avenue.

I ask that you not approve this zoning change as presented by The Landrun Group and Marical Brothers Real Estate.

Sincerely,

A handwritten signature in black ink, reading "Dale Wiginton". The signature is written in a cursive, flowing style with a long horizontal line extending from the end of the name.

Dale Wiginton

RECEIVED  
JAN 29 2016  
CITY CLERK

RECEIVED  
JAN 29 2016  
CITY CLERK

Bonnie Boone  
1516 Mesa Verde  
Shawnee, OK 74804

To Members of the Planning Commission:

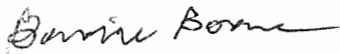
As Treasurer of the Emerald Forest Homeowner's Association and longest residing resident of EF, (since 1995), I hereby do formally protest the rezoning of 1500 E. Independence (the former Carpenter property) on the corner of Independence and Elm. The proposed rezoning from single residential to multi-residential will bring on more liabilities than advantages.

1. Lower property values of residential housing in the area. Despite what Justin Debruin quoted at the public hearing on 01/06/2016 "To speculate what could happen would be unfair" (concerning making judgments without more concrete plans from the developer) I counter that it is UNFAIR to us as property owners to disregard our legitimate concerns with such a flippant remark especially in the light that the proposed builders DO NOT EVEN OWN the said property yet and at least had enough sense to make the purchase contract contingent on rezoning! In addition a deferral will in NO WAY SHAPE OR FORM alleviate our concerns no matter who is involved or how long it is discussed. What part of WE DO NOT WANT RENTAL PROPERTY BUILT NEXT TO OUR RESIDENTIAL DIVISION do some of the planning commissioners and planning employees NOT UNDERSTAND?! Two of our homeowners are currently renting their properties against the covenants (the city will do nothing to help us on this issue) and the high turnover and delinquent behavior of adolescent renters have resulted in our personal ornamental lawn property and that of our neighbors being destroyed. The creek behind us is a natural draw for children's curiosity and I don't want more children of like mentality trespassing onto our properties. This is something that undoubtedly would happen especially if the zoning were to be degraded from R1 to R2.
2. Diminish the enjoyment of our neighborhood because of increased traffic, noise and crime. This at worst would cause increased chance of sex-offenders/predators and/or drug dealers living very near a public elementary school. Background checks of renters will not prevent the "boyfriend" from moving into a rental property. At best this rezoning will put children at risk when crossing the street to get to an open space to play (Sequoyah School playground). I went to Golden Acres myself to see what kind of housing would be built and it should have been named "Concrete Acres" as a more accurate description and the only significant grass I saw was what was required on a 10 foot easement from the curb!

We do not support the development of this property as planned by the out of area developers, who do NOT PLAN ON LIVING in the habitats they build (or in Shawnee for that matter)—they are from Ada, OK.

Please enact the will of the long standing citizens of this community. This whole case #P15-15 reeks of clandestine motives and abuse of political power. Please do not partake of it and do not subject it on us. I don't see how even one of you in good conscience could be in favor of rezoning if you would just put yourself in our shoes (houses) and utilize the Golden Rule. Our decisions result in consequences and because of the poor decision the Carpenters made by not selling to Frank Bryant of the former Bryant Builders we, as a community, are now having to deal with its consequences. Please do not contribute to another poor decision concerning this same property! Vote against deferment and against rezoning this property and keep it R1! Surely there is a reputable local builder that resides and pays taxes in Shawnee that would be willing to build nice homes with LANDSCAPED yards in this great school district in the heart of Shawnee!

Thank you for your earnest consideration and for exercising responsibility to our long standing citizens.

A handwritten signature in cursive script, appearing to read "Bonnie Boone".

Bonnie Boone, D.V.M. resident of 1516 Mesa Verde for over 20 years. 823-3546

1513 Mesa Verde  
Shawnee, OK 74804  
January 29, 2016

To: the Planning Commission

Re: Rezoning 1500 E. Independence

I am opposed to your recommending that this property be rezoned from R-1 to R-2. I will explain only two objections here: the proposed development is unattractive, and it will be overly crowded for this part of Shawnee.

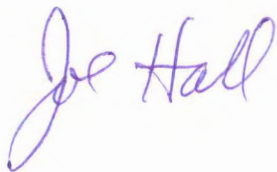
After I saw the elevation drawings and the plat at the meeting at the Elks Lodge yesterday, I find that the plan is to cram about forty units and a pond into the twelve acres. Although the plans are not finalized, the builders seem to be thinking that about thirty of these will be duplexes, all built the same and with minimum space between them.

Each duplex is unattractive. From the street, we will see blank sides of two garages facing each other across a concrete slab. The facade of the living area between the two garages is plain and apparently without variety from unit to unit. Judging from the appearance of buildings constructed by the same people on Leo and MacArthur, little landscaping will be done, playgrounds will be minimal, and no trees will be planted.

Thirty of these buildings placed end to end will create a monotonous, unattractive no one will be proud to live in. I hope the Planning Commission will not allow this kind of aesthetically unpleasing addition to Shawnee's housing.

Also, if thirty units are duplexes, this, along with possibly ten single family houses, makes seventy housing units. If an average 3.5 people live in each unit, 245 people will live in this area, with minimal lot sizes, shared driveways, and many parking problems in the streets, along with entry and exit difficulties. The current dominant R-1 zoning in this part of town will be much more suitable for 1500 E. Harrison than will a zoning that permits this kind of crowding.

I suspect the builders can make a profit with R-1 zoning, though they will have to develop a long-range plan to make this pay off. R-1 and A zoning dominates this area. The city should not plan for the reduced quality, aesthetics, and spacing allowed for in R-2 zoning.



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JAN 29 2016  
CITY CLERK

RECEIVED  
JAN 29 2016  
CITY CLERK

Friday, January 29, 2016

Shawnee Planning Department

Re: Case #P15-15 Rezone of property from R1 to R2

Dear Members of the Shawnee Planning Commission,

I am president of the Emerald Forest Home Owners' Association and own a property (1516 Mesa Verde) that abuts directly to the east of the property referred to in case #P15-15. I OPPOSE THE PROPOSED REZONING FROM R-1 TO R-2 of 1500 E. Independence Street. I ask you to NOT APPROVE the proposed rezoning from R-1 to R-2 of 1500 E. Independence St.

I and my fellow Emerald Forest homeowners have substantial investments in our homes; homes that are valued at two, three or even four hundred thousand dollars. We are concerned that the proposed development of the neighboring property into rental properties, especially duplex rental properties as stated by the developers, as allowed under the proposed R-2 rezoning, will negatively impact the values of our homes in the Emerald Forest neighborhood. Now some would say that the claim that neighboring rental properties will reduce property values, while widely believed, is anecdotal at best. Indeed, at the last Planning Commission meeting (January 6<sup>th</sup>) the City Planner, Justin Debruin, stated that he had not read anything to substantiate the claim. To address this I researched the matter and found several research reports (Usery, 2012; Ellen, 2007; Obrinsky, 2007; Goetz, 1996; Sirmans, 1996; Wang, Grissom, Webb & Spellman, 1991 – see List of References). Using the most recent of these reports, Usery (2012) showed that "Rentals within 1/4 mile of a sold home had a negative impact on price." My property and most if not all the Emerald Forest neighborhood, **lies within a quarter mile of the proposed rental properties**. Hence I and my fellow Emerald Forest homeowners believe our concern that our property values will be reduced is valid.

I would also point out that it is not just the homeowners in Emerald Forest that are concerned. From the petitions that have been circulated (see attached petitions – originals are with the City Commission), homeowners residing on Autumn Lane to the north, on Dustin Circle and N. Elm Street to the west, and on Sequoyah, Apache, Arapaho and others to the south are also concerned about the negative impact of the proposed development and are opposed to the rezoning of 1500 E. Independence from R-1 to R-2.

To what extent will prices be affected? Based on models presented by Usery and the proposed number of rental units from the developers, a homeowner can expect

**a loss of 10% - 20%, that is, \$20,000 to \$40,000 dollars for a \$200,000 home.**

To be clear, this model does not consider the presence of rental property as an all or nothing effect. The model uses the percentage increase in the number of rental units within a quarter mile of Emerald Forrest. We are well aware of the neighboring rental units, such as those on the north-west corner of E. Independence and N. Elm (Sunset Village), and the rental properties on the south side of E. Independence. These have been factored in to the model. The predicted large loss in home value calculated above is due to the proposed massive development of rental property over and above what already exists. Rezoning from R-1 to R-2 to allow higher density duplex rental housing plays a large role in this.

Speaking of the "Sunset Village" rental units on the north-west corner of E. Independence and N. Elm brings up two further issues. First, at the last Planning Commission meeting (January 6th) the City Planner, Justin Debruin, raised the point that this property is zoned R-3 and, therefore, sets a precedent rezoning higher than R-1 in the area. On looking at these surrounding neighborhoods I would point out that 1500 E. Independence is almost completely surrounded by either R-1 or A-1 zoning (according to the Planning Department's website): Emerald Forest to the east is R-1, Autumn Lane to the north is R-1, Dustin Circle and N. Elm street are R-1 and A-1 and it is R-1 on the south side of E. Independence. If a quarter mile wide band is drawn around 1500 E. Independence (see Figure 1) then this R-3 zoned area represents **less than 1%** of the surrounding area. Thus, the current R-1 zoning is far more consistent with the area than the proposed R-2 zoning.

The second issue these Sunset Village units raise is increased crime rates. I and my fellow homeowners are concerned about increased crime in our neighborhood because of the proposed rental development. The **original plan** for the Sunset Village rental units was as a retirement community. These rental units have since been sold and have now become section-8 rental property. Those neighboring these rental units (Dustin Circle and Elm St.) now witness numerous visits by the police with arrests and searches. While the developers of the proposed rental properties on 1500 E. Independence swear up and down that they will not accept section-8 renters, there is no guarantee that a few years from now they sell the property and the new owners do accept section-8 renters, just as the above units changed from the original retirement community plan to section 8 rental property except on a far larger scale.

In this vein, consider the history of the Chapel Ridge development on Union and 45<sup>th</sup> Street that has some disturbing parallels to the proposed development of 1500 E. Independence. The **original plan** for the Chapel Ridge development was to provide high-end rental property, just

like the intent of the current developers for 1500 E. Independence, to cater to professionals from, for example, OBU, St. Gregory's, the hospital and those commuting from Shawnee to Tinker AFB and OKC. Yes, we are aware that these were apartments, not duplexes or single family homes, but they are still rental properties. The developers were unable to achieve better than 10%-20% capacity and began to hemorrhage money. In desperation they turned the development into section-8 rental housing. The consequences have been far reaching. The local school, Will Rogers, once among the top schools scholastically in Shawnee, is now among the bottom. The free lunch program at Will Rogers went from 30% participation to 98% participation. Judging from recent reviews, there has been a significant up-swing in crime:

## ChapelRidge of Shawnee

1302 E 45th St Shawnee OK

[Write a review](#)

3.8 ★★★★★ 9 reviews

Sort by: Most helpful ▾



**Mary Stevens**

3 weeks ago

★☆☆☆☆ Very bad do not live here The rooms are infested with ants the heaters don't work and don't get fixed. there is gang violence within, the people at the front desk are not nice Terrible terrible experience It's cheap because the . . . [More](#)



**Kaitlin Dixon**

8 months ago

★☆☆☆☆ Horrible people horrible environment to live in if you have kids instead of it called chapel ridge it should be called ghetto Ridge security fences don't even work there is gang violence everywhere especially after hours car got broken . . . [More](#)



**Brian Sharpe**

2 months ago

★★★★★ Nice place although the local tenants are less refined

The Chapel Ridge development was very nice with excellent amenities. It was close to OBU, the hospital and highway access. Yet with the goal of providing high end rental property for professionals in Shawnee it failed. One could conjecture reasons – perhaps there just is not a sufficient volume of professionals in Shawnee seeking such rental property to sustain a high-end rental development. No matter the reason, the question remains whether the proposed 1500 E. Independence rental development that is not as close to OBU, not as close to the hospital, not as close to highway access, will fare any better at attracting sufficient high-end clientele to fill the high density development afforded by R-2 zoning to avoid a similar descent because of financial hardship. I am sure that with a little research several more such instances will be found. Again, while the developers of the proposed rental properties on 1500 E.

Independence swear up and down that they will not accept section-8 renters, can they guarantee this for the next decade or two decades. Shawnee history with There is no guarantee that a few years from now they sell the property and the new owners do accept section-8 renters and we, the homeowners, are left with a mess on our hands, possibly a dangerous mess at that.

Speaking of Will Rogers School raises concern about the effect the 1500 E. Independence rental development will have on Grove School, the school in which area the development falls. More than likely the renters, high-end or low, will be younger families with children. Grove is already at capacity and has to expand with the new developments appearing along MacArthur. Given the higher density afforded by R-2 zoning, what effect will 80 -100 additional children have on Grove School? What effect will it have if, like Chapel Ridge, larger numbers of these children are from families using section 8 housing, perhaps not with the current developers but with a future owner?

The developers claimed at the last Planning Commission meeting (January 6<sup>th</sup>) that their rental property development on the corner MacArthur and N. Leo (see Figure 2) has actually increased property values in that neighborhood. One has to wonder if, with the additional rental property development they are building next to the first, the three homes that will be hemmed in on the same block as these developments will actually see an increase in value. Are we to believe that increase in home values for home in the neighborhood of MacArthur and N.Leo (see Figure 3) implies that homes in Emerald Forest (see Figure 4), Dustin Circle (see Figure 5) and Autumn Lane (see Figure 6) will also see an increase in value? I for one fail to see the comparison.

A concern, which is perhaps a greater concern for those living on Elm St and Dustin Circle but I will mention here, is the increase in traffic that the development will cause, particularly from the duplexes, allowed under R-2 zoning, the developers propose to build along Elm St. Elm St is currently a narrow road that is worrisome to drive particularly at night (see Figure 7). The developers, as required, will improve the side of the Elm Street abutting these proposed duplexes. Is the city prepared to improve the west side of the road at the same time? The west side is kerbed at the north end of Elm St (north of the north end of the 1500 E. Independence property but the east side is not, leaving Elm St. narrow north of the north end of the 1500 E. Independence property. Who will be responsible for ensuring that from Independence Bradley, Elm Street can safely accommodate the increased traffic, especially from the high density duplex rental property allowed by R-2 zoning that will open directly on to Elm? There does not seem to be any plan in place for this.

For those of us with homes on the west side of Mesa Verde (including myself) and those on the south end of Autumn Lane, properties that directly abut 1500 E. Independence (see Figure 8), we are very concerned about the 10 foot easement allowed under R-2 zoning compared to the 20 foot easement allowed under R-1. 10 feet is simply too close. The developer's claim they will not build that close but once the R-2 zoning is in place it would be much harder to avoid this.

This brings to mind a comment made at the last Planning Meeting that there are many safeguards and check-points in the process of planning and building on 1500 E. Independence that should ensure resolution of issues such as the 10 foot easement. We say it is a slippery slope of which rezoning from R-1 to R-2 is but the first step. Why open Pandora's box at all? Nip it in the bud and leave the zoning as R-1.

I and my fellow Emerald Forest homeowners see no benefit, only detriment, with re-zoning. Therefore, to reiterate, I ask you to NOT APPROVE the proposed rezoning from R-1 to R-2 of 1500 E. Independence St.

Sincerely,

A handwritten signature in cursive script that reads "C. E. Aston". The signature is written in dark ink and is positioned above the printed name.

C. E. Aston

President of the Emerald Forest Homeowners' Association

Resident of 1516 Mesa Verde

Phone: 405 314-0737

## Reference List

Usrey W (2012) The rental next door: the impact of rental proximity on home values, Dept of Economics, Colorado State University.

Ellen IG (2007) Does Federally subsidized rental housing depress neighborhood property values? *Journal of Policy Analysis and Management*, 26(2), 257-280.

Obrinsky MA (2007) Overcoming opposition to multifamily rental housing. National Multi Housing Council.

Goetz EL (1996) There goes the neighborhood? The impact of subsidized multi-family housing on urban neighborhoods. Center for Urban and Regional Affairs: Working Paper.

Sirmans JR (1996) Depreciation, maintenance, and housing prices. *Journal of Housing Economics*, 5, 369-389.

Wang K, Grissom TV, Webb JR & Spellman L (1991) The impact of rental properties on the value of single-family residences. *Journal of Urban Economics*, 30, 152-166.

Notice is hereby given to the Commissioners of the City of Shawnee that the following citizens OPPOSE the proposed Rezoning of property located within the City of Shawnee.

The property requesting rezoning is described as follows:

A tract of land described as beginning 660 feet N89°43'27"E of the Southwest Corner of the Southeast Quarter (SW/4 SE/4) of Section Eight (8), Township Ten (10) North, Range Four (4) East of the Indian Meridian, Pottawatomie County, Oklahoma; thence N00°16'33"W a distance of 1314.50 feet to a point on the North line of the S/2 SE/4; thence N89°19'27"E a distance of 397.66 feet; thence S00°16'33"E a distance of 1314.50 feet; thence S89°43'27"W a distance of 397.66 feet to the point of beginning.

General Location Known As: 1500 E. Independence St., Shawnee, OK  
 Current Zoning Classification: R -1: Single Family Residential District  
 Requested Zoning Classification: R-2: Combined Residential District  
 Proposed Use of Property: Duplex  
 Applicant: The Landrun Group, LLC

We the following live in the residential area whose property values and life would be adversely affected by the proposed change in the zoning. We feel that the City of Shawnee Commissioners are public servants elected to represent the citizens of Shawnee especially the stakeholders who are property owners that would be directly affected. We respectfully request that you as Commissioners follow the will of the people and not developer/speculators that do not plan on living in the habitats that they build.

FOREST  
EMERALD

| Name            | Address         | Phone        | Date     |
|-----------------|-----------------|--------------|----------|
| E. Astor        | 1516 Mesa Verde | 405 878 8082 | 1/9/2016 |
| Bonnie Boone    | 1516 Mesa Verde | 405 823-3546 | 1/9/2016 |
| Leslie Shaw     | 1714 Wildwood   | 405 584-9505 | 01-09-16 |
| Myra Jensen     | 1709 Wildwood   | 405-275-3705 | 1-9-16   |
| Shirley Gregory | 1712 Wildwood   | 405-273 0840 | 1-9-16   |
| Jim Gregory     | 1712 Wildwood   | 405 273 0820 | 1-9-16   |
| Art McSpadden   | 1510 MESA VERDE | 405-202-6268 | 1-9-16   |
| D. D. D.        | 1711 Wildwood   | 405 830-9653 | 1-9-16   |
| Bill McCoin     | 1502 Mesa Verde | 405-223-8246 | 1-9-16   |

servants elected to represent the citizens or Shawnee especially the stakeholders who are property owners that would be directly affected. We respectfully request that you as Commissioners follow the will of the people and not developer/speculators that do not plan on living in the habitats that they build. We oppose the proposed rezoning of Case#P15-15 from R-1 to R-2.

EMERALD FOREST

| Name           | Address         | Phone          | Date     |
|----------------|-----------------|----------------|----------|
| GLEN PARSONS   | 1512 MESA VERDE | 830 3726       | 1-9-16   |
| Starla Howard  | 1704 Wildwood   | 214-9414       | 1-9-16   |
| JOE HALL       | 1513 MESA VERDE | 203-1319       | 1-9-16   |
| Joe Burnett    | 1500 Mesa Verde | 343-8435       | 1-9-16   |
| Bobby Burnett  | 1500 mesa verde | 343 8809       | 1-9-16   |
| Juan Jester    | 1508 Mesa Verde | 761-8646       | 1-9-16   |
| Jenny Adkins   | 1504 Mesa Verde | 273-7891       | 01-09-16 |
| Carl Jacob     | 1508 Mesa Verde | 761-4044       | 1-9-16   |
| Jim            | 1514 Mesa Verde | 380-3236       | 1-9-16   |
| Janny Payer    | 1514 Mesa Verde | 249-6904       | 1-9-16   |
| Todd Howard    | 1704 Wildwood   | 214-9414       | 1-9-16   |
| Betty Peck     | 1704 Wildwood   | 273-3449       | 1-9-16   |
| Jerry Lanning  | 1708 Wildwood   | 506-0980       | 1-9-16   |
| Robert         | 1712 Wildwood   | 253            | 1-9-16   |
| Bobby C. Blair | 1716 Wildwood   | 214-9765       | 1-9-2016 |
| Chris Anthony  | 1720 Wildwood   | 512-1543       | 1-9-2016 |
| Bill Vanzant   | 1715 Wildwood   | 273-5994       | 1-9-2016 |
| Sandra Vanzant | 1715 Wildwood   | 273-5994       | 1-9-2016 |
| Kenzie Hall    | 1513 Mesa Verde | 788 9465       | 1-10-16  |
| Thomas H. Felt | 1511 Mesa Verde | 788-8155       | 1-10-16  |
| Myra W.        | 1707 Wildwood   | (405) 613-9837 | 1/10/16  |

EMERALD FOREST

[illegible]

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| Name             | Address          | Phone        | Date   |
|------------------|------------------|--------------|--------|
| Shelley Hembree  | 1702 Autumn Lane | 405-317-1290 | 1-9-16 |
| Rob Hembree      | 1702 AUTUMN LANE | " 625-4281   | 1-9-16 |
| John Smith       | 1703 Autumn Lane | 405-249-5543 | 1-9-16 |
| Ron Smith        | 1703 Autumn Ln   | 405-273-0713 | 1/9/16 |
| Julie Columbus   | 1705 Autumn Ln.  | 405-808-6320 | 1/9/16 |
| Julie Smith      | 1707 Autumn Ln   | 405-584-2451 | 1/9/16 |
| Tawa Anderson    | 1708 Autumn Lane | 405-481-7421 | 1/9/16 |
| Vanessa Anderson | 1708 Autumn Lane | 405-481-7421 | 1/9/16 |
| Kathy Santino    | 1712 Autumn Lane | 405-620-7811 | 1/9/16 |

servants elected to represent the citizens of Shawnee especially the stakeholders who are property owners that would be directly affected. We respectfully request that you as Commissioners follow the will of the people and not developer/speculators that do not plan on living in the habitats that they build. We oppose the proposed rezoning of Case#P15-15 from R-1 to R-2 .

[illegible]

Ad TMC 2247

Notice is hereby given to the Commissioners of the City of Shawnee that the following citizens OPPOSE the proposed Rezone of property located within the City of Shawnee.

The property requesting rezoning is described as follows:

A tract of land described as beginning 660 feet N89°43'27"E of the Southwest Corner of the Southeast Quarter (SW/4 SE/4) of Section Eight (8), Township Ten (10) North, Range Four (4) East of the Indian Meridian, Pottawatomie County, Oklahoma; thence N00°16'33"W a distance of 1314.50 feet to a point on the North line of the S/2 SE/4; thence N89°19'27"E a distance of 397.66 feet; thence S00°16'33"E a distance of 1314.50 feet; thence S89°43'27"W a distance of 397.66 feet to the point of beginning.

General Location Known As: 1500 E. Independence St., Shawnee, OK  
 Current Zoning Classification: R -1; Single Family Residential District  
 Requested Zoning Classification: R-2: Combined Residential District  
 Proposed Use of Property: Duplex  
 Applicant: The Landrun Group, LLC

We the following live in the residential area whose property values and life would be adversely affected by the proposed change in the zoning. We feel that the City of Shawnee Commissioners are public servants elected to represent the citizens of Shawnee especially the stakeholders who are property owners that would be directly affected. We respectfully request that you as Commissioners follow the will of the people and not developer/speculators that do not plan on living in the habitats that they build.

| Name            | Address         | Phone                   | Date       |
|-----------------|-----------------|-------------------------|------------|
| Wayne County    | 4 DUSTIN CIRCLE | 273 0439                |            |
| Greg Wall       | 9 Dustin Circle | <del>273</del> 641-0198 | 1-10-16    |
| Karen Wall      | " " "           | 227-4705                | 1-10-16    |
| Michael Butcher | 7 Dustin Circle | 640-7904                | 1/10/16    |
| Tam Leely       | 1816 N ELM      | 405-474-3639            | 1/10/16    |
| Robert Spawover | 1808 N. ELM     | 405-924-2538            | 01/10/2016 |
| Kevin Hall      | 2 Dustin Cir.   | 405-788-9649            | 1-27-16    |
| Kelly Limer     | 3 Dustin Circle | 405-273-3859            | 1-27-16    |
|                 |                 |                         |            |

DUSTIN CIRCLE

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| Name            | Address       | Phone        | Date     |
|-----------------|---------------|--------------|----------|
| KAY DEES        | 6005 N BRYAN  | 255703916    | 1-9-16   |
| Thane Dean      | 1 Arapaho Dr  | 405-275-0577 | 1-9-16   |
| P Bude Jordan   | 3 Arapaho     | 405-833-8958 | 1/9/2016 |
| Tom Stewart     | 5 Arapaho Dr. | 4057275-6032 | 1/9/16   |
| Joyce Stewart   | 5 Arapaho Dr. | 4057275-6032 | 1/9/16   |
| Lebbie McDaniel | 9 Arapaho Dr  | 405- none    | 1/9/16   |
| Howard McDaniel | 9 Arapaho Dr  |              | 1/9/16   |
| Brianne Dlatky  | "             | 4058770606   | 1/9/16   |
| Dale Keese      | 10 Arapaho Dr | 405-314-6827 | 1-9-16   |

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| Name            | Address                                   | Phone          | Date     |
|-----------------|-------------------------------------------|----------------|----------|
| Courtney Dedson | 1 Apache Ln. Shawnee, OK <sup>74801</sup> | 580-387-9037   | 01/09/16 |
| Kimberly B. Edg | 2 Apache                                  | 405-618-7078   | 01.09.16 |
| Louise Roodley  | 5 Apache                                  | 273-0570       | 1-9-16   |
| Jane Lauderdale | 4 Osage Shawnee, OK 74801                 | 273-9295       | 1-9-16   |
| John H. Hark    | 28 Apache                                 | 325-8744       | 1-1-16   |
| Bill Hark       | 30 Apache                                 | 214-0028       | 1/9/16   |
| Ray W. Hark     | 32 Apache                                 | 415-8422       | 1/9/16   |
| Jesse Hark      | 34 Apache                                 | 581-6104       | 1/9/16   |
| Tom Miller      | 34 Apache                                 | 915-9626       | 1/9/16   |
| Jeff Morgan     | 40 Apache                                 | 637-1851       | 1-10-16  |
| Alvin Hark      | 33 Apache                                 | 273-6786       | 1-10-16  |
| John Hark       | 34 Apache                                 | 273-6786       | 1-10-16  |
| Barbara Johnson | 23 Apache Dr.                             | (405) 414-8802 | 1/10/15  |
| Michael Hark    | 1 Kiowa                                   | 432 5023       | 1/10/16  |
| Cyber Hark      | 1 Kiowa                                   | 765-2152       | 1-10-16  |
| John Hark       | 5 Kiowa                                   | 258-3541       | 1-10-16  |
| John Hark       | 5 Kiowa                                   | 306 7197       | 1-10-16  |
| Aaron Rowley    | 7 Kiowa                                   | 990-7468       | 1-10-16  |
| Marsha Rowley   | 7 Kiowa                                   | 227-1460       | 1-10-16  |
| John Hark       | 1 Kiowa                                   | 550 0902       | 1-10-16  |
|                 |                                           |                |          |

Notice is hereby given to the Commissioners of the City of Shawnee that the following citizens OPPOSE the proposed Rezone of property located within the City of Shawnee.

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| Name        | Address          | Phone        | Date    |
|-------------|------------------|--------------|---------|
| (M. Lipe)   | 14 Sequoyah Blvd | 760-7721     | 1/10/16 |
| Garth Lipe  | "                | 273-1993     | 1/10/16 |
| Don Dill    | ✓                | 974-1005     | 1/10/16 |
| Don Dill    | 12 Sequoyah      | 575-6722     | 1/10/16 |
| Harold Holt | 13 Sequoyah      | 878-6922     | 1/10/16 |
| Don Dill    | 6 Sequoyah       | 481-3888     | 1/10/16 |
| Don Dill    | 6 Sequoyah       | 915-9562     | 1/10/16 |
| Ray Askay   | 4 Sequoyah Blvd  | 405-273-1759 | 1-10-16 |
| Marie Askay | 4 Sequoyah Blvd  | 405-273-1759 | 1.10.16 |

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| Name             | Address          | Phone        | Date    |
|------------------|------------------|--------------|---------|
| Betty Williams   | 20 Arapaho       | 217325-115   | 1/10/16 |
| General Lamason  | 22 Arapaho Dr    | 432-9874     | 1/10/16 |
| Sherrill Lamason | 22 Arapaho Dr.   | 4054813903   | 1/10/16 |
| Helene Pratt     | 20 Arapaho       | 405-273-7449 | 1/10/16 |
| Laraine Bol      | 19 Kiowa         |              | 1-10-16 |
| Sharon King      | 23 "             |              | 1-10-16 |
| Pat McIn         | 27 Kiowa         | 405-397-4365 | 1-10-16 |
| Leanne Corby     | 24 Kiowa         | 405-481-0954 | 1-10-16 |
| Patricia Hise    | 22 Kiowa         | 4054817105   | 1-10-16 |
| Sue Gorman       | 8 Kiowa          | 405-273-1651 | 1-10-16 |
| CHARLES GORMAN   | 8 Kiowa          | 405-273-1651 | 1-10-16 |
| ALLEN KRAUSE     | 4 Kiowa          | 405-273-3562 | 1-10-16 |
| Barbara Johnson  | 2 Larkins Pl     |              |         |
| JAMES LYONS      | 10 LARKINS PLACE | 405-273-4629 | 1-10-16 |
| Kay Lyons        | 10 Larkins Place | 273-4629     | 1-10-16 |
| Quidny Nelson    | 15 Larkins Plac  | 214-7771     | 1-10-16 |
| YCH              | 9 Larkins Pl     | 479-264-1804 | 1-10-16 |
| Donna            | 1501 West Lark   | 405-563-3008 | 1-10-16 |
| Francis Cullen   | 2 Larkins        | 405-273-262  | 1/10/16 |
|                  |                  |              |         |
|                  |                  |              |         |

Figure 1: Zoning in the neighborhood of 1500 E. Independence within a surrounding quarter mile band.

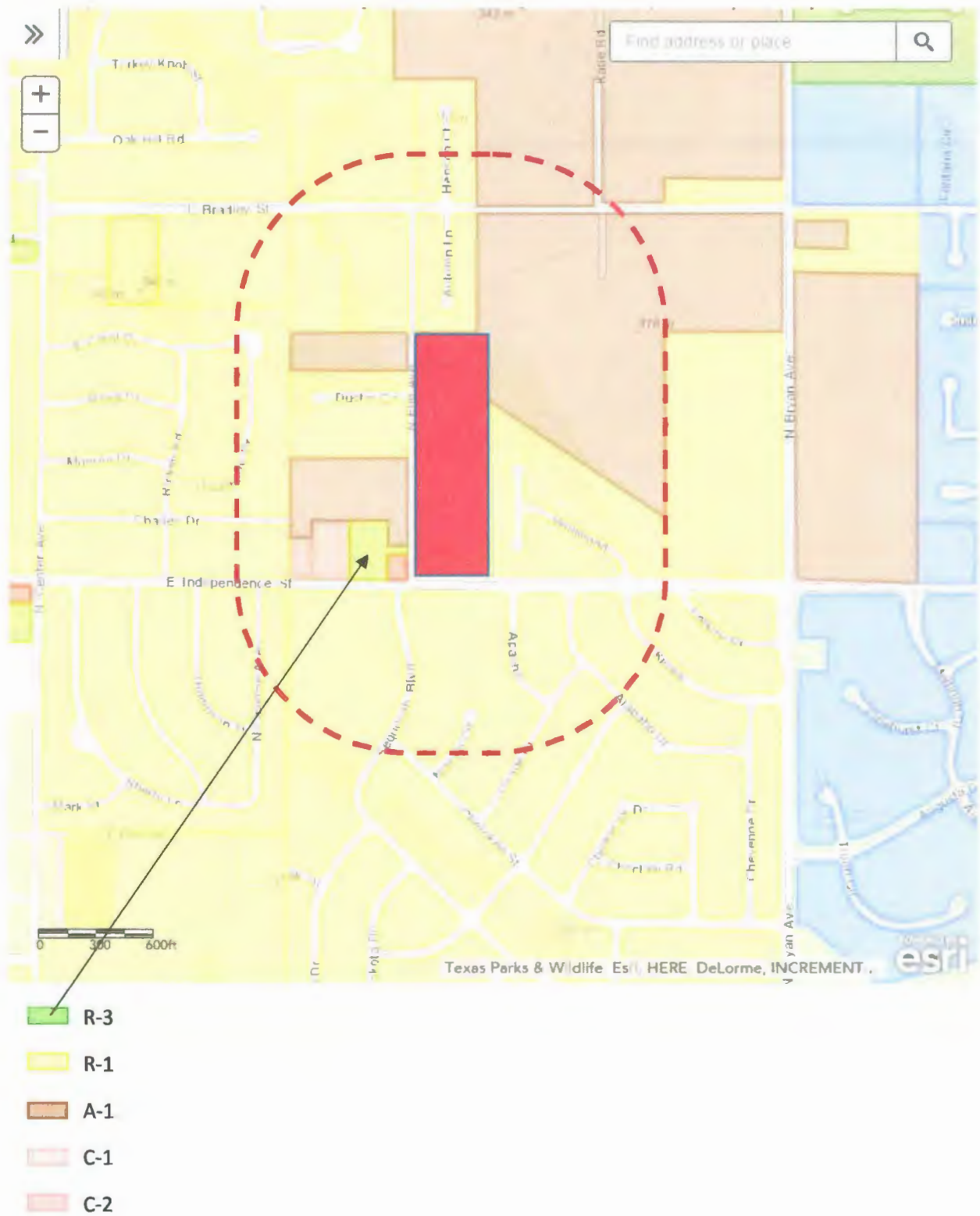


FIGURE 2



GOLDEN OAKS



FIGURE 3



FIGURE 4



EMERALD



FOREST



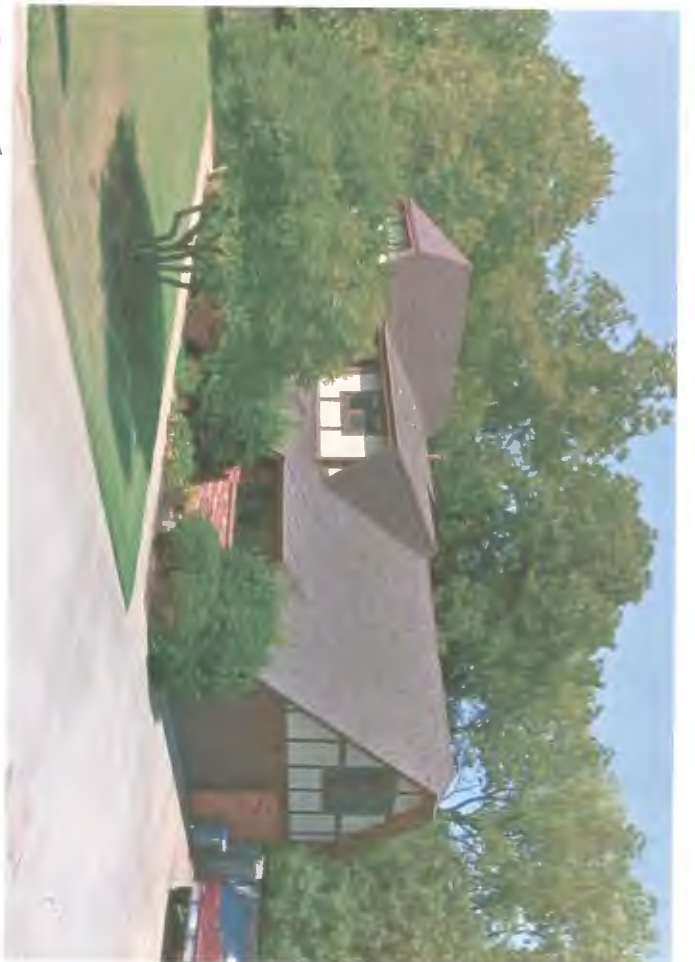
FIGURE 5



DUSTIN



ASTORIA



CIRCLE



ASTON - 21

FIGURE 6



AUTUMN LANE



Aston 22



FIGURE 7



32 - west

1500 E. Independence

FIGURE 8

North



South

Axon - 24

ORDINANCE NO. \_\_\_\_\_NS

AN ORDINANCE CONCERNING THE ZONING CLASSIFICATION OF THE FOLLOWING DESCRIBED PROPERTY LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF SHAWNEE, POTTAWATOMIE COUNTY, OKLAHOMA, TO-WIT: A TRACT OF LAND DESCRIBED AS BEGINNING 660 FEET N89°43'27"E OF THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER (SW/C SE/4) OF SECTION EIGHT (8), TOWNSHIP TEN (10) NORTH, RANGE FOUR (4) EAST OF THE INDIAN MERIDIAN, POTTAWATOMIE COUNTY, OKLAHOMA; THENCE N00°16'33"W A DISTANCE OF 1314.50 FEET TO A POINT ON THE NORTH LINE OF THE S/2 SE/4; THENCE N89°19'27"E A DISTANCE OF 397.66 FEET; THENCE S00°16'33"E A DISTANCE OF 1314.50 FEET; THENCE S89°43'27"W A DISTANCE OF 397.66 FEET TO THE POINT OF BEGINNING, CITY OF SHAWNEE, POTTAWATOMIE COUNTY, OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF REZONING SAID PROPERTY FROM R-1; SINGLE FAMILY RESIDENTIAL DISTRICT TO R-2; COMBINED RESIDENTIAL DISTRICT AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SHAWNEE ACCORDINGLY.

WHEREAS, pursuant to notice duly given as required by law, a public hearing conducted by the Board of Commissioners of the City of Shawnee, Oklahoma on the 16<sup>th</sup> day of February, 2016, upon an application to grant a permissive use permit on property located in the City of Shawnee, Oklahoma to R-2 Combined Residential District; and,

WHEREAS, the Planning Commission of the City of Shawnee has conducted one or more public hearings on said application pursuant to notice as required by law and has submitted its final report and recommendation upon said application to the Board of Commissioners; and,

WHEREAS, it appears to be in the best interest of the City of Shawnee and the inhabitants thereof for said property to be rezoned as considered.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF SHAWNEE, OKLAHOMA:

SECTION 1: That the following described property located in the City of Shawnee, Oklahoma, to-wit: A TRACT OF LAND DESCRIBED AS BEGINNING 660 FEET N89°43'27"E OF THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER (SW/C SE/4) OF SECTION EIGHT (8), TOWNSHIP TEN (10) NORTH, RANGE FOUR (4) EAST OF THE INDIAN MERIDIAN, POTTAWATOMIE COUNTY, OKLAHOMA; THENCE N00°16'33"W A DISTANCE OF 1314.50 FEET TO A POINT ON THE NORTH LINE OF THE S/2 SE/4; THENCE N89°19'27"E A DISTANCE OF 397.66 FEET; THENCE S00°16'33"E A DISTANCE OF 1314.50 FEET; THENCE S89°43'27"W A DISTANCE OF 397.66 FEET TO THE POINT OF BEGINNING, CITY OF SHAWNEE, POTTAWATOMIE COUNTY, OKLAHOMA. ACCORDING TO THE RECORDED PLAT THEREOF REZONING SAID PROPERTY FROM R-1; SINGLE FAMILY RESIDENTIAL DISTRICT TO R-2; COMBINED RESIDENTIAL DISTRICT AND AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SHAWNEE ACCORDINGLY.

PASSED AND APPROVED this 16<sup>th</sup> day of February, 2016.

---

WES MAINORD, MAYOR

(SEAL)  
ATTEST:

---

PHYLLIS LOFTIS, CMC  
CITY CLERK

Approved as to form and legality this 16<sup>th</sup> day of February, 2016.

---

MARY ANN KARNs  
CITY ATTORNEY

**Regular Board of Commissioners**

**9.**

Meeting Date: 02/16/2016

Cancel Antenna Contract

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

---

**Information**

Title of Item for Agenda

Discussion and possible action on termination of contract with JTS, Inc. for antenna work at north radio tower site.

---

**Attachments**

Antenna Cancel Memo

---

# City of Shawnee Memorandum

**To:** Honorable Mayor and City Commissioners  
**Through:** Justin Erickson, City Manager *D.L.*  
**From:** Donald D. Lynch, Emergency Management Director  
**Date:** February 10, 2016  
**Re:** Agreement with JTS, Inc. for Antenna Work at North Radio Site



---

## *NATURE OF THE REQUEST:*

I am writing to request your action to rectify a situation that has arisen in our contract with JTS Inc. for antenna work at our North Radio Tower Site.

## *STAFF ANALYSIS /CONSIDERATIONS:*

JTS Incorporated of Dallas, Texas was awarded by the City of Shawnee on October 5, 2015 to provide antenna work at our north radio tower site. The notice of award was issued to JTS on October 16, 2015.

JTS submitted their bid without making any pre-bid walk-through with City staff. Their bid price was \$35,935.00.

On November 5, 2015, a representative of JTS met with Justin Beaver, our Communications Systems Manager, at the tower site and walked through the scope of work. Justin advised me that the JTS representative was agreeable with the scope of work and a Notice to Proceed was issued and acknowledged.

The Bid Documents specified that there was a timeframe of 60 days from the date that the contract was issued to complete the work. Sixty work days from November 5, 2015 would be February 4, 2016. Therefore, JTS is now in default on our contract.

I spoke telephonically with Kyle Fuller with JTS on January 26, 2016 and explained that JTS was about to be in default on their contract, I asked him for a statement from JTS as to where they were in the process and what needed to be done to remedy the situation of potential default. In their letter to the City, JTS claims that the City changed our specifications on the antenna mounting device to be attached to the top of the City's water tower.

**CITY OF SHAWNEE**

Our specifications were written without regard to manufacturer or model. We simply required that the contractor supply and install a new collar mount and three sector support mounts on the City water tower.

Article 2 of our Bid Specifications Document provides that the bidder by making a bid represents that:

2.1.1 The bidder has read carefully and understands the bidding documents and has visited the site and become familiar with local conditions under which the work is to be performed and has informed himself by independent research of the difficulties to be encountered and personally judged the accessibility of the work and all attending circumstances affecting the cost of doing the work and of the time required for its completion and has correlated the bidder's personal observations with the requirements of the bidding documents and the bid is made in accordance therewith.

2.1.2 The bidder has read and understands the bidding documents to the extent that such documentation relates to the work for which the bid is submitted and for other portions of the work, if any, being bid concurrently or presently under construction.

2.1.3 The bid is based upon the materials, equipment, systems or services required by the bidding documents without exception.

#### *RECOMMENDATIONS:*

Staff recommends that you authorize a letter to be drafted and sent to JTS advising them that the City will agree to terminate our contract with JTS provided that JTS forfeit the bid bond in the amount of \$1796.75 (this amount is equal to 5% of the bid amount) otherwise the City intends to contact the bonding company and call the performance bond on the project.

Staff also requests that if JTS accepts the offer to terminate the agreement and surrender the bid bond amount, that staff be authorized to rebid the project.

#### *BUDGET CONSIDERATION:*

The bid bond amount will defray the City's expenses in bidding the project.

Thank you for your favorable attention to this request.

**Regular Board of Commissioners**

**10.**

Meeting Date: 02/16/2016

Possible Workshop

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

---

Information

Title of Item for Agenda

Discuss and consider setting one or more special call meetings with regard to a workshop to discuss city projects, goals, long term needs, budget, and funding options.

---

Attachments

*No file(s) attached.*

---

**Regular Board of Commissioners**

**11.**

Meeting Date: 02/16/2016

CA Discuss

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

---

Information

Title of Item for Agenda

Discussion, consideration and possible action to fill the position of City Attorney.

---

Attachments

*No file(s) attached.*

---

**Regular Board of Commissioners**

**12. a.**

Meeting Date: 02/16/2016

Bids - Westech Pasture

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

---

Information

Title of Item for Agenda

Lease of the City of Shawnee Property Located at the N.E. Corner of Leo Street and Westech Road, Shawnee, OK for the Purpose of Pasture Land (Open)

---

Attachments

Pasture Notice

Westech Rd Pasture Plan Holders

---

## NOTICE TO BIDDERS

Sealed bids will be received by the City of Shawnee, 9th & Broadway, P. O. Box 1448, Shawnee, Oklahoma, up to 4:00 p.m., Tuesday, February 16<sup>th</sup>, 2016, for:

### **Lease of the City of Shawnee Property Located at the N.E. corner of Leo Street & Westech Road, Shawnee, OK. for the purpose of pasture land**

Instructions and bid documents are available to qualified bidders at the Fairview Cemetery Office, 1400 N. Center Shawnee, Oklahoma 74801 (405) 878-1529.

A bid proposal form will be issued by the City of Shawnee. Each bid shall be filed in a sealed envelope. On the front of each envelope shall be written the following words to the left of the address:

### **BID - Lease of the City of Shawnee Property Located at the N.E. corner of Leo Street & Westech Road, Shawnee, OK. for the purpose of pasture land February 16<sup>th</sup>, 2016**

The ORIGINAL bid shall be filed with the City Clerk of the City of Shawnee, together with a sworn non-collusion affidavit in writing that the bidder has not entered into any agreement, expressed or implied, with any other bidder, or bidders, for the purpose of limiting the bid, or bidders or parcel out to any bidder, or bidders or any other persons, any part of the contract or subject matter of the bid.

Bids will be opened and considered by the Board of City Commissioners at a Public Meeting in the City Hall Commission Chambers, Shawnee, Oklahoma, at 6:30 p.m., Tuesday, February 16<sup>th</sup>, 2016.

The City of Shawnee reserves the right to reject any or all bids.



ATTEST:

*Phyllis Loftis*  
Phyllis Loftis, CMC, City Clerk

CITY OF SHAWNEE, A Municipal Corporation

By: *Justin Erickson*  
Justin Erickson, City Manager

## Regional Property Lease Plan Holders

Name (Print)

Company

P. Zimmer

Phone Number

Email Address

pszimmer70yahoo.com

Name (Print)

Company

Dace Dockery

PO Box 1463 Shawnee 74802

Phone Number

Email Address

Name (Print)

Company

William K. Maddux

Phone Number

Email Address

(405) 613-2554

wkm3@sbcglobal.net

Name (Print)

Company

John Krywicki

Phone Number

Email Address

jkrywicki@shawneeok.org

Staff advertised through:

Shawnee News Star

City of Shawnee web

**Regular Board of Commissioners**

**13.**

Meeting Date: 02/16/2016

Sales Tax February 2016

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

---

**Information**

Title of Item for Agenda

Acknowledge Sales Tax Report received February 2016.

---

**Attachments**

Sales Tax 02-2016

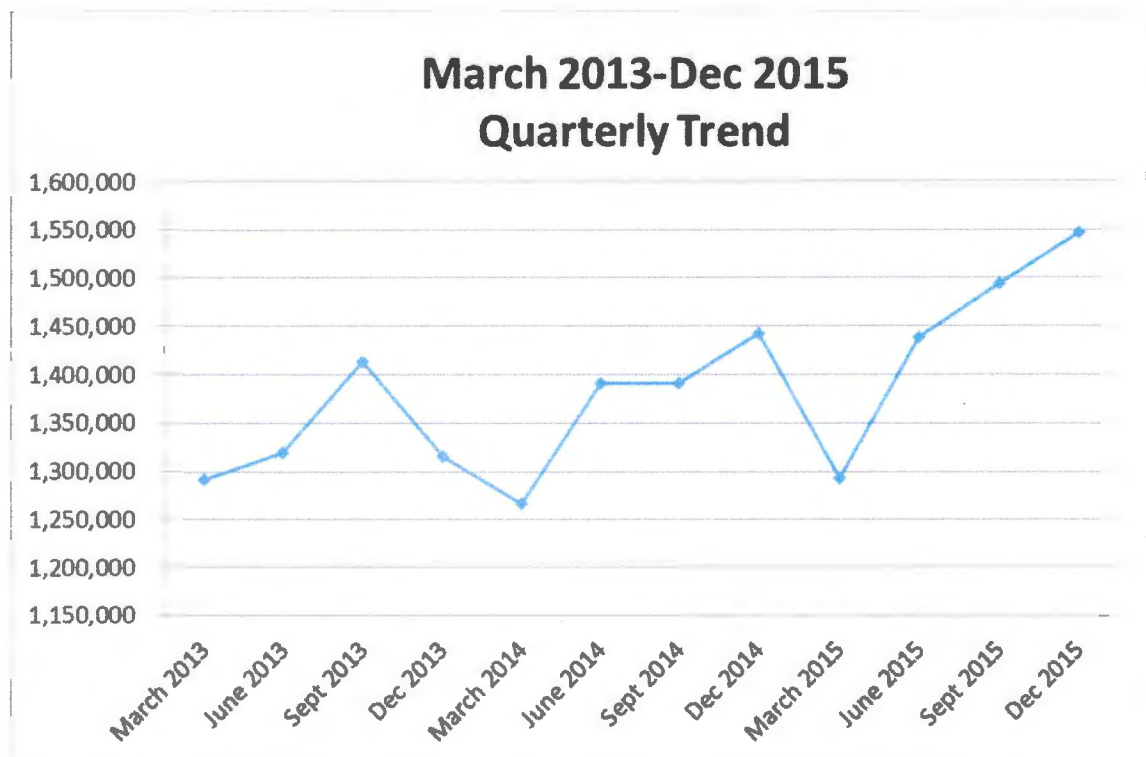
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# City of Shawnee Memorandum



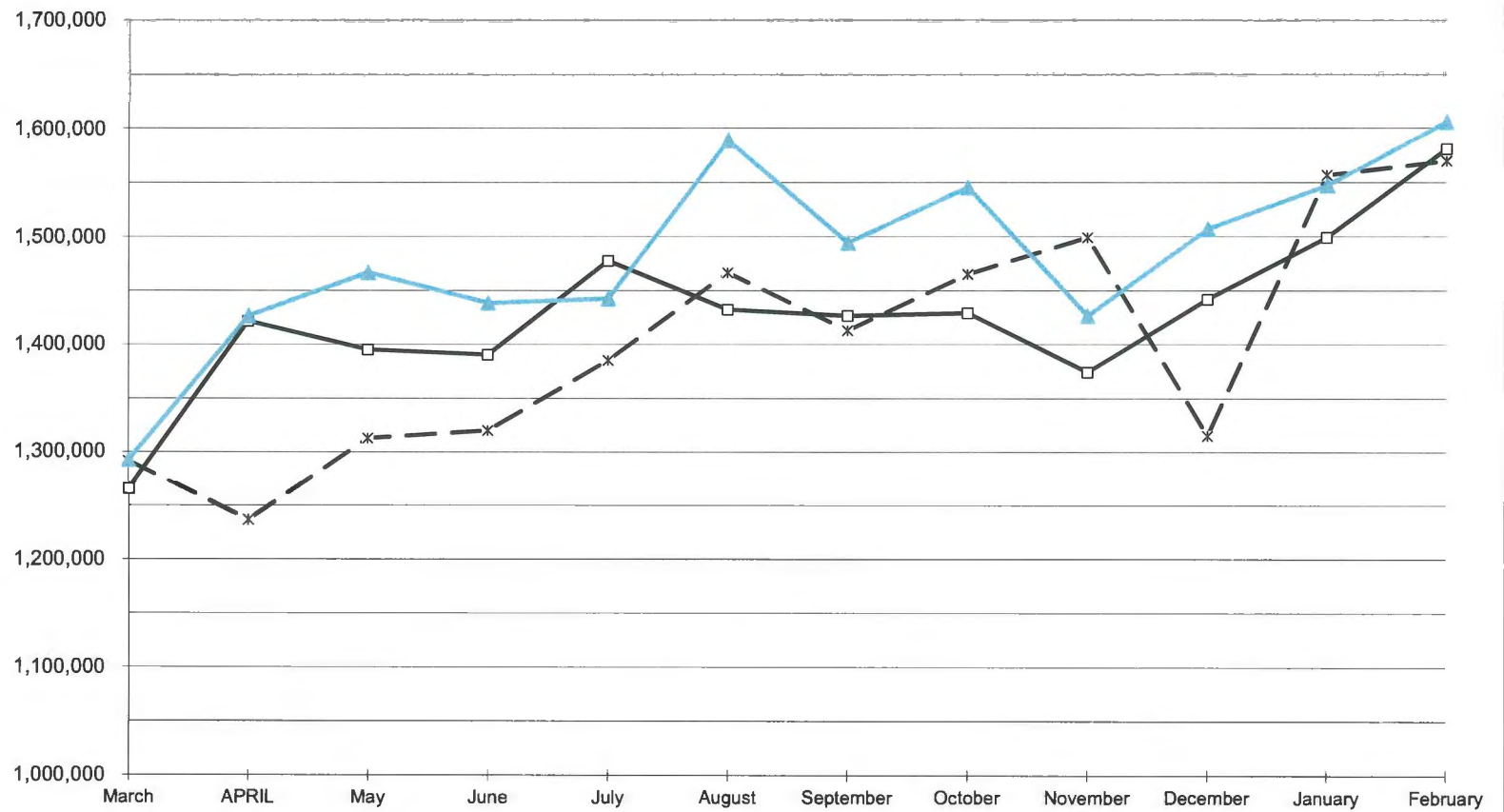
**To:** Mayor and City Commissioners  
**CC:** Justin Erickson, City Manager  
**From:** Cynthia S. Arnold, Finance Director  
**Date:** February 10, 2016

February sales tax collected was \$1,605,202 up \$24,598 or 1.56% over last year. For fiscal year 2015-2016 we are up 4.24% over fiscal year 2014-2015



|                     | March 2013    | March 2014    | March 2015    | Increase        | (Decrease) |
|---------------------|---------------|---------------|---------------|-----------------|------------|
|                     | through       | through       | through       | Over Prior Year |            |
| Month               | February 2014 | February 2015 | February 2016 | Amount          | Percentage |
| March               | 1,291,532     | 1,265,687     | 1,292,781     | 27,093          | 2.14%      |
| APRIL               | 1,236,564     | 1,421,540     | 1,426,451     | 4,911           | 0.35%      |
| May                 | 1,312,710     | 1,394,972     | 1,466,536     | 71,564          | 5.13%      |
| June                | 1,319,813     | 1,390,155     | 1,438,144     | 47,989          | 3.45%      |
| July                | 1,385,055     | 1,477,552     | 1,442,218     | (35,334)        | (2.39%)    |
| August              | 1,466,250     | 1,432,227     | 1,588,410     | 156,183         | 10.90%     |
| September           | 1,412,708     | 1,426,359     | 1,494,203     | 67,844          | 4.76%      |
| October             | 1,465,063     | 1,428,921     | 1,545,245     | 116,324         | 8.14%      |
| November            | 1,499,183     | 1,374,143     | 1,426,192     | 52,049          | 3.79%      |
| December            | 1,315,025     | 1,441,774     | 1,506,784     | 65,010          | 4.51%      |
| January             | 1,556,616     | 1,499,067     | 1,546,951     | 47,884          | 3.19%      |
| February            | 1,569,453     | 1,580,604     | 1,605,202     | 24,598          | 1.56%      |
| Total               | 15,260,519    | 15,552,396    | 16,173,913    | 621,517         | 4.00%      |
|                     |               |               |               |                 |            |
|                     |               | Prior Year    | Current Year  | Increase        | (Decrease) |
| Period              |               | Actual        | Actual        | Over Prior Year |            |
| Fiscal Year to Date |               | 11,660,647    | 12,155,204    | 494,558         | 4.24%      |
|                     |               |               |               |                 |            |
|                     |               |               |               |                 |            |
|                     |               |               |               |                 |            |

Sales Tax -March 2013-Feb 2016



- x--- March 2013 through February 2014
- March 2014 through February 2015
- △— March 2015 through February 2016

**Regular Board of Commissioners**

**14.**

Meeting Date: 02/16/2016

CM Update

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

---

Information

Title of Item for Agenda

City Manager Update

---

Attachments

*No file(s) attached.*

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