

AGENDA
BOARD OF CITY COMMISSIONERS
October 3, 2022 AT 6:00 P.M.
COMMISSION CHAMBERS AT CITY HALL
16 WEST 9TH STREET
SHAWNEE, OKLAHOMA

Official action can only be taken on items which appear on the agenda. The public body may adopt, approve, ratify, deny, defer, recommend, amend, strike, or continue any agenda item. When more information is needed to act on an item, the public body may refer the matter to Staff or back to Committee or the recommending body. Under certain circumstances, items are deferred to a future date or stricken from the agenda entirely.

CALL TO ORDER

DECLARATION OF A QUORUM

INVOCATION

FLAG SALUTE

1. Citizens Participation

(A three minute limit per person)
(A twelve minute limit per topic)
2. Consider approval of Consent Agenda:
 - a. Minutes from the September 19, 2022 regular meeting.
 - b. Acknowledge the following minutes:
 - Shawnee Beautification, Parks, and Recreation Committee Minutes from the June 16, 2022, July 21, 2022, and August 18, 2022 regular meetings.
 - c. Acceptance of public improvements for Trails End Phase I and place maintenance bonds into effect.
 - d. Lake Lease Transfer:

TRANSFER:
Lot 6 Mosler Tract, 16304 Archery Range Road
From: LaDonna Freeman
To: LaDonna K. Freeman Revocable Trust u/a/d October 29, 2006
3. Consideration of the Schedule of Regular Meetings for 2023 for The Board of City Commissioners, The Board of Trustees of the Shawnee Airport Authority, and The Board of Trustees of the Shawnee Municipal Authority.

4. Consideration of the purchase of a forklift for use at the Heart of Oklahoma Exposition Center at the total amount of \$50,549.00 from Viper Lift Trucks.
5. Declaration that an emergency exists pursuant to 61 O.S. § 130 and authorization for an emergency repair of the storm water main on Dewey Street between Broadway Avenue and Beard Avenue, in an amount not to exceed \$176,350.00.
6. Consideration of a budget amendment for Fiscal Year 2022 – 2023 for Fund 302 Street Improvement Fund to fund emergency storm water system repair at Dewey Street.
7. Consideration of a Land Lease and Operation Agreement from the City of Shawnee to the Oklahoma Military Department.
8. Consider and take action with respect to an ordinance of the City of Shawnee, Oklahoma, relating to the imposition of a city excise tax (sales tax) of one half of one percent (0.5%) (in addition to any and all other excise taxes now in force) to be levied upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code; providing for the use of the proceeds of said excise tax; providing for the effective date of said excise tax; providing for no repeal of tax; providing for subsisting state permits; providing for payment of tax; providing that the tax is in addition to taxes currently levied; incorporating certain provisions of prior City Ordinances; providing for amendments to this ordinance; providing that the provisions of this ordinance are cumulative and in addition to any and all taxing provisions of other City Ordinances; providing for severability of provisions; and containing other provisions related thereto.
9. Consider and take action with respect to a resolution authorizing the calling and holding of a special election in the City of Shawnee, State of Oklahoma (the "City"), on the 10th day of January, 2023, for the purpose of submitting to the registered qualified electors of said City the question of approval or rejection of an ordinance of the City relating to a one half of one percent (0.5%) excise tax (sales tax), in addition to all present City, County and State excise taxes, with the proceeds of said tax to be used to fund capital expenditures for the use and benefit of the City, or debt service in connection with capital expenditures, as more specifically set out in an ordinance of said City; and containing other provisions related thereto.
10. Administrative Reports:
 - a. Homeless Program Update – Erika Genty, Homeless Program Coordinator
 - b. State of the City – Andrea Weckmueller-Behringer, City Manager
11. New Business

(Any matter not known or which could not have been reasonably foreseen prior to the posting of the agenda)
12. Commissioners Comments
13. Consider an executive session to discuss annual evaluations of the City Manager pursuant to 25 O.S. §307(B)(1) "Discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee."

14. Consider matters discussed in executive session regarding discussions of annual evaluations of City Manager pursuant to 25 O.S. §307(B)(1) "Discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee."
15. Adjournment

Respectfully submitted,

Kacie Eck, CMC, Senior Deputy 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

2. a.

Meeting Date: 10/03/2022

Minutes

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Minutes from the September 19, 2022 regular meeting.

Attachments

Minutes

BOARD OF CITY COMMISSIONERS PROCEEDINGS
SEPTEMBER 19, 2022 AT 6:00 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, 16 West 9th Street, Shawnee, Oklahoma on, Monday, September 19, 2022 at 6:00 p.m., pursuant to notice duly posted as prescribed by law at 3:02 p.m. on September 15, 2022. Mayor Bolt presided and Mr. Benny Wahpepah and Mr. Brandon Wahpepah called the meeting to order. Upon roll call, the following members were in attendance.

Ed Bolt
Mayor

Daniel Matthews
Commissioner Ward 1

Cami Engles
Commissioner Ward 2

Travis Flood
Commissioner Ward 3

Darren Rutherford
Commissioner Ward 4-Vice Mayor

Mark Sehorn
Commissioner Ward 5

Lauren Richter
Commissioner Ward 6

ABSENT: None

INVOCATION

Mr. Nicholas Wahpepah
Sallateeska Baptist Church

FLAG SALUTE

AGENDA ITEM NO. 1:

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

Ms. Carol Currie, Mr. Rob Morris, Ms. Edwina Butler-Wolfe, Ms. Vicki Wilson, and Mr. Rick Young spoke during Citizens Participation.

AGENDA ITEM NO. 2:

Consider approval of Consent Agenda:

- a. Minutes from the September 6, 2022 regular meeting.
- b. Acknowledge the following minutes and reports:
 - Planning Commission Minutes from the August 3, 2022 regular meeting.
 - Senior Citizens of Shawnee Board Minutes from the August 9, 2022 regular meeting.
 - License Payment Report for August 2022
 - Project Payment Report for August 2022

- c. Acceptance of public improvements for Maple Grove Addition and place maintenance bonds and irrevocable letter of credit into effect.
- d. Acceptance of a Sanitary Sewer Easement from Live Orange, LLC for property located in Section Thirty (30), Township Eleven (11) North, Range Four (4).
- e. Acceptance of a Drainage Easement from Live Orange, LLC for property located in Section Thirty (30), Township Eleven (11) North, Range Four (4).
- f. Acceptance of a Water Line Easement from Live Orange, LLC for property located in Section Thirty (30), Township Eleven (11) North, Range Four (4).
- g. Lake Lease Transfer:

TRANSFER:

Lot 2 Fry Tract, 17404 Magnino Road

From: Marta Land

To: Megan Lincoln and Jodi Ayers

A motion was made by Commissioner Matthews, seconded by Commissioner Flood, to approve Consent Agenda Item Nos. 2(a-g). Motion carried 6-0-1.

AYE: Matthews, Flood, Bolt, Rutherford, Sehorn, Richter

NAY: None

ABSTAIN: Engles

AGENDA ITEM NO. 3:

Consideration and adoption of a Memorandum of Understanding between the Citizen Potawatomi Nation and the City of Shawnee for the transfer of wastewater infrastructure in the de-annexed area.

Ms. Andrea Weckmueller-Behringer, City Manager, provided a Staff report.

A motion was made by Commissioner Flood, seconded by Vice Mayor Rutherford, to approve a Memorandum of Understanding between the Citizen Potawatomi Nation and the City of Shawnee for the transfer of wastewater infrastructure in the de-annexed area. Motion approved 7-0.

AYE: Flood, Rutherford, Sehorn, Richter, Matthews, Engles, Bolt

NAY: None

AGENDA ITEM NO. 4:

Consideration of the purchase of five (5) traffic signal control cabinets at the estimated total of \$95,000.00 from Signal Tek.

Mr. Brad Schmidt, Public Works Director, stated that the purchase would allow Staff to replace five (5) traffic control cabinets.

A motion was made by Vice Mayor Rutherford, seconded by Commissioner Matthews, to approve the purchase of five (5) traffic signal control cabinets at the estimated total of \$95,000.00 from Signal Tek. Motion carried 7-0.

AYE: Rutherford, Matthews, Engles, Flood, Bolt, Sehorn, Richter

NAY: None

AGENDA ITEM NO. 5:

Public hearing and consideration of an ordinance to rezone property located at 1910 West Benedict Street from A-1 (Rural Agricultural District) to R-1 (Single-Family Residential District). Case No. RZ11-22, Applicant: Chris Gober.

Mr. Rian Harkins, Community Development Director, stated that the applicant requested the item be deferred to the October 17, 2022 City Commission meeting.

A motion was made by Commissioner Matthews, seconded by Commissioner Flood, to defer this item to the October 17, 2022 City Commission meeting. Motion carried 7-0.

AYE: Matthews, Flood, Bolt, Rutherford, Sehorn, Richter, Engles

NAY: None

AGENDA ITEM NO. 6:

Public hearing and consideration of an ordinance to rezone property located at 4029 and 4031 North Union Avenue from R-1 (Single-Family Residential District) to C-3 (Highway Commercial District). Case No. RZ12-22, Applicant: David and Amie McDaniel.

Mr. Rian Harkins, Community Development Director, stated that the applicant requested the item be deferred to the October 17, 2022 City Commission meeting.

A motion was made by Commissioner Flood, seconded by Commissioner Engles, to defer this item to the October 17, 2022 City Commission meeting. Motion carried 7-0.

AYE: Flood, Engles, Bolt, Rutherford, Sehorn, Richter, Matthews

NAY: None

AGENDA ITEM NO. 7:

Consideration of a Rehabilitation of High Hazard Potential Dams Grant Agreement between the City of Shawnee and Oklahoma Water Resources Board.

Mr. Seth Barkhimer, Director of Engineering, advised that the grant funds will be used for a field inspection and design for the lake dam.

A motion was made by Commissioner Engles, seconded by Commissioner Sehorn, to approve the Rehabilitation of High Hazard Potential Dams Grant Agreement between the City of Shawnee and Oklahoma Water Resources Board. Motion carried 7-0.

AYE: Engles, Sehorn, Richter, Matthews, Flood, Bolt, Rutherford

NAY: None

AGENDA ITEM NO. 8:

Consideration of the following budget amendments for Fiscal Year 2022-2023:

- a. Fund 301 Capital Improvement Fund to fund expenditures for Police vehicle purchase with the addition of Sales Tax revenue over budget estimates. Also, to fund the purchase of a patch truck approved in prior year, funded by fund balance.
- b. Fund 302 Street Improvement Fund to fund a prior year approved project for lighed stop signs at Highland Street. This is funded by fund balance left over from prior year.
- c. Fund 001 General Fund to fund expenditures for a transfer to the Aquatic Center Fund, a part-time Recreation Aide and Retiree Health Insurance with the addition of Sales Tax revenue over budget estimates. Also, to fund expenditures in the Love Your Block Grant with leftover grand funding from prior year.
- d. Fund 350 Aquatic Center Fund to fund Aquatics Supervisor position with an additional transfer from the General Fund.
- e. Fund 192 ESG-ODOC (Emergency Solutions Grant – Oklahoma Department of Commerce) Fund to fund additional Grant expenditures for the Emergency Solution Grant. Revenue received is on a reimbursement basis.
- f. Fund 190 CDBG (Community Development Block Grant) Fund to fund Grand expenditures for a newly acquired grant through the Community Development Block Grant – CARES Act (CDBG-CV). Revenue received is on a reimbursement basis.

Ms. Lindsey McNabb-Fox, Finance Director, provided a staff report.

A motion was made by Commissioner Matthews, seconded by Vice Mayor Rutherford, to approve the budget amendments listed in Agenda Item Nos. 8(a-f). Motion carried 7-0.

AYE: Matthews, Rutherford, Sehorn, Richter, Engles, Flood, Bolt

NAY: None

AGENDA ITEM NO. 9:

Consideration of a purchase of five (5) Dodge Charger Police Vehicles at the state bid price of \$36,198.00 each, for a total of \$180,990.00, from Bob Howard Jeep Chrysler Dodge.

Mr. Mason Wilson, Chief of Police, advised that Staff is seeking approval to purchase five (5) Dodge Chargers.

A motion was made by Commissioner Sehorn, seconded by Commissioner Flood, to approve the purchase of five (5) Dodge Charger Police Vehicles at the state bid price of \$36,198.00 each, for a total of \$180,990.00, from Bob Howard Jeep Chrysler Dodge. Motion carried 7-0.

AYE: Sehorn, Flood, Bolt, Rutherford, Richter, Matthews, Engles

NAY: None

AGENDA ITEM NO. 10:

Consider Bids:

a. Shawnee City Lake Dam Improvements (Award)

Mr. Seth Barkhimer, Director of Engineering, announced that two (2) bids were received and after review and consideration it was Staff's recommendation to reject all bids. He advised that Staff work to achieve the project goals through alternative methods, including potentially changing the scope.

A motion was made by Commissioner Engles, seconded by Commissioner Flood, to reject all bids. Motion carried 7-0.

AYE: Engles, Flood, Bolt, Rutherford, Sehorn, Richter, Matthews

NAY: None

AGENDA ITEM NO. 11:

Acknowledge monthly Sales Tax Report

Ms. Lindsey McNabb-Fox, Finance Director, reported sales tax is up Eight Hundred Twenty-Eight Thousand Five Hundred Fifty-Nine Dollars (\$828,559.00) or Fourteen Point One Three Percent (14.13%), over the projected budget year-to-date. She stated that use tax collections are up approximately Fifty-Nine Thousand Two Hundred Sixty-Nine Dollars (\$59,269.00) or Seven Point Seven One Percent (7.71%), above the projected budget year-to-date.

AGENDA ITEM NO. 12:

Administrative Reports:

a. Sales Tax – Funding Capital Needs – Jacob Foos, Assistant City Manager

Mr. Jacob Foos, Assistant City Manager, explained that a Zero Point Five Percent (0.5%) sales tax increase could fund for infrastructure capital improvements, including debt service/loan payments.

b. The Fundamentals of Utility Rates – Jacob Foos, Assistant City Manager

Mr. Jacob Foos, Assistant City Manager, provided an overview of utility rates and fees.

- c. Santa Fe Depot Update – Rian Harkins, Community Development Director

Mr. Rian Harkins, Community Development Director, gave a presentation with an update on the Santa Fe Depot. He provided information on a large scale depot in Santa Fe, New Mexico.

- d. Unified Development Code Diagnostic Report Review – Rian Harkins, Community Development Director

Mr. Rian Harkins, Community Development Director, introduced Ms. Dawn Warrick with Freese and Nichols. Ms. Nichols provided a presentation on the Unified Development Code, which included Team Introduction, Project Process Overview, Code Update Foundation, Diagnostic Report Review and Next Steps.

AGENDA ITEM NO. 13:

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

There was no New Business.

AGENDA ITEM NO. 14:

Commissioners Comments

Commissioner Richter stated that the administrative reports were very informative. She commented in response to Mr. Rick Young and Ms. Butler-Wolfe's comments during Citizens Participation.

Commissioner Sehorn commented on the United Development Code Presentation. He recommended that the Homeless Coordinator provide a report on status and goals of the homeless initiative.

Vice Mayor Rutherford welcomed Commissioner Richter. He said the Staff reports had a lot of detail and were well-presented.

Commissioner Flood commented in response to Ms. Currie, Mr. Morris and Ms. Wilson's comments during Citizens Participation. He requested Staff to follow-up regarding Ms. Currie's comments. Commissioner Flood invited everyone to the Downtown Block Party on September 22, 2022.

Commissioner Engles welcomed Commissioner Richter. She said she appreciated the Staff reports and updates. She also requested an update from the Homeless Coordinator.

Commissioner Matthews requested Staff to follow-up with Ms. Currie. He said he appreciated Staff's administrative reports. He also requested a Staff report regarding the homeless initiative.

Mayor Bolt said he appreciated the Staff reports. He advised that there would be two Homeless Program Community Information meetings this week at Generations Church. The meetings would be at 7:00pm on September 20, 2022 and 2:00pm on September 22, 2022.

Commissioner Bolt commented in response to Mr. Rob Morris' comments during Citizens Participation.

AGENDA ITEM NO. 15: Adjournment

There being no further business to be considered, the meeting was adjourned by power of the Chair. (8:07 p.m.)

ED BOLT, MAYOR

ATTEST:

LISA LASYONE, CMC, CITY CLERK

Regular Board of Commissioners

2. b.

Meeting Date: 10/03/2022

Minutes

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Acknowledge the following minutes:

- Shawnee Beautification, Parks, and Recreation Committee Minutes from the June 16, 2022, July 21, 2022, and August 18, 2022 regular meetings.
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Attachments

SBPRC Minutes 06/2022

SBPRC Minutes 07/2022

SBPRC Minutes 08/2022



Shawnee Beautification, Parks and Recreation Committee

June 16th, 2022

**The Shawnee Beautification, Parks and Recreation Committee met at the Commission Chambers at
16 W 9th Street Shawnee, OK 74801.**

Roll Call was taken showing the following members present:

		Present	Absent
Chairperson	Chad Payn	<u> X </u>	<u> </u>
Vice Chairperson	Sherry Lankford	<u> X </u>	<u> </u>
Member	Ian Hayes	<u> X </u>	<u> </u>
Member	Vickie Winters	<u> X </u>	<u> </u>
Commissioner	Travis Flood	<u> X </u>	<u> </u>
City Staff	Brad Schmidt	<u> X </u>	<u> </u>
City Staff	Cody Ellis	<u> X </u>	<u> </u>
City Staff	Clint Bowen	<u> </u>	<u> X </u>
City Staff	Mikaylia Linkinhoker	<u> X </u>	<u> </u>
City Staff	Kerri Foster	<u> </u>	<u> X </u>
City Staff	Amy Riggins	<u> X </u>	<u> </u>

- AGENDA NO 1** **Call to Order.** Meeting was called to order at 4:01 pm.
- AGENDA NO 2** **Roll Call and Declaration of a Quorum.** Roll was called and a quorum was declared.
- AGENDA NO 3** **Approval of May 19th, 2022 Minutes.** A motion to approve was made by Ian Hayes. It was 2nd by Sherry Lankford. Motion carried 5-0.
- Roll Call: Aye: Payn, Lankford, Hayes, Winters, Flood.
Nay: None.
- AGENDA NO 4** **Vote for Chairman and Vice Chairman.** Chad Payn was nominated as Chairperson. A motion to approve was made by Sherry Lankford. It was 2nd by Travis Flood. Motion carried 5-0.
- Roll Call: Aye: Payn, Lankford, Hayes, Winters, Flood.
Nay: None.
- Sherry Lankford was nominated as Vice Chairman. A motion to approve was made by Travis Flood. It was 2nd by Ian Hayes.
- Roll Call: Aye: Payn, Lankford, Hayes, Winters, Flood.
Nay: None.
- AGENDA NO 5** **Public Comments.** None.
- AGENDA NO 6** **Committee Comments.** Amy Riggins introduced Aquatics and Activities Supervisor Sue Ellen Frerichs. Brad Schmidt discussed Kidspace Park and Woodland Park updates.
- AGENDA NO 7** **Adjournment.** Meeting was adjourned at 4:09 p.m. A motion was made by Ian Hayes. It was 2nd by Vickie Winters. Motion carried 5-0.
- Roll Call: Aye: Payn, Lankford, Hayes, Winters, Flood.
Nay: None.

Date 9-15-22

Chairman Chad Payn



Shawnee Beautification, Parks and Recreation Committee
July 21st, 2022
Commission Chambers
16 W 9th Street Shawnee, OK 74801.

Roll Call was taken showing the following members present:

		Present	Absent
Chairperson	Chad Payn	<u> </u>	<u> X </u>
Vice Chairperson	Sherry Lankford	<u> X </u>	<u> </u>
Member	Ian Hayes	<u> X </u>	<u> </u>
Member	Vickie Winters	<u> X </u>	<u> </u>
Commissioner	Travis Flood	<u> X </u>	<u> </u>
City Staff	Brad Schmidt	<u> X </u>	<u> </u>
City Staff	Cody Ellis	<u> X </u>	<u> </u>
City Staff	Clint Bowen	<u> </u>	<u> X </u>
City Staff	Mikaylia Linkinhoker	<u> </u>	<u> X </u>
City Staff	Kerri Foster	<u> X </u>	<u> </u>
City Staff	Amy Riggins	<u> X </u>	<u> </u>
City Staff	Whisper Peace	<u> X </u>	<u> </u>

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- AGENDA NO 1** **Call to Order.** Meeting was called to order at 4:02 pm.
- AGENDA NO 2** **Roll Call and Declaration of a Quorum.** Roll was called and a quorum was declared.
- AGENDA NO 3** **Approval of June 16th, 2022 Minutes.** A motion to approve was made by Ian Hayes. It was 2nd by Vickie Winters. Motion carried 4-0.
- Roll Call: Aye: Lankford, Hayes, Winters, Flood.
Nay: None.
- AGENDA NO 4** **Discuss Gardening with the Experts.** Sherry Lankford suggested there were not enough people in the committee to put on the event. She is speaking with Carla Smith to see if the Master Gardeners Club would want to put it on this year and if so, the Beautification Committee could help with it.
- AGENDA NO 5** **Discuss Adopt a Park with John Bobb Semple.** Mr. Semple spoke about the details of the program and showed a slide show. He also spoke about recognition ideas: t-shirts, decals, and signage.
- AGENDA NO 6** **Public Comments.** Robert Morris suggested that Economic Development may help with Gardening with the Experts if contacted.
- AGENDA NO 7** **Committee Comments.** Sherry Lankford wants to revisit GWE at the next meeting.
- AGENDA NO 8** **Adjournment.** Meeting was adjourned at 4:25 p.m. A motion was made by Vickie Winters. It was 2nd by Ian Hayes. Motion carried 4-0.
- Roll Call: Aye: Lankford, Hayes, Winters, Flood.
Nay: None.

Date 9-15-22

Chairman Chad Ryl



**Shawnee Beautification, Parks and Recreation Committee
August 18th, 2022
Commission Chambers
16 W 9th Street Shawnee, OK 74801.**

Roll Call was taken showing the following members present:

		Present	Absent
Chairperson	Chad Payn	<u> X </u>	<u> </u>
Vice Chairperson	Sherry Lankford	<u> X </u>	<u> </u>
Member	Ian Hayes	<u> </u>	<u> X </u>
Member	Vickie Winters	<u> X </u>	<u> </u>
Commissioner	Travis Flood	<u> </u>	<u> X </u>
City Staff	Brad Schmidt	<u> </u>	<u> X </u>
City Staff	Cody Ellis	<u> X </u>	<u> </u>
City Staff	Clint Bowen	<u> X </u>	<u> </u>
City Staff	Mikaylia Linkinhoker	<u> X </u>	<u> </u>
City Staff	Kerri Foster	<u> X </u>	<u> </u>
City Staff	Amy Riggins	<u> </u>	<u> X </u>
City Staff	Shane Lomeli	<u> X </u>	<u> </u>

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- AGENDA NO 1** **Call to Order.** Meeting was called to order at 4:00 pm.
- AGENDA NO 2** **Roll Call and Declaration of a Quorum.** Roll was called and a quorum was declared.
- AGENDA NO 3** **Approval of July 21st, 2022 Minutes.** A motion to approve was made by Sherry Lankford. It was 2nd by Vickie Winters. Motion carried 3-0.
- Roll Call: Aye: Payn, Lankford, Winters.
Nay: None.
- AGENDA NO 4** **Discuss Gardening with the Experts.** Shery discussed the Master Gardeners taking over the event and the Shawnee Beautification, Parks and Recreation Committee being a support system.
- AGENDA NO 5** **Public Comments.**
- AGENDA NO 6** **Committee Comments.** Kerri Foster spoke on the pool closing for the year. Cody Ellis provided a Parks update. Chad Payn asks the Committee to generate ideas, projects, purpose for the committee.
- AGENDA NO 7** **Adjournment.** Meeting was adjourned at 4:25 p.m. A motion was made by Sherry Lankford. It was 2nd by Vickie Winters. Motion carried 3-0.
- Roll Call: Aye: Payn, Lankford, Winters.
Nay: None.

Date 9-15-22

Chairman Chad Payn

Regular Board of Commissioners

2. c.

Meeting Date: 10/03/2022

Maintenance Bond

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Acceptance of public improvements for Trails End Phase I and place maintenance bonds into effect.

Attachments

Trails End Phase I



Office of Engineering

222 N. Broadway Ave.
Shawnee, OK 74801
ShawneeOK.org

Date: September 29, 2022
To: City Commission
From: Seth Barkhimer, PE, Director of Engineering
Subject: Trails End Phase I – Acceptance of Public Improvements

Background: The public improvements associated with the Trails End Phase I have been completed and are ready to be accepted by the City. The development is located on North Kickapoo Street. As required, the developer paid 100% of the construction costs.

The improvements were installed and inspected to the City of Shawnee specifications. The utilities passed all required testing and are now ready for acceptance. The acceptance of the improvements by the City Commission will place the maintenance bonds into effect.

Financial Impact: N/A

Attachment: Maintenance Bonds

Staff Recommendation: Acceptance of the improvements.

**North American Specialty
Insurance Company**

650 Elm Street
Manchester, NH 03101

**MAINTENANCE
BOND**

Bond No. 2327967

KNOW ALL BY THESE PRESENTS;

That We, First Water Contracting, LLC
(hereinafter called the "Principal"), as Principal, and **North American Specialty Insurance Company**, of Manchester, New Hampshire, a New Hampshire corporation duly licensed to transact business in the State of Oklahoma,
(hereinafter called the "Surety"), as Surety, are held and firmly bound City of Shawnee (hereinafter called the "Obligee"), in the sum
in the sum of *See Below Dollars
(\$ *See Below), for the payment of which sum well and truly to be made, we, the said Principal and said Surety
bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly be these presents.

WHEREAS the Principal has entered into a written contract with said Obligee dated the 28th day of January,
20 22, for: Paving & Drainage to Trails End

and

WHEREAS, the said Principal is required to guarantee the installed under said contract, against defects in materials or workmanship which may develop for a period of (5 years) year(s) from and after the date of acceptance of said work.

In no event shall losses paid under this bond aggregate more than the amount of this bond.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that said Principal shall faithfully carry out and perform the said guarantee, and shall, on due notice, repair and make good at its own expense any and all defects in materials and workmanship in the said work which may develop during the period specified above or shall pay over, make good and reimburse to the said obligee all losses sustained by reason of failure or default of said Principal so to do, then this obligation shall be null and void; otherwise shall remain in full force and effect.

Sealed with our seals and dated the 1st day of February, 20 22.

First Water Contracting, LLC

Principal

By

Greg Homal - Vice President

North American Specialty Insurance Company

By

Deborah L. Raper

Attorney-In-Fact Deborah L. Raper

*First Year Maintenance Amount - Eight Hundred Seventy Five Thousand Three Hundred Forty One & 20/100---(\$875,341.20)

**2nd Through 5th Years Maintenance Amount - Eighty Seven Thousand Five Hundred Thirty Four & 12/100---(\$87,534.12)

SWISS RE CORPORATE SOLUTIONS

NORTH AMERICAN SPECIALTY INSURANCE COMPANY
WASHINGTON INTERNATIONAL INSURANCE COMPANY
WESTPORT INSURANCE CORPORATION

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, THAT North American Specialty Insurance Company, a corporation duly organized and existing under laws of the State of New Hampshire, and having its principal office in the City of Kansas City, Missouri and Washington International Insurance Company a corporation organized and existing under the laws of the State of New Hampshire and having its principal office in the City of Kansas City, Missouri, and Westport Insurance Corporation, organized under the laws of the State of Missouri, and having its principal office in the City of Kansas City, Missouri, each does hereby make constitute and appoint:

JOHN K. DEER, VAUGHN P. GRAHAM, VAUGHN P. GRAHAM, JR., STEPHEN M. POLEMAN, TRAVIS E. BROWN, DEBORAH L. RAPER, JAMIE BURRIS, SHELLI R. SAMSEL, MARK D. NOWELL

CATHY COMBS, VICKI WILSON, AUSTIN K. GREENHAW, CLAYTON HOWELL, CAREY L. KENNEMER, RANDY D. WEBB, AARON WOOLSEY, GARY LILES, THOMAS PERRAULT and KRISTIN LEWIS JOINTLY OR SEVERALLY

Its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its act and deed, bonds or other writings obligatory in the nature of a bond on behalf of each of said Companies, as surety, on contracts of suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract or suretyship executed under this authority shall exceed the amount of:

TWO HUNDRED MILLION (\$200,000,000.00) DOLLARS

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of North American Specialty Insurance Company and Washington International Insurance Company at meetings duly called and held on March 24, 2000 and Westport Insurance Corporation by written consent of its Executive Committee dated July 18, 2011.

"RESOLVED, that any two of the President, any Senior Vice President, any Vice President, any Assistant Vice President, the Secretary or any Assistant Secretary be, and each or any of them hereby is authorized to execute a Power of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Company bonds, undertakings and all contracts of surety, and that each or any of them hereby is authorized to attest to the execution of any such Power of Attorney and to attach therein the seal of the Company; and it is

FURTHER RESOLVED, that the signature of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be binding upon the Company when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached."



By 
Steven P. Anderson, Senior Vice President of Washington International Insurance Company
& Senior Vice President of North American Specialty Insurance Company
& Senior Vice President of Westport Insurance Corporation

By 
Erik Janssens, Senior Vice President of Washington International Insurance Company
& Senior Vice President of North American Specialty Insurance Company
& Senior Vice President of Westport Insurance Corporation

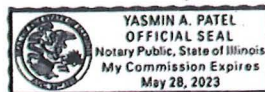


IN WITNESS WHEREOF, North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation have caused their official seals to be hereunto affixed, and these presents to be signed by their authorized officers this 24th day of NOVEMBER, 20 21.

North American Specialty Insurance Company
Washington International Insurance Company
Westport Insurance Corporation

State of Illinois
County of Cook ss:

On this 24th day of NOVEMBER, 20 21, before me, a Notary Public personally appeared Steven P. Anderson, Senior Vice President of Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company and Senior Vice President of Westport Insurance Corporation and Erik Janssens Senior Vice President of Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company and Senior Vice President of Westport Insurance Corporation, personally known to me, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as officers of and acknowledged said instrument to be the voluntary act and deed of their respective companies.





Yasmin A. Patel, Notary

I, Jeffrey Goldberg, the duly elected Senior Vice President and Assistant Secretary of North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney given by said North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation which is still in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Companies this 1st day of February, 20 22.


Jeffrey Goldberg, Senior Vice President & Assistant Secretary of Washington International Insurance Company & North American Specialty Insurance Company & Vice President & Assistant Secretary of Westport Insurance Corporation

MAINTENANCE BOND

#87C237151

KNOW ALL MEN BY THESE PRESENTS:

That United Trenching, Inc., 5506 Stewart Drive, Mustang OK 73064, as Principal, and The Ohio Casualty Insurance Company, 175 Berkeley St., Boston MA 02116, a corporation organized under the laws of the State of New Hampshire and authorized to transact business in the State of Oklahoma, as Surety, are held and firmly bound unto the Shawnee Municipal Authority/City of Shawnee, Beneficiary in penal sum of ***Three Hundred Seventy Four Thousand Four Hundred Ninety & 00/100*** Dollars (\$ 374,490.00) lawful money of the United States of America, said sum being equal to one hundred percent (100%) of the total contract price for the first (1) year, ten percent (10%) for one (1) year after completion and final acceptance (total of 2 years maintenance), for the payment of which, well and truly to be made, we bind ourselves and each of us, our heirs, executors, administrators, trustees, successors, and assigns, jointly and severally, firmly by these presents.

NOW, THEREFORE, if said Principal shall pay or cause to be paid to the Shawnee Municipal Authority/City Of Shawnee Beneficiary all damages, loss, and expense which may result by reason of defective materials and/or workmanship in connection with said work, occurring within a period of two (2) years ({one hundred (100%) percent for first year, ten (10%) for one year thereafter, of total contract price} for all projects for the construction of utilities) from and after acceptance of said project by the Shawnee Municipal Authority/City of Shawnee Beneficiary; and if Principal shall pay or cause to be paid all labor and materials, including the prime contractor and all subcontractors; and if principal shall save and hold Shawnee Municipal Authority/City of Shawnee Beneficiary harmless from all damages, loss and expense occasioned by or resulting from any failure whatsoever of said Principal, then this obligation shall be null and void, otherwise to be and remain in full force and effect.

DATED this 15th day of October, 2021

The condition of this obligation is such that:

WHEREAS, said Principal entered into a written CONTRACT with

Live Orange, LLC, 2510 E. Independence #400, Shawnee OK 74804,
dated May 17, 2021, for

Sanitary Sewer Line Improvements to Trails End Section 1, in the vicinity of N Kickapoo & Garrett Lake Rd., Shawnee OK, all in compliance with the plans and specifications therefore, made a part of said Contract and on file in the office of City Clerk, P.O. Box 1448, Shawnee, OK 74802-1448.

NOW, THEREFORE, if said Principal shall pay or cause to be paid to the SHAWNEE MUNICIPAL AUTHORITY/CITY OF SHAWNEE BENEFICIARY all damages, loss, and expense which may result by reason of defective materials and/or workmanship in connection with said work, occurring within a period of **two (2) years** (**one hundred (100%) percent for first year, ten (10%) for one year** thereafter, of total contract price} for all projects for the construction of utilities) from and after acceptance of said project by the SHAWNEE MUNICIPAL AUTHORITY/CITY OF SHAWNEE BENEFICIARY; and if Principal shall pay or cause to be paid all labor and materials, including the prime contractor and all subcontractors; and if principal shall save and hold SHAWNEE MUNICIPAL AUTHORITY/CITY OF SHAWNEE BENEFICIARY harmless from all damages, loss and expense occasioned by or resulting from any failure whatsoever of said Principal, then this obligation shall be null and void, otherwise to be and remain in full force and effect.

It is further expressly agreed and understood by the parties hereto that no changes or alterations in said Contract and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing the sureties, or any of them, from the obligations of this BOND.

IN WITNESS WHEREOF, the said Principal has caused these presents to be executed in his name and its corporate seal to be hereunto affixed by its duly authorized officers, and the said Surety has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its attorney-in-fact, duly authorized so to do, the day and year first above written.

(SEAL)

ATTEST:

Kath Carroll

(SEAL)

ATTEST:

[Signature]

PRINCIPAL:

United Trenching, Inc.

BY

Jonny Eltin

TITLE

President



SURETY:

The Ohio Casualty Insurance Company

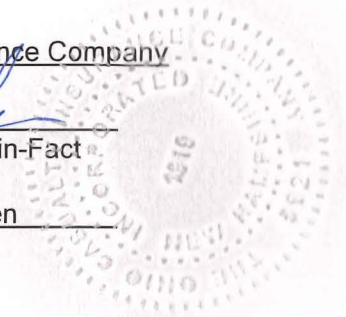
BY

Wendy Hollen

Attorney-in-Fact

NAME

Wendy Hollen





This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8205248-974468

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Cody McNeill; John L. Birsner; John Rogers; Kyle D. Reser; Larry D. Bixler; Lisa Sherman; Mike Shannon; Susanne Cusimano; W. M. McNeill; Wendy Hollen

all of the city of Oklahoma City state of OK each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 8th day of April, 2021.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By:

David M. Carey
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 8th day of April, 2021 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
Member, Pennsylvania Association of Notaries

By:

Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 15th day of October 2021



By:

Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/15/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Insurance Agency of Mid America Inc 10009 S. Penn, Building E P. O. Box 890300 Oklahoma City OK 73189	CONTACT NAME: Ashley Mack PHONE (A/C, No, Ext): (405) 691-0016 FAX (A/C, No): (405) 691-0415 E-MAIL ADDRESS: amack@midamericainc.com														
INSURED United Trenching Inc 5506 Stewart Drive Mustang OK 73064	<table border="1"><thead><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A: National Fire Ins Co of Hartford</td><td>20478</td></tr><tr><td>INSURER B: Continental Insurance Company</td><td>35289</td></tr><tr><td>INSURER C: National American Insurance Co</td><td>23663</td></tr><tr><td>INSURER D: Continental Casualty Co</td><td>20443</td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></tbody></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: National Fire Ins Co of Hartford	20478	INSURER B: Continental Insurance Company	35289	INSURER C: National American Insurance Co	23663	INSURER D: Continental Casualty Co	20443	INSURER E:		INSURER F:	
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INSURER E:															
INSURER F:															

COVERAGES**CERTIFICATE NUMBER:** 2021**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR YVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC ☐ OTHER:			7015539640	9/12/2021	9/12/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☐ HIRED AUTOS ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS			7015539637	9/12/2021	9/12/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☒ RETENTION \$ 10,000			7015539654	9/12/2021	9/12/2022	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N ☒ Y N/A			CW44680235	4/1/2021	4/1/2022	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	INSTALLATION FLOATER			IM7015648227	9/12/2021	9/12/2022	LIMIT 500,000 DEDUCTIBLE 2,500

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project: Sanitary Sewer Line improvements to Trails End Section 1 in the vicinity of N Kickapoo & Garrett Lake Rd, Shawnee, OK

CERTIFICATE HOLDER**CANCELLATION**

(405) 878-1587 City of Shawnee PO Box 1448 Shawnee, OK 74802-1448	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Mike McNeill/RWM <i>W.M. McNeill</i>
--	---

© 1988-2014 ACORD CORPORATION. All rights reserved.

MAINTENANCE BOND

#87C237151

KNOW ALL MEN BY THESE PRESENTS:

That United Trenching, Inc., 5506 Stewart Drive, Mustang OK 73064, as Principal, and The Ohio Casualty Insurance Company, 175 Berkeley St., Boston MA 02116, a corporation organized under the laws of the State of New Hampshire and authorized to transact business in the State of Oklahoma, as Surety, are held and firmly bound unto the Shawnee Municipal Authority/City of Shawnee, Beneficiary in penal sum of ***Three Hundred Thirty Eight Thousand Three Hundred Ninety Three & 10/100*** Dollars (\$ 338,393.10) lawful money of the United States of America, said sum being equal to one hundred percent (100%) of the total contract price for the first (1) year, ten percent (10%) for one (1) year after completion and final acceptance (total of 2 years maintenance), for the payment of which, well and truly to be made, we bind ourselves and each of us, our heirs, executors, administrators, trustees, successors, and assigns, jointly and severally, firmly by these presents.

NOW, THEREFORE, if said Principal shall pay or cause to be paid to the Shawnee Municipal Authority/City Of Shawnee Beneficiary all damages, loss, and expense which may result by reason of defective materials and/or workmanship in connection with said work, occurring within a period of two (2) years ({one hundred (100%) percent for first year, ten (10%) for one year thereafter, of total contract price} for all projects for the construction of utilities) from and after acceptance of said project by the Shawnee Municipal Authority/City of Shawnee Beneficiary; and if Principal shall pay or cause to be paid all labor and materials, including the prime contractor and all subcontractors; and if principal shall save and hold Shawnee Municipal Authority/City of Shawnee Beneficiary harmless from all damages, loss and expense occasioned by or resulting from any failure whatsoever of said Principal, then this obligation shall be null and void, otherwise to be and remain in full force and effect.

DATED this 15th day of October, 2021

The condition of this obligation is such that:

WHEREAS, said Principal entered into a written CONTRACT with

Live Orange, LLC, 2510 E. Independence #400, Shawnee OK 74804,
dated May 17, 2021, for

Water Line Improvements to Trails End Section 1, in the vicinity of N Kickapoo & Garrett Lake Rd., Shawnee OK, all in compliance with the plans and specifications therefore, made a part of said Contract and on file in the office of City Clerk, P.O. Box 1448, Shawnee, OK 74802-1448.

NOW, THEREFORE, if said Principal shall pay or cause to be paid to the SHAWNEE MUNICIPAL AUTHORITY/CITY OF SHAWNEE BENEFICIARY all damages, loss, and expense which may result by reason of defective materials and/or workmanship in connection with said work, occurring within a period of **two (2) years** (**one hundred (100%) percent for first year, ten (10%) for one year** thereafter, of total contract price} for all projects for the construction of utilities) from and after acceptance of said project by the SHAWNEE MUNICIPAL AUTHORITY/CITY OF SHAWNEE BENEFICIARY; and if Principal shall pay or cause to be paid all labor and materials, including the prime contractor and all subcontractors; and if principal shall save and hold SHAWNEE MUNICIPAL AUTHORITY/CITY OF SHAWNEE BENEFICIARY harmless from all damages, loss and expense occasioned by or resulting from any failure whatsoever of said Principal, then this obligation shall be null and void, otherwise to be and remain in full force and effect.

It is further expressly agreed and understood by the parties hereto that no changes or alterations in said Contract and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing the sureties, or any of them, from the obligations of this BOND.

IN WITNESS WHEREOF, the said Principal has caused these presents to be executed in his name and its corporate seal to be hereunto affixed by its duly authorized officers, and the said Surety has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its attorney-in-fact, duly authorized so to do, the day and year first above written.

(SEAL)

ATTEST:

Kath Carroll

(SEAL)

ATTEST:

[Signature]

PRINCIPAL:

United Trenching, Inc.

BY

Jonny Ellison

TITLE President



SURETY:

The Ohio Casualty Insurance Company

BY

Wendy Hollen
Attorney-in-Fact

NAME Wendy Hollen



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: **8205248-974468**

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Cody McNeill; John L. Birsner; John Rogers; Kyle D. Reser; Larry D. Bixler; Lisa Sherman; Mike Shannon; Susanne Cusimano; W. M. McNeill; Wendy Hollen

all of the city of Oklaahaoma City state of OK each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 8th day of April, 2021.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By:

David M. Carey
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 8th day of April, 2021 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
Member, Pennsylvania Association of Notaries

By:

Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 15th day of October, 2021



By:

Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/15/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Insurance Agency of Mid America Inc 10009 S. Penn, Building E P. O. Box 890300 Oklahoma City OK 73189		CONTACT NAME: Ashley Mack PHONE (A/C, No, Ext): (405) 691-0016 FAX (A/C, No): (405) 691-0415 E-MAIL ADDRESS: amack@midamericainc.com													
INSURED United Trenching Inc 5506 Stewart Drive Mustang OK 73064		INSURER(S) AFFORDING COVERAGE <table border="1"><tr><td>INSURER A: National Fire Ins Co of Hartford</td><td>NAIC # 20478</td></tr><tr><td>INSURER B: Continental Insurance Company</td><td>35289</td></tr><tr><td>INSURER C: National American Insurance Co</td><td>23663</td></tr><tr><td>INSURER D: Continental Casualty Co</td><td>20443</td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></table>		INSURER A: National Fire Ins Co of Hartford	NAIC # 20478	INSURER B: Continental Insurance Company	35289	INSURER C: National American Insurance Co	23663	INSURER D: Continental Casualty Co	20443	INSURER E:		INSURER F:	
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INSURER D: Continental Casualty Co	20443														
INSURER E:															
INSURER F:															

COVERAGES**CERTIFICATE NUMBER:** 2021**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR VWD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS														
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC OTHER:			7015539640	9/12/2021	9/12/2022	<table border="1"><tr><td>EACH OCCURRENCE</td><td>\$ 1,000,000</td></tr><tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td>\$ 1,000,000</td></tr><tr><td>MED EXP (Any one person)</td><td>\$ 15,000</td></tr><tr><td>PERSONAL & ADV INJURY</td><td>\$ 1,000,000</td></tr><tr><td>GENERAL AGGREGATE</td><td>\$ 2,000,000</td></tr><tr><td>PRODUCTS - COMP/OP AGG</td><td>\$ 2,000,000</td></tr><tr><td></td><td>\$</td></tr></table>	EACH OCCURRENCE	\$ 1,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000	MED EXP (Any one person)	\$ 15,000	PERSONAL & ADV INJURY	\$ 1,000,000	GENERAL AGGREGATE	\$ 2,000,000	PRODUCTS - COMP/OP AGG	\$ 2,000,000		\$
EACH OCCURRENCE	\$ 1,000,000																				
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GENERAL AGGREGATE	\$ 2,000,000																				
PRODUCTS - COMP/OP AGG	\$ 2,000,000																				
	\$																				
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ALL OWNED AUTOS HIRED AUTOS ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS			7015539637	9/12/2021	9/12/2022	<table border="1"><tr><td>COMBINED SINGLE LIMIT (Ea accident)</td><td>\$ 1,000,000</td></tr><tr><td>BODILY INJURY (Per person)</td><td>\$</td></tr><tr><td>BODILY INJURY (Per accident)</td><td>\$</td></tr><tr><td>PROPERTY DAMAGE (Per accident)</td><td>\$</td></tr><tr><td></td><td>\$</td></tr></table>	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000	BODILY INJURY (Per person)	\$	BODILY INJURY (Per accident)	\$	PROPERTY DAMAGE (Per accident)	\$		\$				
COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000																				
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BODILY INJURY (Per accident)	\$																				
PROPERTY DAMAGE (Per accident)	\$																				
	\$																				
B	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$ 10,000			7015539654	9/12/2021	9/12/2022	<table border="1"><tr><td>EACH OCCURRENCE</td><td>\$ 5,000,000</td></tr><tr><td>AGGREGATE</td><td>\$ 5,000,000</td></tr><tr><td></td><td>\$</td></tr></table>	EACH OCCURRENCE	\$ 5,000,000	AGGREGATE	\$ 5,000,000		\$								
EACH OCCURRENCE	\$ 5,000,000																				
AGGREGATE	\$ 5,000,000																				
	\$																				
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N ☒ Y N/A			CW44680235	4/1/2021	4/1/2022	<table border="1"><tr><td>☒ PER STATUTE ☐ OTHER</td><td></td></tr><tr><td>E.L. EACH ACCIDENT</td><td>\$ 1,000,000</td></tr><tr><td>E.L. DISEASE - EA EMPLOYEE</td><td>\$ 1,000,000</td></tr><tr><td>E.L. DISEASE - POLICY LIMIT</td><td>\$ 1,000,000</td></tr></table>	☒ PER STATUTE ☐ OTHER		E.L. EACH ACCIDENT	\$ 1,000,000	E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000	E.L. DISEASE - POLICY LIMIT	\$ 1,000,000						
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E.L. EACH ACCIDENT	\$ 1,000,000																				
E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000																				
E.L. DISEASE - POLICY LIMIT	\$ 1,000,000																				
D	INSTALLATION FLOATER			IM7015648227	9/12/2021	9/12/2022	<table border="1"><tr><td>LIMIT</td><td>500,000</td></tr><tr><td>DEDUCTIBLE</td><td>2,500</td></tr></table>	LIMIT	500,000	DEDUCTIBLE	2,500										
LIMIT	500,000																				
DEDUCTIBLE	2,500																				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project: Water Line improvements to Trails End Section 1 in the vicinity of N Kickapoo & Garrett Lake Rd, Shawnee, OK

CERTIFICATE HOLDER**CANCELLATION**

(405) 878-1587 City of Shawnee PO Box 1448 Shawnee, OK 74802-1448	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE Mike McNeill/RWM <i>W.M. McNeill</i>
--	---

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Regular Board of Commissioners

2. d.

Meeting Date: 10/03/2022

Lake Lease

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Lake Lease Transfer:

TRANSFER:

Lot 6 Mosler Tract, 16304 Archery Range Road

From: LaDonna Freeman

To: LaDonna K. Freeman Revocable Trust u/a/d October 29, 2006

Attachments

Lake Lease

Community
Development
Department



222 N Broadway
Shawnee, OK 74801
405-878-1666
cosinspections@shawneeok.org

**Shawnee Twin Lakes Cabin Site Leases
Summary Report – For Renewals & Transfers**

Date: 10/3/2022	License No.: 5561
Type:	☐ Renewal ☒ Transfer
Commission Meeting Date:	10/3/2022
Property Address	16304 Archery Range Rd
Lake Site Location	Mosler Tract, Lot 6
Lease Dates	10/3/2022 - 10/3/2052
Lease Fee	761.00
Inspection Fee	\$75.00 Applicable: ☒ Yes ☐ No
Lessee (Transfer To)	
Name(s)	LaDonna K Freeman Revocable Trust u/a/d October 29, 2006
Address	16304 Archery Range Rd, Shawnee, OK 74801
Email	
Phone	405.273.2071 - 405.255.0853
Current Lessee (Transfer From)	
Name(s)	LaDonna Freeman
Address	16304 Archery Range Rd, Shawnee, OK 74801
Email	
Phone	405.273.2071 - 405.255.0853
Inspection Information	
Inspection Required	☒ Yes ☐ No
DEQ Report on File	☐ Yes ☐ No
Type of Septic	☒ Conventional ☐ Aerobic
Last Inspected / Pumped	
Miscellaneous Comments	
Fees Collected	\$1836.00 - CK 8036 - Rec #1610



Cabin Site Lease

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:

LEASE # 5561 TRACT NAME Mosler LOT # 6

STATE OF OKLAHOMA, POTTAWATOMIE COUNTY, SS:

This Lease was made and entered into in duplicate this date of 10/3/2022 by and between the CITY OF SHAWNEE, a municipal Corporation, PARTY OF THE FIRST PART, and

LADONNA K FREEMAN REVOCABLE TRUST u/a/d OCTOBER 29, 2006,
16304 ARCHERY RANGE RD
SHAWNEE, OK 74801

PARTY OF THE SECOND PART.

WITNESSETH: That the first party in consideration of the sum of \$761.00 dollars for 2022, 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 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:

16304 ARCHERY RANGE RD

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 rules 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 with 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 to 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 the 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 of 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.

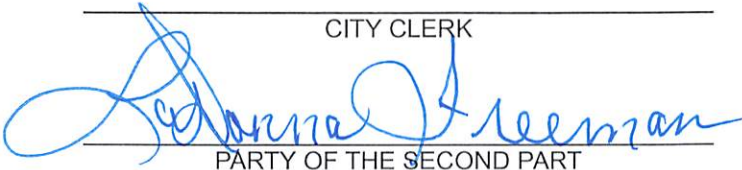
CITY OF SHAWNEE, OKLAHOMA
A Municipal Corporation,

BY:

MAYOR
PARTY OF THE FIRST PART

ATTEST:

CITY CLERK



PARTY OF THE SECOND PART

PARTY OF THE SECOND PART

Regular Board of Commissioners

3.

Meeting Date: 10/03/2022

Schedule

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Consideration of the Schedule of Regular Meetings for 2023 for The Board of City Commissioners, The Board of Trustees of the Shawnee Airport Authority, and The Board of Trustees of the Shawnee Municipal Authority.

Attachments

2023 Schedule



City Manager's Office

16 W. 9th St.
Shawnee, OK 74801
ShawneeOK.org

Date: September 29, 2022
To: City Commission
From: Andrea Weckmueller-Behringer, City Manager
Subject: Schedule of Regular Meetings for 2023 Calendar Year

Background: It has been the City of Shawnee's practice to hold twice-monthly meetings for the Board of Commissioners, Board of Trustees of the Shawnee Airport Authority (SAA), and Board of Trustees of the Shawnee Municipal Authority (SMA), specifically on the first and third Monday of every month. According to our City Charter, Article 4, Section 4, "the board of commissioners shall hold at least one (1) regular meeting each month at City Hall at a date and hour to be designated by resolution."

Our current practice of holding two monthly City Commission meetings requires that both the City Clerk's Office and the City Manager's Office spend the majority of every other week focusing on agenda preparation. Moving to once-a-month Board of Commissioners as well as SAA and SMA Trustee meetings would free up resources in both of these departments without negatively impacting the policy-making and approval activities accomplished by the City of Shawnee's governing body.

Since these regular meetings are also an opportunity for the public to communicate concerns and ideas, City staff is working towards the roll-out of an online portal that will allow citizens to report infrastructure-related issues and insights in real-time. Already available is the City's "Citizen Request Center" portal (https://www.shawneeok.org/citizen_request_center/index.php) through which both the Board of Commissioners as well as Department Directors and Division Managers can be reached.

City staff recommends retaining the third Monday of every month as the regular meeting date for the Board of Commissioners as well as SAA and SMA Trustee meetings, while the first Monday would then be available for Special Meetings or Work Sessions on specific topics, as needed.

Financial Impact: None.

Attachment: 2023 Calendar Year – Schedule of Regular Meetings.

Staff Recommendation: Approval of the item.

2023 CALENDAR YEAR

SCHEDULE OF REGULAR MEETINGS

**THE BOARD OF CITY COMMISSIONERS,
THE BOARD OF TRUSTEES OF THE SHAWNEE AIRPORT AUTHORITY, AND
THE BOARD OF TRUSTEES OF THE SHAWNEE MUNICIPAL AUTHORITY**

DATE		TIME	PLACE OF MEETING
1/17/2023	Tuesday	6:00 p.m.	Commission Chambers-City Hall 16 West 9 th Street, Shawnee, OK
2/21/2023	Tuesday	6:00 p.m.	Commission Chambers-City Hall 16 West 9 th Street, Shawnee, OK
3/20/2023	Monday	6:00 p.m.	Commission Chambers-City Hall 16 West 9 th Street, Shawnee, OK
4/17/2023	Monday	6:00 p.m.	Commission Chambers-City Hall 16 West 9 th Street, Shawnee, OK
5/15/2023	Monday	6:00 p.m.	Commission Chambers-City Hall 16 West 9 th Street, Shawnee, OK
6/20/2023	Tuesday	6:00 p.m.	Commission Chambers-City Hall 16 West 9 th Street, Shawnee, OK
7/17/2023	Monday	6:00 p.m.	Commission Chambers-City Hall 16 West 9 th Street, Shawnee, OK
8/21/2023	Monday	6:00 p.m.	Commission Chambers-City Hall 16 West 9 th Street, Shawnee, OK
9/18/2023	Monday	6:00 p.m.	Commission Chambers-City Hall 16 West 9 th Street, Shawnee, OK
10/16/2023	Monday	6:00 p.m.	Commission Chambers-City Hall 16 West 9 th Street, Shawnee, OK
11/20/2023	Monday	6:00 p.m.	Commission Chambers-City Hall 16 West 9 th Street, Shawnee, OK
12/18/2023	Monday	6:00 p.m.	Commission Chambers-City Hall 16 West 9 th Street, Shawnee, OK

NAME: LISA LASYONE, CMC

TITLE: City Clerk

ADDRESS: P. O. Box 1448

Shawnee, OK 74802-1448

TELEPHONE: (405) 878-1604

Filed in the office of the Municipal Clerk at _____ a.m./p.m. on _____, 2022.

Signed: _____

Clerk/Deputy Clerk

Regular Board of Commissioners

4.

Meeting Date: 10/03/2022

Purchase

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Consideration of the purchase of a forklift for use at the Heart of Oklahoma Exposition Center at the total amount of \$50,549.00 from Viper Lift Trucks.

Attachments

Purchase



City Manager's Office

16 W. 9th St.
Shawnee, OK 74801
ShawneeOK.org

Date: September 29, 2022
To: City Commission
From: Jacob Foos, Assistant City Manager
Subject: Consideration of the purchase of a forklift for use at the Heart of Oklahoma Exposition Center at the total of \$50,549 from Viper Lift Trucks.

Background: The new General Manager of Heart of Oklahoma Exposition Center, Frank Abbott, has been evaluating the capital needs of the facility. The facility has had to rent a forklift for \$5,300 per month to meet operational demands. The purchase of this equipment will provide long-term cost savings and help to promote continued improvements for the facility.

Other purchases that will soon be addressed include a lawn mower, professional grade pressure washer, utility task vehicle, and enhanced security monitoring.

Financial Impact: \$50,549 of budgeted funds from the 2018 Half-Cent Sales Tax Fund, Expo Center, Capital Outlay, 303-5-1210-54200.

Attachment: Quotes and warranty.

Staff Recommendation: Approval of the item.



PROPOSAL

Quote Ref: 72964

Date: 8/17/21

Customer Name: Heart of OK Expo Center

ATTN: Frank Abbott

Blytheville	(870) 763-2803
Broussard	(337) 837-2880
Camden	(870) 862-1262
Conway	(501) 450-9500
El Dorado	(870) 881-4370
Fort Smith	(479) 648-3322
Jonesboro	(870) 931-1262
Little Rock	(501) 562-1262
Lufkin	(936) 633-7575
Oklahoma City	(405) 670-4343
Springdale	(479) 361-1262
Texarkana	(870) 773-1262
Tulsa	(918) 438-7800

I.D. #: 72964

CONDITION: Used

MAKE: Sellick

MODEL: S80

SERIAL: 6390512582

YEAR: 2005

HOURS: 400

LIFT CAPACITY: 8,000 lbs.

FUEL: Diesel

DRIVE: 2WD

CAB: Open

TIRES: Rough Terrain, Airs

FORKS: 48"

LOWERED HEIGHT: 94"

RAISED HEIGHT: 120"

SIDESHIFTER: Yes

PURCHASE PRICE (DELIVERED): \$59,500.00 (plus sales tax, if applicable)

WARRANTY: 30 Days

Sincerely,

Steve Holmes

This quote is subject to acceptance by buyer and seller within 15 days from the date hereof and only in accordance with the terms here and on following page(s). Buyer grants to seller a security interest in equipment described herein until payment has been made in full.

Seller Acceptance

Buyer Acceptance

Sign here and initial where indicated below

NAME

TITLE

(This quotation shall become a contract only upon signature by President or Sales Manager of Seller at its Business offices.)

NAME

TITLE

(Signature of authorized Officer or Representative required)

TERMS

1. **ACCEPTANCE.** The quotation is an invitation for an offer by Buyer subject to acceptance by Seller. It shall become binding contract only when accepted by the President or General Sales Manager at the offices of Sellers sales and service branch stated herein. Upon said acceptance, the contract shall be effective after and shall survive (i) delivery of the equipment ordered hereunder and (ii) the signing of any additional agreement relating to said equipment. If the terms hereof conflict with any such security agreement, the terms of the latter shall control.

2. **SHIPMENT.** Unless otherwise specifically agreed, all prices are for material packed for domestic shipping and for delivery F.O.B. factory of point of shipment. Shipping date are approximate and based on prompt receipt of all necessary information. All risk of loss shall be upon the Buyer from the point of shipment. Buyer shall pay all transportation and delivery charges to final destination.

3. **PRICES.** Prices quoted herein are based on present costs. Such prices are subject to increase by Seller at any time prior to delivery in respect of all or any portion of the equipment to the extent necessary to cover Sellers increased costs applicable thereto.

4. **PAYMENT.** Partial shipments may be made and payments therefore shall become due in accordance with the terms hereof. Finance charges are subject to rates in effect at time of delivery of equipment herein described. The terms of sale herein are subject to credit approval and Seller may at any time prior to delivery modify the terms of payment originally specified to assure prompt payment for the equipment ordered.

5. **TAXES.** The amount of taxes stated on the reverse side hereof, if any, is approximate only. **In the event that any taxing authority (federal, state or local) determines there is any additional tax due,** Buyer is liable for the full amount of all taxes applicable to or as a result of the transaction, exclusive of franchise taxes and taxes measured by the net income of Seller. Buyer shall pay **the full** amount of all such **additional** taxes at any time requested by Seller as if originally **included** in the prices. If Seller pays such taxes, Buyer shall reimburse Seller therefore.

6. **SECURITY INTEREST AND DEFAULT.** Seller shall retain a security interest in the equipment delivered hereunder until the total selling price, including taxes, delivery and other charges, is paid in full by Buyer. Buyer agrees to sign and deliver to Seller an additional security agreement required by Seller to secure the amount owed.

7. **DISCLAIMER OF WARRANTIES.** The only warranties applying to this product(s) are those which may be offered by the manufacturer. The Seller, HUGG & HALL EQUIPMENT, hereby EXPRESSLY DISCLAIM ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANT ABILITY OR FITNESS FOR A

PARTICULAR PURPOSE, and neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of this product, part(s), and/or service. Buyer shall not be entitled to recover from HUGG & HALL EQUIPMENT, any damages to property, damages for loss of use, loss of time, loss of profits or income, or any other incidental or consequential damages.

8. **DELAYS.** Seller shall not be liable for loss or damage due to delay in delivery or manufacture, resulting from any cause beyond Sellers reasonable control, including but not limited to, compliance with any regulations, orders, or instructions of any federal, state or municipal government or any department or agency thereof, acts of God, acts of omissions of the Buyer, acts of civil or military authority, fires, strikes, factory shutdowns or alterations, embargoes, war, riot, delays in transportation, or inability due to causes beyond the Sellers reasonable control to obtain necessary labor, manufacturing facilities or materials from the Sellers usual sources; and any delays resulting from any such cause shall constitute a waiver of all claims for damages. In no event shall Buyer or Seller be liable for special or consequential damages.

9. **CANCELLATION.** Buyer may cancel its order, reduce quantities, revise specifications or extend schedules only by mutual agreements as to reasonable and proper cancellation charges which shall take into account expenses incurred and commitments made by Seller and Buyer shall indemnify Seller against any loss resulting therefrom.

10. **PATENTS.** Seller shall defend, or in its sole discretion, effect settlement of any litigation of claim brought against Buyer so far as based on a contention that any product of Sellers design furnished hereunder constitutes an infringement of any United States patent, if noticed promptly in writing and given authority, information and assistance (at Sellers expense) for the defense settlement of same, and in such event Seller shall pay the judgment and any costs awarded against Buyer in any such litigation. The foregoing states the entire liability of Seller for patent infringement by said product.

11. **ARBITRATION.** Any controversy or claim arising out of or relating to this agreement, or any breach thereof, shall be settled in accordance with the Rules of the American Arbitration Association, and judgment upon the award may be entered in any Court having jurisdiction thereof.

12. **ENTIRE AGREEMENT AND APPLICABLE LAW.** The rights and obligations of Seller and Buyer under any other place pursuant hereto shall be governed by the laws of the state where accepted by Seller. No waiver, modification or addition to any of the provisions on the fact hereof shall be binding on Seller unless made in writing by the Branch Manager or the General Sales Manager at Sellers branch office as stated herein. In the event of conflict between Buyers purchase order and the terms hereof, the latter shall control.

X _____ Initial here



QUOTE: #70190

Supreme Forklift & Equipment

3695 E Apache Trail Suite 1

Apache Junction, AZ, 85119

[View in Browser](#)

Frank,
Here is the quote on the 2014 JCB 940

FROM:

Matt Reif
630-347-3778
matt@supreme-lift.com

QUOTE FOR:

Frank Abbott
EXPO
Frank.Abbott@oakviewgroup.com

2014 JCB 940 - \$74,995.00:

Year:	2014
Make:	JCB
Subcategory:	Rough Terrain (Vertical Mast)
Model:	940
Capacity:	8000
Mast Spec:	126/264
Mast:	Three Stage
Fuel:	Diesel
Side Shifter:	Yes
Condition:	Used
Hours:	310
Price:	\$74,995.00

PRICE: \$74,995.00

DESCRIPTION:

310 HOURS

IMAGE:



THANK YOU FOR YOUR BUSINESS !

VIPER
LIFT TRUCKS

WARRANTY INFORMATION

VIPER LIFT TRUCKS

640 Industrial Drive
Cary, IL 60013

www.viperlifttrucks.com

Monday – Friday
9:00am – 4:00 pm



VIPER
LIFT TRUCKS



CONTACT US WITH ANY QUESTIONS | TOLL FREE: 844.451.5730 | SALES@VIPERLIFTTRUCKS.COM

Warranty Policy

Main Warranty Coverage Information:

- Standard Warranty Coverage: 12 months or 2,000 hours, whichever occurs first on all factory installed engines, transmissions, steer & drive axles (excluding brake assemblies), carburetor, alternator, starter, speed governor, ring gear, fly-wheel, sensors, hydraulic pump, oil pump, electronic components and torque converters.
- Limited Warranty Coverage: 12 month or 1,000 hours, whichever occurs first on all factory installed hydraulic lift cylinders, hydraulic tilt cylinders, steer cylinders, and control valves.
- Extended Warranty Coverage (if applicable) – 12 month or 4,000 hours, will only cover engine and transmission.

Viper Lift Truck, LLC. Warranty program are valid in the event the new equipment is properly serviced and operated under normal conditions in the work for which they were designed for.

Limitations and Exclusions

The warranty is not applicable for inclusive of any of the following:

Repair or replacement required as a result of accident, (ii) misuse or neglect, (iii) lack of reasonable and proper maintenance, (iv) repairs improperly performed or replacements improperly installed, (v) use of replacement parts or accessories not conforming to Viper Lift Trucks specifications which adversely affect performance and/or durability, (vi) alterations or modifications not recommended or approved in writing by Viper Lift Truck and/or, (vii) wear or ingestion of dirt into engine or hydraulic system due to lack of appropriate maintenance in formal or severe service operation conditions, such as foundries, lumber yards, cement plants or other dusty or severe uses and (viii) deterioration of appearance items due to normal use or exposure. Normal replacement of service items, such as tune-up parts, oil filters and air filters. Normal maintenance service, such as engine tune-ups, fuel system cleaning, and wheel/ brake and clutch adjustments. Tires and tubes. All batteries. All brake components including brake shoes, wheel cylinders, master cylinder, hub seals, and axle seals. Options, accessories and/or attachments not manufactured by Viper Lift Trucks. Vehicles operated outside the continental United States of America. All engine warranties must be filed directly with a certified dealer for that engine type. The engine manufacturer will warranty all claims based on their own limitations and exclusions. Please contact the engine manufacturer for a copy of their warranty policy terms; this information can typically be found on their website. Viper Lift Truck does not take responsibility for any engine-related issues that are otherwise covered by the engine manufacturer's warranty.

Limited Liability

1. Any and all other express, statutory, and implied warranties applicable to the products, including, without limitation, all implied warranties of merchantability and fitness for use, are expressly disclaimed.
2. In no event shall the dealer, its customers or users be entailed to recover incidental or consequential damages, including, but not limited to, damages or inconvenience, rental or replacement equipment, loss of profits, or other commercial loss.
3. Viper Lift Trucks neither assumes nor authorizes any other to assume for it any other liability in connection with the sale or service of the equipment.
4. No modifications, alterations or changes of this limited warranty is permitted or authorized by Viper Lift Trucks, LLC.

Only items covered by Viper Lift Truck's expressed warranty contained in dealership authorization letter, all corresponding and necessary agreement and/or documents are covered by warranty.

Additional items not covered by warranty, but not limited to:

- Additional labor expenses
- Additional working time
- Fast-wear parts like wheels, rollers, bearings, etc.
- Consumable items like batteries, oil, seals, tires, etc.
- Easily-broken parts such as body covers, horn covers, plastic covers.
- Equipment modifications not authorized in writing by Viper Lift Trucks, LLC.
- Damage due to incorrect storage or improper usage.
- Replacement of items by persons who is not the authorized Viper Lift Trucks, LLC. dealership.
- Loss of time, inconvenience, loss of machine use, or other consequential damage.
- Machine transportation costs
- Oil analysis
- Overheating problems caused by debris restricting airflow.
- Shop supply items such as welding, oil-added, etc.
- Environmental charges
- Over capacity, accidents, misuse, negligence, modifications, in lack of performing maintenance per manufacturers schedule.
- Deterioration of gasket, seals, o-rings, electric wiring and connectors, caused by chemicals, sand, or other environmental conditions.
- Damage due to incorrect storage or improper usage.
- Equipment modifications or replacement of items by persons who is not the authorized by dealership.
- The damage due to man-made hazard or error.
- Before a claim can be submitted all service records must be provided to Viper Lift Trucks., LLC.
- Viper Lift Truck LLC., is not responsible for providing or payment rental equipment periods while your truck may be in maintenance due to a covered warranty.

Claim Submission & Process

: Please follow the required actions below when submitting a Viper Lift Truck Warranty claim:

- 1) Contact Viper Lift Truck Warranty Department to let them know that there is a problem with the Viper forklift.
- 2) Once Viper Lift Trucks Warranty has knowledge that there is an issue, they will give authorization for the forklift owner to find a local repair company.
- 3) Once the service company has diagnosed what the problem is, contact Viper Lift Truck Warranty Department with what part is needed to fix the problem.
- 4) At the time that the warranty claim is submitted the following must accompany the submission:
 - Model and Serial Number of the forklift
 - Photo of the hour meter
 - Photo of the failed part
 - Photo of the forklift (front, both sides and rear view)
 - A detailed maintenance history for the unit.
- 5) Once the above items have been completed, the claim will be submitted down to the factory for approval. Approval may take 1-2 business depending on the claim type.
- 6) Once the warranty claim has been approved Viper Lift Truck will send the part to the forklift owner via UPS to be installed by the service company that is hired by the forklift owner.

– Exclusions and Limitations

_Viper Lift Truck, LLC., holds the right to deny any submitted claim where the customer failed to follow provided scheduled maintenance procedures of the equipment. Please refer to the provided Operation and Service Manuals to review maintenance and service procedures.

_ If a claim had been denied or submitted after the coverage program had already expired, the owner and/or customer of the lift truck will thereon assume the responsibility of any and all cost(s) and inspection fee(s) requested per the claim.

_Viper Lift Trucks, LLC., will adhere to all set terms and conditions stated within the coverage program chosen selected by customer. The aforementioned coverage and replacement program of defective part or repair(s) of parts stated per claim will be replaced and provided to the customer and/or buyer of the equipment. Failure to obtain or contact a dealer and adhere to proper maintenance practices in order to complete the repairs will void any additional coverage. Terms and agreement subject to change without notice.

Regular Board of Commissioners

5.

Meeting Date: 10/03/2022

Emergency Repair

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Declaration that an emergency exists pursuant to 61 O.S. § 130 and authorization for an emergency repair of the storm water main on Dewey Street between Broadway Avenue and Beard Avenue, in an amount not to exceed \$176,350.00.

Attachments

Emergency Repair



Public Works

111 S. Kickapoo St.
Shawnee, OK 74801
ShawneeOK.org

Date: September 29, 2022
To: City Commission
From: Brad Schmidt, Public Works Director
Subject: Declaration that an emergency exists pursuant to 61 O.S. § 130 and authorization for an emergency repair of the stormwater main on Dewey Street between Broadway Avenue and Beard Avenue, in an amount not to exceed \$176,350.

Background: Staff has discovered a collapsed stormwater main on Dewey Street between Broadway Avenue and Beard Avenue.

Due to the severity, location, potential of property damage, as well as extreme, dangerous flooding possibilities staff is requesting to forego the standard bidding procedures and complete repairs as soon as possible. Repairs will, at a minimum, include the following.

- Removal of approximately 395' of 18" clay piping.
- Installation of approximately 395' of 18" HDPE piping.
- Removal and replacement of asphalt.
- Embedment.
- Aggregate backfill.
- Traffic Control.
- Manhole repair.

Financial Impact: Funded through Street Improvement Fund, Capital Outlay – Other Improvements, 302-5-0920-54400.

Attachment: Quotes received to date and pictures.

Staff Recommendation: Approval of the item.

Proposal

Date: September 27, 2022
Engineer: N/A
Page: 1 of 1

[illegible]

We propose hereby to furnish material and labor - complete in accordance with specifications, for the sum of: \$ 176,350.00

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Krapff-Reynolds employees are fully covered by Worker's Compensation Insurance.

Acceptance of Proposal: _____ Date: _____

C K Mills, LLC

100323 S. Shadyoak Dr. Harrah, OK 73045

Phone: Blaine

405-919-8808

email: blaine@ckmills.net

9/28/2022

Quote

Storm Sewer Repair

Project: Dewey St. Storm Repair
Shawnee, OK

	Item Storm Sewer	Unit	Quantity	Unit Price	Cost
1	Mobilization/ Demobilization	LS	1	\$ 1,200.00	\$ 1,200.00
				\$	-
2	24" Ads Pipe	LS	400	\$ 108.00	\$ 43,200.00
				\$	-
3	Equipment/Rental	LS	1	\$ 5,000.00	\$ 5,000.00
				\$	-
4	Sand/Gravel	SY	150	\$ 60.00	\$ 9,000.00
				\$	-
5	Saw Cut Remove Paving	LS	1	\$ 15,500.00	\$ 15,500.00
				\$	-
6	Clean Up / Haul Off	LS	1	\$ 8,500.00	\$ 8,500.00
				\$	-
7	6" Concrete Road Bed	LF	400	\$ 125.00	\$ 50,000.00
				\$	-
8	2" Asphalt Cap	LF	400	\$ 92.00	\$ 36,800.00
				\$	-
9	Traffic Control	EA	1	\$ 6,500.00	\$ 6,500.00
10	Backfill & Compaction	LF	400	\$ 15.00	\$ 6,000.00
11	Manhole Repair	EA	2	\$ 3,000.00	\$ 6,000.00
				Total	\$ 187,700.00



ATTN: Tim Dibler

FROM: Dalton McCaskill

DATE: 9/28/2022

RE: 18" Emergency Storm Sewer Replacement

Tim,

Downey Contracting, LLC proposes the following work to be done for the lump sum price of **\$177,500.00**

Work Plan:

Downey proposes to saw cut and demo Dewey St, from Beard St to Broadway. The excavation will be 3' wide. We will remove and replace existing pipe with 18" HP Storm Pipe, approximately 400LF. We will shut down 1 intersection at a time while having Dewey St shut down for the full duration of the job. Downey will not be replacing, or installing, any new manholes. We plan to make the exiting manholes work. The work is estimated to take 3-4 weeks. This mainly depends on what utilities we run into during excavation.

This price includes:

Saw cut and demolition of the existing paving

Excavation of dirt material and backfill

Supply and installation of rock bedding around storm pipe

Supply and installation of 18" HP Storm Pipe Gray - Approximately 400LF

Ring extenders for manholes – 2 ea

6" Aggregate base for paving – 57 Stone

6" Concrete paving

2" Asphalt paving

Traffic Control

Spoil and concrete haul off

Labor and Equipment

This pricing is valid for 7 days

A handwritten signature in black ink, appearing to be "DM", is located at the bottom left of the page.







Regular Board of Commissioners

6.

Meeting Date: 10/03/2022

Budget Amendment

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Consideration of a budget amendment for Fiscal Year 2022 – 2023 for Fund 302 Street Improvement Fund to fund emergency storm water system repair at Dewey Street.

Attachments

Budget Amendment



Finance

16 W. 9th St.
Shawnee, OK 74801
ShawneeOK.org

Date: September 29, 2022
To: City Commission
From: Lindsey McNabb-Fox, Finance Director
Subject: Consideration of budget amendments for the Street Improvement Fund to fund emergency storm water system repairs at Dewey Street.

Background:

This budget amendment is to fund an emergency storm water system repair due to a collapsed stormwater main at Dewey Street between Broadway Avenue and Beard Avenue.

- \$176,350 – Stormwater repairs

The additional appropriation will be funded by Sales Tax collections projecting to exceed budget estimates in the Street Improvement Fund.

Financial Impact: See Budget Amendment

Attachment: Budget Amendment.

Staff Recommendation: Approval of the item.

City of Shawnee
2022-2023 Budget Amendment
Street Improvement Fund

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
302	40010			Sales Tax	2,960,681.56	176,350.00	3,137,031.56
				Total	2,960,681.56	176,350.00	3,137,031.56

Appropriations

Fund Number	Account Number	Project Code	Line Item	Description	Balance Before Amendment	Amount of Amendment Increase (Decrease)	Balance After Amendment
302	5-0920-54400			CAPITAL OUTLAY - OTHER IMPROVEMENTS	-	176,350.00	176,350.00
					-	-	-
					-	176,350.00	176,350.00

Approved by the City Commission this

Explanation of Budget Amendment:
To fund emergency storm water system repairs at
Dewey Street.

Approved:

Mayor _____

Attest: _____

City Clerk _____

Posted By _____ Date _____ BA# _____ Pkt.# _____

Regular Board of Commissioners

7.

Meeting Date: 10/03/2022

Leases

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Consideration of a Land Lease and Operation Agreement from the City of Shawnee to the Oklahoma Military Department.

Attachments

Memo

Lease



Shawnee Regional Airport

2202 N. Airport Dr.
Shawnee, OK 74804
ShawneeOK.org

Date: September 29, 2022
To: City Commission
From: Bonnie Wilson, Airport Manager
Subject: Consideration of a Land Lease and Operation Agreement
from the City of Shawnee to the Oklahoma Military Department.

Background: At its regular meeting on September 7, 2021, the Shawnee Airport Authority (SAA) authorized staff to work with the Federal Aviation Administration (FAA) to reclassify land on the west side of the Shawnee Regional Airport to accommodate a request from the Oklahoma Military Department (OMD) to construct a new Oklahoma Army Reserve National Guard (OKARNG) Readiness Center. During that same meeting, the SAA approved draft editions of leases for the land (1) between the SAA and the City of Shawnee, and (2) a sub-lease between the City of Shawnee and the OMD.

Since that date, the FAA has authorized the use of the land for non-aeronautical purposes; a complete legal description of the proposed lease area has been prepared by a licensed surveyor and is included in final editions of the lease documents.

It is important to note that the FAA Airport Compliance Manual (ACM, FAA Order 5190.6B) establishes the requirement for airports to receive fair market value (FMV) for non-aeronautical uses of airport property. The ACM specifically states that FMV fees, established by appraisal, must be charged for non-aeronautical use properties; there are few exceptions to the FMV requirement, which include community purposes on land with no potential to generate revenue, aeronautical secondary education programs conducted by accredited education institutions, and military units with an aeronautical mission. At this time, the OMD has indicated that the military units expected to be stationed at the OKARNG Readiness Center would not have an aeronautical mission.

The OMD is seeking to execute the lease with the City of Shawnee for forty (40) acres of land, for a period of twenty-five (25) calendar years, with the option to renew for an additional twenty-five (25) calendar years. Prior to providing a lease to the OMD, the City of Shawnee must execute a lease for the land with the SAA, for a period of twenty-five calendar years, with the option to renew for an additional twenty-five calendar years. In order to comply with the stated FAA's requirements, the City of Shawnee may lease the 40 acres at fair market value from the SAA, and then in turn lease it to the OMD for a nominal value.

Therefore, the lease agreement from the SAA to the City also includes the provision to lease the forty

(40) acres of land at the rate of \$0.10 per square foot, or one hundred seventy-four thousand two hundred forty dollars (\$174,240) per year, escalating annually at the rate of inflation as established by the Consumer Price Index. The resulting funds, transferred to the SAA, will be used to support the local matching share for FAA grant funded capital development projects, capital repairs to airport owned facilities, and the purchase of capital equipment.

The City of Shawnee would benefit from increased disaster readiness with this readily available staging area for government support services during a significant disaster event. The City would also receive various economic benefits associated with the construction of a multi-million dollar facility, the creation of up to 15 permanent OKARNG positions, indirect or induced jobs to support the ongoing OKARNG operations, and the associated increase in annual payroll.

Financial Impact: None.

Attachments: Sublease from City of Shawnee to Oklahoma Military Department.

Staff Recommendation: Authorize execution of lease documents.

CITY OF SHAWNEE OKLAHOMA
LAND LEASE
AND
OPERATING AGREEMENT

This Land Lease and Operating Agreement ("Agreement") is made and entered into effective as of October 3, 2022 by and between the City of Shawnee, Oklahoma ("COS"), an Oklahoma municipality organized and existing under the laws of the State of Oklahoma (Title 11. Cities And Towns §112101) and the Oklahoma Military Department ("OMD").

RECITALS:

Whereas, the COS retains a leasehold interest in certain real property owned by the Shawnee Airport Authority (the "Authority"), on behalf of the City of Shawnee, Oklahoma, located within the City of Shawnee, Pottawatomie County, Oklahoma; and

Whereas, the OMD desires to lease from the COS that certain real property for the purpose of constructing and operating a Readiness Center, on Shawnee Regional Airport ("the Airport") property; and

Whereas, the COS and the OMD desire to enter into this Agreement setting forth the rights, duties and obligations of the COS and the OMD; and

In recognition of and reliance on the foregoing recitals, and in consideration of the mutual promises and covenants set forth in this Agreement, and in exchange for other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, COS and OMD agree as follows.

ARTICLE 1

1. Definitions. The following terms shall have the meanings set forth below wherever used in this Agreement:
 - 1.1. "Agreement" means this Land Lease and Operating Agreement entered into by and between the COS and the OMD, including all its terms, conditions, covenants, and obligations and further including all documents incorporated herein by reference.
 - 1.2. "Agreement Effective Date" means October 3, 2022.
 - 1.3. "Airport" means Shawnee Regional Airport ("SNL"), a public use aviation facility located in the City of Shawnee, Pottawattamie County, Oklahoma.
 - 1.4. "COS" means the City of Shawnee Oklahoma, an Oklahoma municipality.
 - 1.5. "DEQ" means the Oklahoma Department of Environmental Quality.
 - 1.6. "EPA" means the United States Environmental Protection Agency.

- 1.7. "FAA" means the United States Federal Aviation Administration.
- 1.8. "Initial Term" means the initial term of this Agreement set forth in Section 6.1 of this Agreement.
- 1.9. "Leased Premises" means property located on the Shawnee Regional Airport, for the purpose of this Agreement designated for commercial non-aeronautical use, as more specifically described in Exhibit A.
- 1.10. "Minimum Standards" means the Minimum Standards Minimum Standards and Requirements for Capital Development on Airport Property Commercial Aeronautical Services Commercial Non-Aeronautical Services and Non-Commercial Aeronautical Activities at the Shawnee Regional Airport, adopted by the SAA, as amended, supplemented, or replaced from time-to-time.
- 1.11. "Mortgages" means and includes mortgages, deeds of trust, security agreements, assignments, bond indentures or other similar security instruments of any form or nature involving any type or class of property and modifications, consolidations, extensions, renewals, replacements, and substitutions thereof.
- 1.12. "Notice to Extend" means the written notice the COS is required to deliver to the SAA in order to exercise any option to extend this Agreement, as described more particularly in Section 6.2 of this Agreement.
- 1.13. "Oklahoma Military Department ("OMD") means is an agency of the state of Oklahoma that serves as the administrative agency for all matters concerning the Oklahoma National Guard.
- 1.14. "SAA" means the Shawnee Airport Authority, a municipal airport authority organized and existing under the laws of the State of Oklahoma and includes such public officials and public instrumentalities as may, by operation of law, succeed to any or all of the rights, powers or duties that lawfully reside in the SAA.
- 1.15. "SNL" means the Shawnee Regional Airport, a public use aviation facility located in the City of Shawnee, Pottawattamie County, Oklahoma.
- 1.16. "TSA" means the United States Transportation Security Administration.
- 1.17. References. The following references shall, unless the context requires otherwise, have the following meanings:
 - 1.17.1. The words "hereof," "herewith," "hereunder," and words of similar meaning shall refer to this Agreement as a whole and not to any particular provision of this Agreement.
 - 1.17.2. Where the context requires, the use of singular numbers or pronouns shall include the plural and vice versa, and the use of pronouns of any gender shall include any other gender.

- 1.17.3. Application of Other Provisions to Definitions. Each of the foregoing definitions shall be construed in conjunction with and limited by the references hereto in the other provisions of this Agreement.

ARTICLE 2

2. Representations and Warranties of the City of Shawnee, Oklahoma

- 2.1. Existence. The City of Shawnee, Oklahoma, is an Oklahoma municipality organized and existing under the laws of the State of Oklahoma.
- 2.2. Power and Authorization. The City of Shawnee has full legal right, power, and authority under the laws of the State of Oklahoma and has taken all corporate or official action necessary to enter into this Agreement and perform the obligations imposed on COS by this Agreement and by applicable laws, rules, ordinances, and SAA's Minimum Standards.
- 2.3. Binding Effect. This Agreement has been duly executed and delivered by the City of Shawnee and constitutes the valid and binding obligation of City of Shawnee, enforceable against the City of Shawnee in accordance with its terms.

ARTICLE 3

3. Representations and Warranties of the Oklahoma Military Department

- 3.1. Existence. The OMD is an agency of the state of Oklahoma that serves as the administrative agency for all matters concerning the Oklahoma National Guard.
- 3.2. Power and Authorization. The OMD has full legal right, power, and authority under the laws of the State of Oklahoma and has taken all corporate or official action necessary to enter into this Agreement and perform the obligations imposed on OMD by this Agreement and by applicable laws, rules, ordinances, and the SAA's Minimum Standards.
- 3.3. Binding Effect. This Agreement has been duly executed and delivered by the OMD and constitutes the valid and binding obligation of OMD, enforceable against the OMD in accordance with its terms.

ARTICLE 4

4. The Agreement between the parties consists of this Land Lease and Operating Agreement and the following documents that are incorporated into this Agreement by reference:

4.1. Documents Included as Part of Agreement.

- 4.1.1. Minimum Standards Minimum Standards and Requirements for Capital Development on Airport Property Commercial Aeronautical Services Commercial Non-Aeronautical Services and Non-Commercial Aeronautical Activities at the

Shawnee Regional Airport, as currently adopted by the SAA and as may be hereafter amended or superseded; and

4.1.2. Airport Facilities Lease and Development Policy Statement, as currently adopted by the SAA and as the same may be hereafter adopted, amended, or superseded; and

4.1.3. Exhibits to this Agreement; and

4.1.4. All amendments, modifications, and supplements to any of the foregoing.

4.2. Conflicts in Documents. In the event of any conflict, discrepancy, or inconsistency between or among the provisions of the documents described in Section 4.1, the terms of this document shall control.

ARTICLE 5

5. Leased Premises

5.1. Granting Clause. For and in consideration of the rents, payments, terms, conditions, covenants, and obligations of the OMD under this Agreement, the COS hereby demises, leases and rents to the OMD, and the OMD hereby takes and leases from the COS, the premises more specifically identified on Exhibit "A" attached hereto and all improvements thereon, to have and to hold for the lease term, as set forth in ARTICLE 6 of this Agreement.

5.2. No Right of Purchase. The OMD acknowledges that it has no right to purchase or acquire any fee interest in the Leased Premises.

5.3. No Conveyance of Mineral Interests. The OMD acknowledges that the COS is not making any conveyance of any mineral interests to the OMD under this Agreement, all of which shall be and remain the sole property of the SAA.

ARTICLE 6

6. Term

6.1. Initial Term. The Initial Term of this Agreement shall commence on the Agreement Effective Date and shall continue thereafter until midnight on August 31, 2047 unless sooner terminated or extended as provided in this Agreement.

6.2. Option to Extend. The OMD shall have the option to extend this Agreement for one (1) additional period of twenty-five (25) calendar years following expiration of the Initial Term of this Agreement.

6.3. To exercise an option and extend the term of the Agreement, at least one (1) calendar year prior to the expiration of the Initial Term, the OMD shall deliver to the COS written notice of its desire to extend this Agreement ("Notice to Extend").

ARTICLE 7

7. Rents, Fees, and Charges. In consideration of the rights and privileges granted by the SAA to the COS pursuant to this Agreement, the COS agrees to pay to the SAA the following:

- 7.1. Rentals. For and during the period from the Agreement Effective Date until August 31, 2047, the OMD shall pay to the COS annual rentals for the Leased Premises of one dollar (\$1.00), due and payable prior to the Agreement Effective date. Thereafter, the rental fees shall be due and payable on the first day business day following successive anniversaries until the end of the Initial Term and any renewal term.

ARTICLE 9

8. Leasehold Improvements

- 8.1. Title to Improvements. Title to all improvements on the Leased Premises shall vest in the SAA upon completion of such improvements, free and clear of any liens or encumbrances whatsoever except for liens or encumbrances on the Leased Premises or any improvements thereon made or granted with the prior written consent of the SAA in accordance with Section 15.2.
- 8.2. Responsibility for Leasehold Improvements. Neither the SAA or the COS shall have any obligation to make improvements, alterations, additions, or replacements to the Leased Premises. The OMD may, without cost to the SAA or the COS and at the OMD's sole cost and expense, subject to the terms of this Agreement, provide the Leased Premises with any reasonable improvements necessary for access to and egress from the Leased Premises.
- 8.3. Permits, Licenses and Approvals for Improvements. All structural improvements, equipment and interior design and decor constructed or installed by the OMD, its agents, or contractors, including all plans and specifications, shall conform to all applicable statutes, ordinances, building codes, rules, and regulations. The OMD, at its sole cost and expense, shall obtain all required permits and licenses for any improvements.
- 8.4. COS Approval of Improvements. All improvements made by the OMD shall be in accord with the approved design of such improvements. The OMD shall, prior to making any improvements, submit reasonably detailed plans and specifications to the COS for written approval, and no structural alterations, installations or improvements of any kind may be made by the OMD without first obtaining the COS's written approval. Any changes or alterations to plans and specifications require the approval of the COS.
- 8.5. Approval by the COS of any improvements proposed by the OMD refers only to conformity with applicable federal, state, and local laws, ordinances, rules, and regulations in effect during the term of this Agreement. The COS, by approving such plans and specifications, assumes no liability or responsibility for the plans and specifications, or for any defect in any structure or improvement constructed according to the plans and specifications.

- 8.6. Construction Schedule. The OMD shall submit to the COS not later than sixty (60) calendar days after submittal of any plans and specifications for improvements to the Leased Premises, but in any event prior to commencing construction, a schedule depicting the estimated time required to complete the construction or installation of approved improvements and equipment.
- 8.7. Construction Requirements. At all times during construction or installation of any improvements, the OMD, its agents, servants, employees, and independent contractors shall cooperate with and coordinate activities and work with the COS, the SAA, and other lessees at or near the Leased Premises.
- 8.8. All construction of improvements shall be conducted at such time and in such manner so as not to interfere with operations at SNL or of other tenants of the COS and the SAA.
- 8.9. In furtherance of, in addition to, and not in limitation of ARTICLE 17 of this Agreement, the OMD, its agents, servants, employees, contractors, subcontractors and independent contractors shall at all times be responsible for injury or damage to the person or property of any third party resulting from the acts or omissions of OMD, its agents, servants, employees, contractors, subcontractors and independent contractors. The OMD shall indemnify, defend, and hold the COS, and the SAA harmless to the fullest extent set forth in ARTICLE 17 for any liabilities, losses, claims, costs, damages, injuries, deaths, including without limitation attorneys' fees, etc. arising out of any construction or installation of any improvements on the Leased Premises.
- 8.10. Upon completion of any improvements, a duly authorized officer of the OMD must certify to the COS that (i) the improvements have been constructed in accordance with plans and specifications approved by the SAA and in compliance with all applicable building codes, laws, rules, ordinances and regulations; (ii) no liens except liens granted with the prior written consent of the SAA under Section 15.4 exist on any of the improvements; and (iii) all contractors and subcontractors have been paid all amounts due and owing them. One reproducible final copy of the plans for all improvements, changes or alterations to the Leased Premises shall be signed by the OMD and submitted to the COS within thirty (30) days following completion of construction.
- 8.11. Repairs to Improvements. The OMD shall be responsible, at its sole cost and expense, for making repairs for any damage, including normal wear and tear, to the Leased Premises.

ARTICLE 9

9. Operating Rights and Obligations.

- 9.1. The COS hereby grants the OMD the privilege of leasing the Leased Premises for the purpose of constructing and operating a Readiness Center, and the OMD hereby accepts the duty and obligation, to comply with all terms and conditions of the lease agreement in accordance with all provisions of the Minimum Standards and duly adopted Policies of the SAA.
- 9.2. Rights of Ingress and Egress. OMD shall have the right of ingress to and egress from the Leased Premises over Airport roadways, including common use roadways, subject to any laws, ordinances, rules, or regulations, as now adopted and hereafter amended, of the SAA, the City of

Shawnee, the County of Pottawattamie, the State of Oklahoma, the FAA, or any other federal, state, or local governmental authority. Such rights of ingress/egress shall apply to OMD's employees, sublessees, contractors, subcontractors, guests, customers, invitees, suppliers, and other authorized individuals.

- 9.3. Common Use Areas. OMD shall be entitled, in common with others so authorized, to use certain improvements connected with or appurtenant to the Leased Premises, including such landing areas, runways, taxiways, ramp areas, aprons, navigational aids and aircraft parking areas as shall be designated from time to time by the SAA.

ARTICLE 10

10. Obligations of Oklahoma Military Department

- 10.1. Operations and Conditions. The OMD shall maintain and operate the Leased Premises in a manner comparable, in the COS's good faith, reasonable judgment, to similar facilities, and shall keep the Leased Premises in a safe, clean, orderly, and inviting condition at all times.
- 10.2. The OMD shall conduct its operations in an orderly and proper manner so as not to annoy, disturb or be offensive to customers, patrons, or other tenants of the SAA.
- 10.3. Compliance with Governing Laws. The OMD shall comply with all applicable federal, state, and local laws, ordinances, rules, and regulations; and, the OMD shall indemnify and hold harmless the COS, the SAA, their officers, agents, representatives, and employees, in accordance with ARTICLE 17 of this Agreement, from any act, omission or failure by the OMD to do so.

ARTICLE 11

11. Responsibility for Utilities. Except as otherwise expressly provided in this Agreement, the OMD shall be responsible for contracting individually for water, sewer, electricity, telephone, cable, garbage removal and any other required utility services for or in connection with the Leased Premises.
 - 11.1. The OMD shall be responsible for any installation or repair charges, and shall pay all charges for the services, including late penalties, as they become due for utilities provided to the OMD.

ARTICLE 12

12. Responsibility for Maintenance. The OMD shall operate and use all improvements, fixtures, and equipment on or in the Leased Premises in a reasonable and proper manner. The OMD shall be responsible for maintaining all of the Leased Premises, including all improvements thereon, both interior and exterior, and for making all necessary and proper repairs to the Leased Premises, all at the OMD's sole cost and expense.

- 12.1. Any improvements to the Leased Premises shall be maintained in a clean, orderly, and safe condition suitable for its intended use, and all improvements, fixtures and equipment shall be kept in good repair and condition, making from time to time all necessary and proper renewals, repairs, and replacements thereto. Any repairs performed by the OMD or on its behalf shall be performed in a competent manner and materials used for such repairs shall meet the customary standards in the trade or industry for such materials.
- 12.2. All repairs shall be made in conformity with all applicable federal, state, and local laws, ordinances, rules, and regulations in effect during the term of this Agreement.
- 12.3. The COS's Right to Construct Improvements at Leased Premises. The COS shall have the right to construct or install over, in, under or through the Leased Premises new lines, pipes, mains, wires, conduit and equipment; provided, that the repair, alteration, replacement or construction shall not unreasonably interfere with OMD's use of the Leased Premises, and that any such construction, installation, repair, alteration or replacement made or performed under this Section 12.4 shall be at the COS's sole cost and expense.
- 12.4. Waste and Nuisance. OMD shall not commit or suffer to exist any waste to or upon the Leased Premises. The OMD shall provide and use suitable covered or sealed receptacles for all garbage, trash and other refuse resulting from its operations, and will make suitable arrangements for the sanitary handling and disposal of all garbage, trash, and other refuse.
 - 12.4.1. The piling of boxes, cartons, barrels, or similar items shall not be permitted on or about the Leased Premises.
 - 12.4.2. The OMD shall not perform or fail to perform any acts or carry on or permit to exist any practices that may materially injure or damage the Leased Premises, may constitute a public or private nuisance or menace to the owners or occupants of adjacent property or other tenants of the SAA, or may violate the provisions of any insurance on the Leased Premises or which may diminish insurance coverage or render any insurance void.
 - 12.4.3. The COS shall enforce the obligations of the OMD under this Section 12 in good faith and shall not use such obligations to unreasonably interfere with the business operations of the OMD.
 - 12.4.4. Failure to Maintain. In the event the OMD fails to perform any required maintenance, repairs and/or replacements to the Leased Premises within ten (10) calendar days of written notice to the OMD, or in the event of any required maintenance, repairs and/or replacements which cannot be completed within ten (10) days, the OMD fails to commence and diligently pursue such required maintenance, repairs and/or replacements, the COS may perform the maintenance, repairs and/or replacements, either with the COS's own employees or by independent contractor engaged by the COS. In the event the COS makes any repairs, the OMD shall repay the costs and expenses of such maintenance, repairs and/or replacements on receipt of an invoice from the COS. Advance notice of

maintenance, repairs and/or replacements shall not be required in the event of an emergency or to protect against imminent danger to persons or destruction of property.

ARTICLE 13

13. Right To Enter. The COS shall have the right to enter the Leased Premises to:

- 13.1. Inspect the Leased Premises at reasonable intervals during OMD's regular business hours, or at any time in case of emergency, to determine whether the OMD has complied with and is complying with the provisions of this Agreement, provided, however, that the COS shall not unreasonably interfere with the business and operations of the OMD during any inspection, taking into account the reasons for and subject of the inspection; and
- 13.2. Perform any and all obligations of the OMD pursuant to this Agreement which the OMD has failed after reasonable notice to complete including, without limitation, maintenance, repairs, and replacements to the Leased Premises, and to take any other actions allowed by this Agreement.

ARTICLE 14

14. Compliance with Laws, Permits, Licenses and Taxes

- 14.1. The OMD, its officers, agents, employees, suppliers, contractors, licensees, customers, invitees, guests, and any other person whom OMD controls, or has the right to control, or with whom OMD contracts, shall comply with all present and future laws, ordinances, rules and regulations of the United States of America, including without limitation the FAA, the TSA, the State of Oklahoma, the County of Pottawatomie, the City of Shawnee, the SAA, and each of their respective agencies, bureaus, boards, departments or commissioners which may either directly or indirectly affect the OMD or the OMD's activities and business, or be applicable to the Leased Premises. At the OMD's sole cost and expense, OMD shall make any repairs, changes, or modifications in or to the Leased Premises required by any of the foregoing, after first having obtained the COS's written consent. With the COS's prior written consent, OMD may, at its own cost and expense, contest in good faith the validity of any such laws, ordinances, rules, or regulations, but the OMD shall indemnify and hold the COS harmless from any cost, expense, or consequence of such contest.
- 14.2. Licenses and Permits. The OMD shall maintain in effect and post in a prominent place all necessary and/or required licenses or permits and shall make all licenses and permits available to the COS for inspection and verification upon request.
- 14.3. Taxes and Assessments. The OMD shall promptly pay all expenses in connection with the use of the Leased Premises and the rights and privileges granted under this Agreement, including without limitation, taxes, permit fees and assessments lawfully levied at any time upon the Leased Premises or any personal property therein.

ARTICLE 15

15. Liens

- 15.1. At all times, the COS shall have a lien on all OMD's improvements to the Leased Premises, goods, machinery, equipment, fixtures, furniture, and other personal property situated on the Leased Premises for all rentals and other sums of money becoming due hereunder from the COS.
- 15.2. No property on which the COS is granted a lien shall be removed from the Leased Premises without the prior, written consent of the COS until all arrearages in rent and other sums of money then due to the COS are paid and all terms, conditions, covenants, and obligations hereunder have been fully complied with and performed by the OMD.
- 15.3. The COS may foreclose the lien granted hereby in any other manner allowed by law. The express contractual lien granted herein shall be in addition to all other liens and remedies provided by law. Any action taken by the COS in accordance with this contractual lien shall not be construed as a waiver of any statutory lien for rent or any other lien rights accruing to the benefit of the COS by law.
- 15.4. Prohibition Against Liens. Except as to liens, charges, encumbrances and restrictions (i) in favor of the COS which are created or exist by reason of this Agreement or applicable law or (ii) which directly and solely arise from the COS's actions and/or inactions, the OMD covenants that it will not create or suffer to be created, in whole or in part, any lien, encumbrance, restrictions or charge upon (iii) OMD's leasehold estate in the Leased Premises, (iv) rent or other monies payable hereunder, or (v) OMD's interest in the Leased Premises or this Agreement. Provided, however, with the COS's prior written consent the OMD may encumber its leasehold estate in the Leased Premises, or any improvements constructed or placed thereon by the OMD to the extent such lien or encumbrance is required by the lender providing funds to the OMD for capital improvements for the Leased Premises, or for other uses by the OMD in connection with the rights granted under this Agreement. Any foreclosure or transaction in lieu of foreclosure and any subsequent assignment or sale of the OMD's interest following foreclosure shall be subject to the prior consent of the SAA as provided in Section 16.1.
- 15.5. The OMD shall satisfy or cause to be discharged within thirty (30) calendar days after accrual all claims and demands which, if not satisfied, might by law become a lien. If any lien shall be filed or asserted, the OMD shall by contest, payment, deposit, bond, order of court or otherwise, within thirty (30) calendar days after notice is received of the filing or assertion of the lien, cause the same to be discharged of record, or effectively prevent the enforcement or foreclosure thereof.
- 15.6. Nothing in Section 15.5 shall require the OMD to satisfy or discharge any lien, encumbrance, charge, claim or demand so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings with adequate reserves established therefor. However, if the COS provides the OMD with an opinion of independent counsel that failure to satisfy or discharge the lien, encumbrance, charge, claim, or demand jeopardizes the interests of the COS, the OMD shall promptly satisfy, discharge or otherwise bond or negate such lien, encumbrance, charge, claim or demand in such manner that the interests of the COS, in the opinion of independent

counsel, are not jeopardized. In the event the OMD fails to cancel, discharge, or provide security sufficient to stay execution of any lien or claim, the COS shall have the right, but not the obligation, to satisfy or discharge the lien or claim and the OMD shall then pay to the COS any amount paid by the COS in discharging such claim or lien.

ARTICLE 16

16. Assignment and Subleasing

- 16.1. Prohibitions against Assignment and Subleasing. The OMD shall not assign or transfer this Agreement, in whole or in part, or sublet any portion of the Leased Premises, or permit any portion of the Leased Premises to be occupied or used by anyone other than the OMD.

ARTICLE 17

17. Indemnification and Defense

- 17.1. The OMD shall indemnify, protect, defend and hold harmless the COS, its officers, agents, representatives and employees from and against any and all liabilities, demands, suits, claims, actions, arbitrations, administrative proceedings, awards, judgments, losses, fines, costs and expenses, including without limitation, attorneys' fees, investigation fees, expert fees and court costs, arising by reason of the injury or death of any person, personal injury, damage to or loss of any property, economic loss, environmental liability or infringement of patent, trademark or other property rights of third parties, of any nature whatsoever arising in whole or in part out of or incidental or related to (i) the OMD's performance or nonperformance, including without limitation, breach of any term, condition, covenant or obligation herein, of this Agreement; (ii) the OMD's use or occupancy of the Leased Premises; or (iii) the acts or omissions of the OMD or its officers, employees, agents, representatives, contractors, subcontractors, sublessees, suppliers, licensees, customers, invitees and guests or any other person or entity whom the OMD controls or has the right to control or who is acting through or on behalf of the OMD, regardless of where the injury, death, loss, damage, etc., may occur except to the extent such liability is caused by the COS's gross negligence or willful misconduct. The OMD shall give the COS immediate notice of any and all damage, injury, loss, etc. The OMD's indemnity obligation and liability shall not be limited as to amount or type of damages by the provisions of any workers' compensation act, disability act or other employer liability or employee benefit act, or policy limits of any applicable insurance policies.
- 17.2. Defense. With respect to any matter to which the OMD's defense obligations under this Agreement apply, the OMD shall defend the COS at the OMD's sole cost and expense with counsel reasonably acceptable to the COS.
- 17.3. Survival of Obligations. Without limiting any other provision of this Agreement, the provisions of this ARTICLE 17 shall survive the expiration or earlier termination of this Agreement.

ARTICLE 18

18. Notice of Occurrences.

- 18.1. Notice of Occurrences. The OMD shall immediately notify COS of all accidents, injuries, deaths, damage to or destruction of property, potential environmental hazards, and other occurrences of any kind or nature, relating in any way to the OMD, the COS, the SAA, or SNL, including without limitation, demands, claims or actions, arising from or in any way related to (i) this Agreement, (ii) the performance or nonperformance of any terms, conditions, covenants, privileges, or obligations of this Agreement, or (iii) the actions or inactions of the OMD or any person or entity acting by, through or on behalf of the OMD. The OMD shall give the notice required by this Section regardless of whether any insurance is available to cover the occurrence.

ARTICLE 19

19. Default by the COS and Remedies of the OMD

- 19.1. Events of Default by the COS. This Agreement shall be subject to cancellation by the OMD in the event one or more of the following conditions of default occur:
- 19.1.1. The abandonment of SNL as a public use airport by the SAA for a period in excess of thirty (30) consecutive calendar days; or
 - 19.1.2. The issuance by any court of competent jurisdiction of an injunction preventing or restraining the use of SNL for a period in excess of thirty (30) consecutive calendar days in such a manner as to substantially restrict the OMD from utilizing or accessing the Leased Premises, not caused by any act or omission of the OMD; or
 - 19.1.3. The breach by the COS of any of the terms, covenants or conditions of this Agreement to be kept, performed and observed by the COS, and the failure of the COS to remedy such breach, (subject to the COS's right to litigate any issue described in Section 19.1.2, which litigation shall stay this time period) for a period of thirty (30) calendar days after receipt of written notice from the OMD of the existence of such breach, or if more than thirty (30) calendar days shall be required because of the nature of such breach, if the COS shall fail within said thirty (30) day period to commence and thereafter diligently proceed to cure such default; or
 - 19.1.4. The COS fails to abide by all applicable laws, ordinances, rules and regulations of the United States, State of Oklahoma, County of Pottawatomie or City of Shawnee and all agencies thereof; or
 - 19.1.5. The assumption by the United States Government, or any authorized agency thereof, of the operation, control or use of SNL and its facilities in such a manner as to substantially restrict the OMD from utilizing or accessing the Leased Premises, if such restriction is continued for a period of thirty (30) consecutive calendar days or

more.

19.1.6. Conditional Payment of Rent after Default. In the event of any litigation to determine if a condition of default has occurred, the OMD shall pay its rentals, fees and charges into the court having jurisdiction over the litigation, or to the COS. In no event shall the OMD be relieved from the obligation to continue to make payments unless and until a final determination on such litigation is made in that regard in the OMD's favor.

19.2. The OMD 's Remedies on the COS's Default. In the event any condition of default as set forth in Section 19.1 shall occur which entitles the OMD to terminate this Agreement, the OMD shall have the right, at its election, to terminate this Agreement by giving at least thirty (30) calendar days written notice to the COS at which time the OMD shall then quit and surrender the Leased Premises to the COS, and this Agreement will cease and terminate, but the OMD shall remain liable for all rents and other obligations incurred prior to termination as herein provided, as well as such other obligations as survive the expiration or termination; provided, however, the OMD 's obligation to pay rent shall cease and abate as of the date from which the OMD is no longer able to make any use whatsoever of the Leased Premises if termination is due to a default by the COS under Section 19.1.1 or Section 19.1.2 hereof.

ARTICLE 20

20. Default by OMD and Remedies of the COS

20.1. Events of Default by the OMD. This Agreement shall be subject to cancellation by the COS should any one or more of the following conditions of default occur:

20.1.1. The OMD neglects or fails to pay any installment of rent or other charges provided for in this Agreement and fails to cure the breach within forty-five (45) calendar days of receipt by the OMD of a written notice from the COS with respect to such breach; or

20.1.2. The OMD neglects or fails to perform or observe any of the terms, provisions, conditions, covenants, or obligations set forth in this Agreement, other than the payment of rent or other monies, and does not begin to cure such failure within thirty (30) calendar days after written notice of the default if given by the COS or fails to complete the cure of the default within thirty (30) calendar days of said written notice. If the default is of a nature that it cannot be cured completely within thirty (30) calendar days, the OMD shall be considered in default if it fails to commence actions to cure the default within the time allowed or fails thereafter to proceed with reasonable diligence and in good faith to cure the default; or

20.1.3. The OMD fails to abide by all applicable laws, ordinances, rules and regulations of the United States, the State of Oklahoma, Pottawatomie County, the City of Shawnee and all agencies, bureaus, and departments of each; or

- 20.1.4. The OMD does or permits to be done anything which creates a lien upon the Leased Premises in violation of this Agreement; or
 - 20.1.5. The OMD assigns or sublets all or any part of the Leased Premises or allows any person or entity to engage in any activities on the Leased Premises, except as in accordance with the terms of this Agreement, and the default is not cured within thirty (30) calendar days after written notice of default from the COS to the OMD.
- 20.2. The COS's Remedies on OMD 's Default. If the OMD shall default under or otherwise breach any of the terms of this Agreement, the COS, may, at its option, without any notice or demand whatsoever, in addition to all other rights and remedies given hereunder or by law or equity, do any one or more of the following at the sole discretion of the COS:
- 20.2.1. Enter upon the Leased Premises, without being liable for prosecution or any claim of damages and do whatever the OMD is obligated to do under the terms of this Agreement. In such event, within forty-five (45) calendar days of demand by the COS, the OMD shall reimburse the COS all losses, damages, and expenses, including without limitation attorneys' fees, which the COS may incur or suffer in thus effecting compliance with the OMD 's obligations under this Agreement. The OMD further agrees that the COS shall not be liable for any damages resulting to the OMD from such action.
- 20.3. Continue this Agreement in effect and terminate OMD's right to possession of the Leased Premises and recover the following from the OMD:
- 20.3.1.1. All losses, damages, and expenses, including without limitation attorneys' fees, which the COS may incur or suffer as a result of OMD 's failure to perform its obligations under this Agreement.
 - 20.3.1.2. In any event, the OMD shall remain liable for the timely performance of all terms, conditions, covenants, and obligations of this Agreement. Re-entry by the COS and exclusion of the OMD from possession shall not constitute termination of this Agreement and no action of the COS except written notice of termination shall operate as a termination of this Agreement.
 - 20.3.2. In any event in which the OMD 's right to possession of the Leased Premises is terminated, the OMD shall immediately surrender the Leased Premises to the COS.
- 20.4. Cumulative Rights and Remedies. All rights and remedies of the COS under this Agreement or otherwise existing at law are cumulative, and the exercise of one or more rights or remedies shall not be taken to exclude or waive the right to exercise any other. All rights and remedies may be exercised and enforced concurrently, whenever, and as often as deemed advisable, in the COS's sole discretion. The rights given to the COS pursuant to this Agreement are in addition to any rights that may be given to the COS by any statute or otherwise.

- 20.5. Pursuit of any of the foregoing remedies shall not preclude pursuit of any other remedies herein provided or any other relief allowed by law, nor shall pursuit of any remedy herein constitute a forfeiture or waiver of any rent or other monies due to the COS hereunder or any other damages accruing to the COS by reason of the violation of any of the terms, conditions, covenants, and obligations of this Agreement. Forbearance by the COS to enforce one or more of the remedies provided by this Agreement or allowed by law upon an event of default shall not constitute, nor be deemed or construed to constitute, a waiver with respect to that default, any continuation thereof or any subsequent default.

ARTICLE 21

21. Expiration or Termination

- 21.1. Surrender of Possession. Upon the expiration or earlier termination of this Agreement, the OMD shall immediately surrender the Leased Premises to the COS free and clear of all claims, liens, security interests and other encumbrances.
- 21.2. Holding Over Not an Extension: Any holding over by the OMD after the expiration or termination of this Agreement without the written consent of the COS, shall not be deemed to operate as an extension or renewal of this Agreement, but shall only create a tenancy from month-to-month which may be terminated by the COS at any time.
- 21.3. Agreement Applicable to Holding over Period. During any period in which the OMD holds over the leased premises, irrespective of whether COS consents to such holding over, OMD shall continue to be bound by, and agrees to comply with, all terms, conditions, covenants, and obligations of this Agreement, including without limitation, all payment obligations.

ARTICLE 22

22. Safety and Security

- 22.1. Compliance with Safety Requirements. The OMD shall observe all safety requirements of the SAA relating to SNL, as in effect from time to time, including, without limitation, any regulations of the FAA relating to safety at SNL and shall take such steps and actions as may be necessary or directed by the SAA to ensure that all officers, employees, representatives, contractors, invitees, and guests of the OMD observe such requirements.
- 22.2. Compliance with Security Program. The OMD shall observe all security regulations relating to SNL including, without limitation, any regulations of the TSA relating to security at SNL, if any, and shall take such steps and actions as may be necessary or directed by the SAA to ensure that all officers, employees, representatives, invitees, and guests of the OMD observe such requirements.
- 22.3. Fines. If the SAA incurs any fines or penalties or any cost or expense under any safety or security program or plan pertaining to the SAA or SNL as a result of any act or omission of the OMD, the OMD shall pay or reimburse to the SAA, as the case may be, all such fines, penalties, costs, and expenses. OMD shall further rectify any such safety or security deficiency as may be determined by the SAA.

ARTICLE 23

23. Subordination and Estoppel Certificates

- 23.1. Subordination to Agreements with the United States Government. This Agreement is subject and subordinate to the provisions of any agreement heretofore or hereafter made between the SAA and the United States Government relative to the operation or maintenance of SNL, the execution of which has been or will be required as a condition precedent to the transfer of federal rights or property to the SAA for airport purposes, or the expenditure of federal funds for the improvement or development of SNL.
- 23.2. During time of war or national emergency, the SAA shall have the right to enter into an agreement with the United States Government for military or naval use of part or all of the landing area, the publicly owned air navigation facilities and/or other areas or facilities of SNL. If any such agreement is executed, the provisions of this Agreement, insofar as they are inconsistent with the provisions of the agreement with the United States Government, shall be suspended, without any liability on the part of the COS or SAA to the OMD therefor.
- 23.3. Other Subordination. The OMD hereby subordinates this Agreement and any liens related thereto to the lien(s) of any present or future Mortgage(s) granted by the COS, irrespective of the time of execution or creation or time of recording, subject to the agreement by the holder of any such Mortgage that the holder agrees to be bound by the terms of this Agreement and that, so long as the OMD is not in default hereunder, OMD 's rights under this Agreement shall not be disturbed upon foreclosure or otherwise. If requested by the holder of any Mortgage granted by the COS, OMD agrees that it will recognize the holder as its lessor under the terms of this Agreement if the holder succeeds to the interest of the COS. Upon the request of the COS, the OMD shall execute, acknowledge, and deliver all instruments necessary to give effect to or notice of such subordination or attornment.
- 23.4. Estoppel Certificate. Upon request from (i) the COS and (ii) any prospective or current lender(s) or holder(s) of any Mortgage(s) as described in Section 23.3 above, the OMD shall execute, acknowledge, and deliver to the COS, and such person(s) making such a request an estoppel certificate or statement in writing certifying to all or any part of the following information or other requested data, to the extent such facts are true and ascertainable:
 - 23.4.1. This Agreement constitutes the entire agreement between the COS and the OMD with respect to the Leased Premises and is unmodified and in full force and effect; if there have been modifications, the modifications are in full force and effect as modified and specifically identify the modifications; and
 - 23.4.2. The amounts of rent and other charges under this Agreement and the dates to which rents, and other charges have been paid, and the amount of security, if any, deposited with the COS; and

- 23.4.3. All conditions precedent to the effectiveness of this Agreement have been fulfilled, or specifically state any exceptions; and
- 23.4.4. The OMD has accepted possession of the Leased Premises, the lease term has commenced, the OMD is occupying the Leased Premises and there are no defaults or offsets which the OMD has against enforcement of this Agreement by the COS, or specifically identify any exceptions to the foregoing; and
- 23.4.5. The Agreement Effective Date and expiration date of this Agreement.

ARTICLE 24

- 24. Attorney's Fees - Obligation. In the event any legal action is taken to enforce the terms of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all fees and expenses reasonably incurred by the prevailing party as a result of the action, including without limitation, investigative fees, expert fees, court reporter fees, court costs and actual attorneys' fees.

ARTICLE 25

25. Environmental Protection

- 25.1. Compliance. The OMD agrees to comply with all rules, regulations, administrative orders, ordinances, and statutes, as now exist or may hereafter be adopted, of the SAA, the City of Shawnee, County of Pottawatomie, State of Oklahoma, and the United States, and any agencies, bureaus, departments, or commissions thereof, with respect to protection of the environment. Without limiting the foregoing, it is an express condition of this Agreement that the OMD, and all other persons and entities acting through, under control of, or on behalf of the OMD, shall comply with all rules and regulations of the FAA, EPA, Oklahoma DEQ and any other authority of competent jurisdiction regarding, without limitation, the leased premises, SNL, and the OMD's use of the Leased Premises, and the reporting and clean-up of any spills, emissions, discharges, leaks or releases causing contamination of the environment.
- 25.2. Indemnification. In furtherance of, in addition to, and not in limitation of ARTICLE 17 and ARTICLE 18 of this Agreement, the OMD agrees to indemnify, defend and hold the COS and the SAA harmless from and against environmental liability, including without limitation, any and all liability, including fines, suits, claims, losses, costs, damages, liens, expenses and causes of action of every kind resulting from pollution, emissions, leaks, discharge, release, escapes or spills resulting from the activities or omissions of the OMD and its officers, employees, agents, representatives, contractors, subcontractors, sublessees, suppliers, licensees, customers, invitees and guests or any other person or entity whom the OMD controls or has the right to control or who is acting through or on behalf of the OMD, in connection with or related to the OMD's activities, the Leased Premises, SNL or this Agreement, including without limitation the cost of any required clean-up or environmental remediation. This obligation on the part of the OMD shall survive the expiration or earlier termination of this Agreement.

ARTICLE 26

26. NONDISCRIMINATION

- 26.1. Obligation. The OMD covenants that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The OMD further covenants that no person shall be excluded on the foregoing grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The OMD covenants that it will require that its suborganizations provide assurances to the OMD that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations as required by 14 CFR Part 152, Subpart E, to the same effect. The OMD, for itself, its successors in interest, sublessees and assigns, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained or otherwise operated on the premises leased under this Agreement, for a purpose for which a United States Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the OMD shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said regulations may be amended. In furtherance hereof, the OMD, for itself, its successors in interest, sublessees and assigns, as a part of the consideration hereof, does hereby covenant and agree that: (1) no person on the grounds of race, creed, color, national origin or sex shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (2) in the construction of any improvements on, over or under such leased premises and the furnishing of services thereon and in connection therewith, no person on the grounds of race, creed, color, national origin or sex shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (3) the OMD shall use such leased premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said regulations may be amended.

ARTICLE 27

27. Non-Exclusive Rights. Nothing in this Agreement shall be construed as entitling the OMD to any exclusive right to conduct any aeronautical activity at SNL.
- 27.1. The COS reserves the right, at its sole discretion, to grant to others the right and privilege to conduct activities or furnish services of the type described in this Agreement at SNL.
- 27.2. Nothing in this Agreement shall be construed as granting to the OMD any right or privilege which would operate to prevent any person, firm, or entity operating aircraft at SNL.

ARTICLE 28

28. General Provisions.

- 28.1. Federal Aviation Act, Section 308. Nothing contained in this Agreement shall be deemed to grant the OMD any exclusive right or privilege within the meaning of Section 308 of the Federal Aviation Act or any successor provision thereto for the conduct of any activity on SNL, except that, subject to the terms and provisions hereof, the OMD shall have the right to use and occupy the Leased Property under the provisions of this Agreement.
- 28.2. Right of Flight. The COS reserves the right of flight for passage of aircraft above the surface of the Leased Premises. The OMD acknowledges and agrees that the grant and demise of this Agreement are subject to this reserved right of flight, which shall include the right to cause such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation of and flight in the air. Further, the OMD understands and agrees that the COS reserves the right to use such air space for landing at, taking off from, and operating aircraft on and over SNL and that the grant and demise hereof are subject to such reserved right. Furthermore, the SAA reserves the right to take any action the SAA considers necessary to protect the aerial approaches of SNL against obstruction or interference, which right includes without limitation the power to prevent the OMD from erecting, or permitting to be erected, any building or other structure on or adjacent to SNL which, in the sole opinion of the SAA, would limit the usefulness of SNL or constitute a hazard to aircraft.
- 28.3. Nonwaiver of Rights. The failure of the CAS or the OMD to declare any default or breach of any term, condition, covenant or obligation of this Agreement immediately upon the occurrence of the default or breach, or the COS's or OMD's delay in taking any action in response to any default or breach, shall not act as a waiver of the default or breach, nor any continuing or subsequent default or breach, and the COS or the OMD, as the case may be, shall have the right to declare any default or breach at any time and take any action allowed by this Agreement and/or law.
- 28.4. Notices. Any notice or other communication herein required or permitted to be given shall be in writing and may be personally served, or sent by overnight courier or United States mail and shall be deemed to have been given when delivered in person or one (1) business day after delivery to the office of such overnight courier service or three (3) business days after depositing the notice in the United States mail with postage prepaid and properly addressed to the other party at the following respective addresses:

To: Lessor

Office of the City Manager
City of Shawnee
16 West 9th Street
Shawnee, Oklahoma 74801

To: Lessee

Oklahoma Military Department
Real Property Branch
BLDG 3515 Military Circle
Oklahoma City, OK 73111

- 28.5. Either party to this Agreement may change its aforementioned address by serving the other party with ten (10) calendar days advance written notice.
- 28.6. Exercise of Rights/Giving Notice. All rights, powers, privileges, and duties of the COS or the OMD under this Agreement, including, without limitation, the giving of any notices required or permitted under this Agreement, may be exercised, performed, or given by the COS's and OMD's respective agents or attorneys.
- 28.7. Headings/Captions. The headings and captions in this Agreement are inserted only as a matter of convenience; are for reference purposes only; in no way expand, define, limit, or describe the scope or intent of any provisions of this Agreement; and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.
- 28.8. Severability. The invalidity, unlawfulness or unenforceability of any term, clause, provision, sentence, or paragraph of this Agreement shall not invalidate, render unenforceable or adversely affect the remaining terms, clauses, provisions, sentences, or paragraphs of this Agreement, which shall be enforced to the fullest extent allowed by law and, to this extent, are hereby deemed severable.
- 28.9. Waiver of Claims. No officer, Commissioner, agent, representative or employee of the COS shall be charged personally or held contractually liable under any term or provision of this Agreement or because of any breach thereof or because of his/her execution or attempted execution of this Agreement.
- 28.10. The OMD hereby waives any claim against the COS and its officers, Commissioners, agents, representatives, or employees for loss of anticipated profits caused by any suit or proceedings directly or indirectly attacking the validity of this Agreement, or any part thereof, or by any judgment or award in any suit or proceeding declaring this Agreement null, void or voidable, or delaying the same or any part thereof, from being carried out.
- 28.11. Right to Develop Airport. The COS reserves the right to further develop or improve SNL, and all landing areas and taxiways at SNL as it may see fit, regardless of the desires, opinions, or views of the OMD and without interference or hindrance, and the OMD shall not exercise any rights granted by this Agreement in such a manner as would interfere with or adversely affect the use, operation, maintenance, or development of SNL.
- 28.12. Incorporation of Exhibits. All exhibits, attachments and annexed or other instruments referred to in this Agreement are intended to be and hereby are specifically made a part of this Agreement.

- 28.13. Incorporation of Required Provisions. The parties incorporate and agree to incorporate into this Agreement by this reference all provisions lawfully required now or in the future to be contained in this Agreement by any governmental body or agency.
- 28.14. Successors and Assigns Bound. This Agreement shall be binding upon and inure to the benefit of the successors, assigns (subject to approval of the COS as required herein), heirs, administrators, and legal representatives of the parties hereto.
- 28.15. Right to Amend. In the event the FAA or its successors require modifications or changes in this Agreement as a condition precedent to the granting of funds for the improvement of SNL, or otherwise, OMD shall make such amendments, modifications, revisions, supplements or deletions to any of the terms, conditions or requirements of this Agreement as may be required, without any consent thereto by the OMD, and any expenses resulting from such amendments, modifications, revisions, supplements or deletions shall be borne solely by the OMD; provided, however, the OMD shall in no event be liable for any attorney's fees or accountants fees incurred by the COS in amending, modifying or changing the terms of this Agreement. Except for the foregoing, or as otherwise allowed in this Agreement, all other amendments, modifications, revisions, supplements, or deletions to this Agreement shall be in writing and signed by both parties hereto provided, the COS shall allow the OMD to participate in any presentations to or discussions or negotiations with FAA or its successors concerning any such required amendments, modifications, revisions, supplements, or deletions to or from this Agreement.
- 28.16. Time of Essence. The parties hereby acknowledge and agree that time is of the essence of this Agreement.
- 28.17. Gender. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.
- 28.18. Force Majeure. Neither the COS nor the OMD shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortages of material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, riots, rebellions, sabotage, or any other circumstances for which it is not responsible, and which are not within its control.
- 28.19. Governing Law and Jurisdiction. This Agreement and the rights and obligations of the COS and OMD under this Agreement shall be construed in accordance with and governed by the laws of the State of Oklahoma, without regard to the principles of conflicts of law. Any legal action or proceeding with respect to this Agreement shall be brought only in the state or federal courts of competent jurisdiction in Pottawatomie County, Oklahoma. By execution and delivery of this Agreement, the OMD hereby irrevocably accepts for itself and in respect of its property, generally and unconditionally, the jurisdiction of the above courts. The OMD hereby irrevocably waives any objection that it may now or hereafter have to the laying of venue of any actions or proceedings arising out of or in connection with this Agreement brought in the above referenced courts. The OMD hereby further irrevocably waives and agrees not to plead or claim in any such

court that any such action or proceeding in any such court has been brought in an inconvenient forum.

- 28.20. Merger Clause. The parties hereto understand and agree that this instrument contains the entire agreement between the parties. The parties further understand and agree that the other party and its agents have made no representations or promises with respect to this Agreement or the making or entry into this Agreement, except as expressly set forth herein, and that no claim or cause for termination shall be asserted by either party against the other, and such party shall not be liable by reason of the making of any representations or promises not expressly stated in this Agreement, any other written or oral agreement with the other party being expressly waived. All prior proposals, negotiations, and representations, whether oral or written, are hereby superseded, and merged into this Agreement.
- 28.21. Reading of Agreement. The parties hereto acknowledge that they have thoroughly read this Agreement, including all exhibits or attachments hereto and all instruments referenced herein, and fully and completely understand all rights and obligations herein.
- 28.22. This Agreement constitutes the entire agreement between the COS and the OMD with respect to the Leased Premises.

[SIGNATURE PAGE FOLLOWS IMMEDIATELY]

IN WITNESS WHEREOF, the COS and OMD have executed this Land Lease and Operating Agreement effective as of the day and year first written above.

LESSOR:

THE CITY OF SHAWNEE, OKLAHOMA,
A Municipal Corporation

By: _____
ANDREA WECKMUELLER-BEHRINGER, AICP, GISP, RAS
CITY MANAGER

This _____ day of _____, 2022

ATTEST:

LISA LASYONE, CMC
CITY CLERK

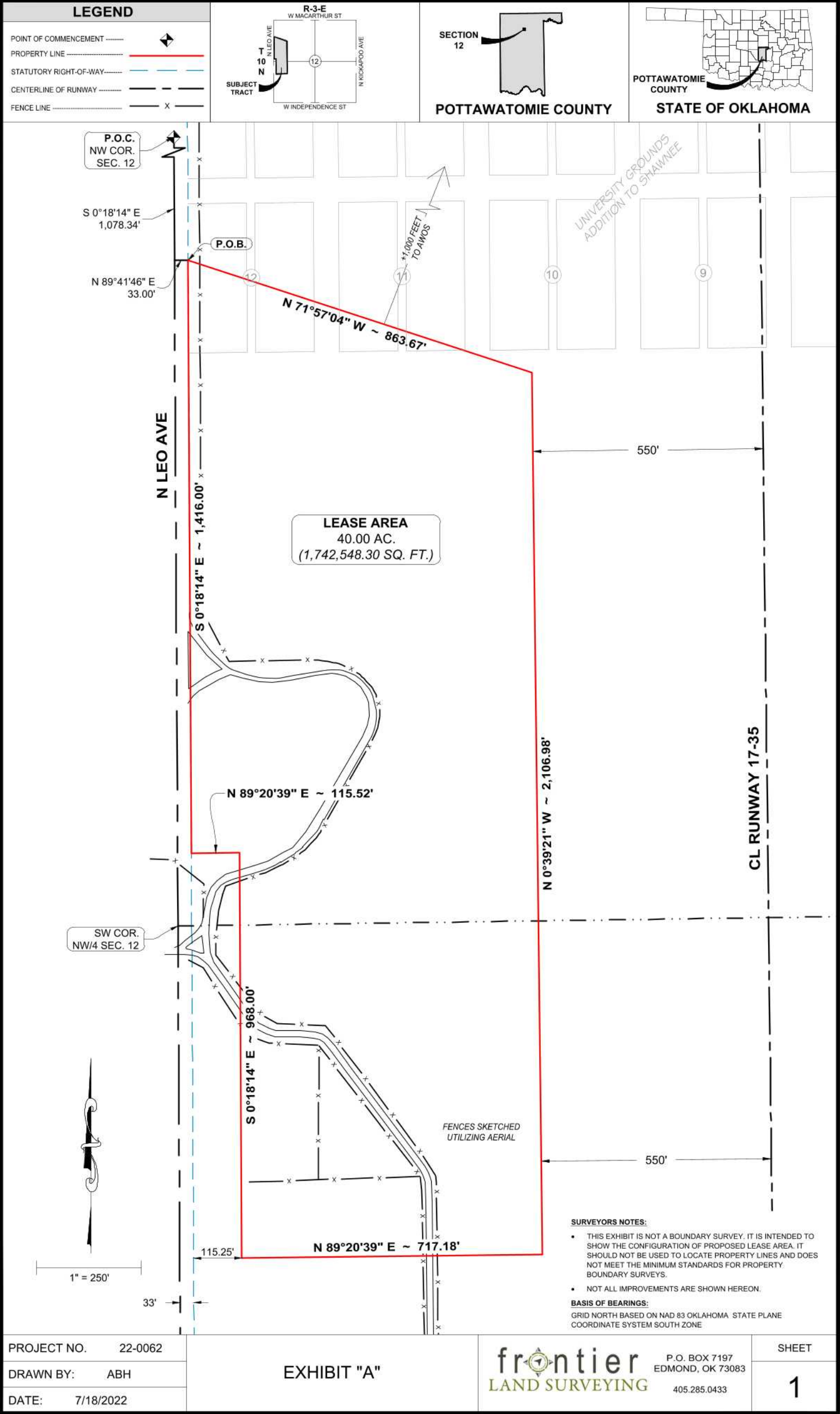
LESSEE:

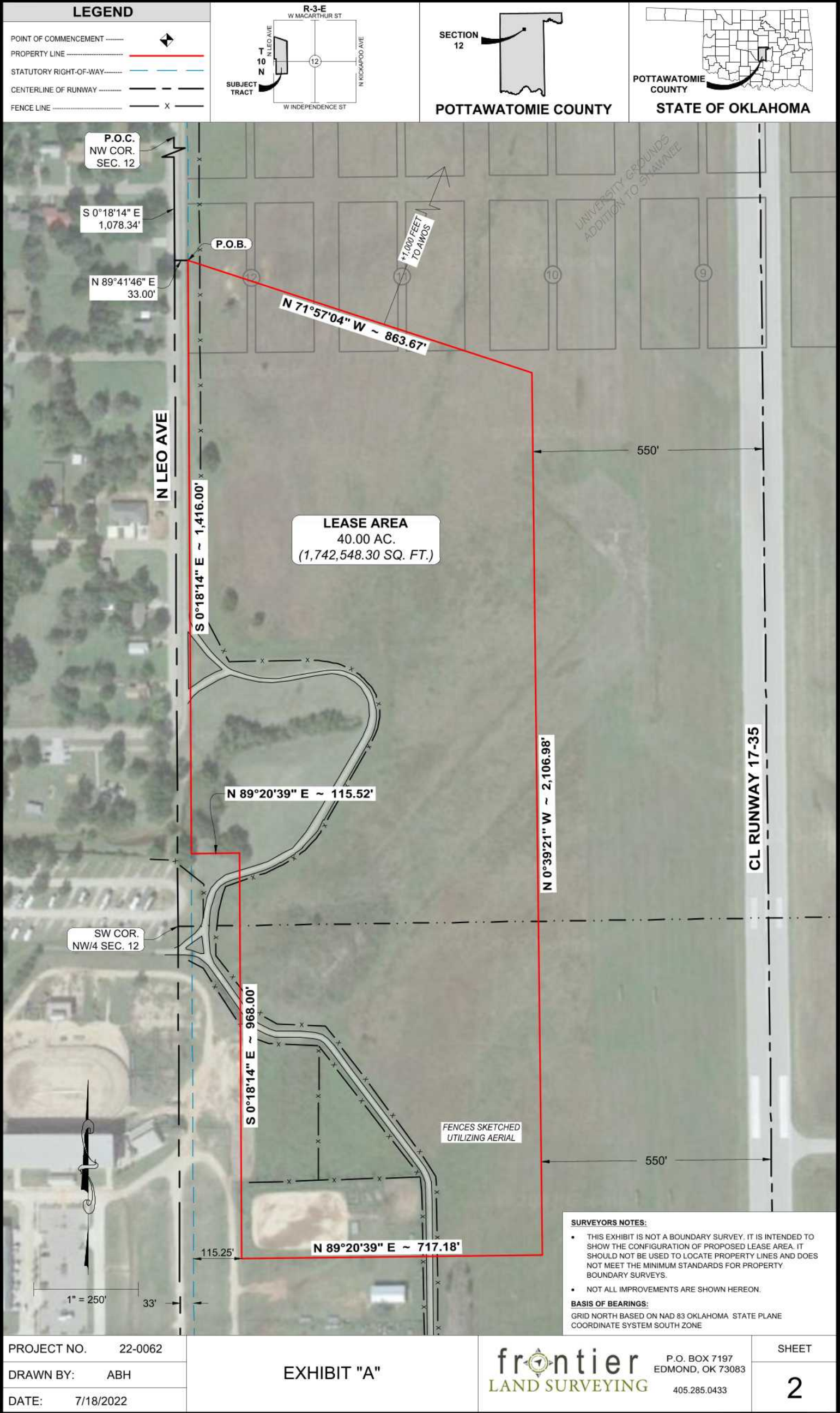
THE OKLAHOMA MILITARY DEPARTMENT

By: _____

Printed Name: _____

Its: _____





LEASE AREA DESCRIPTION

AN AREA OF LAND BEING PART OF THE WEST HALF (W/2) OF SECTION TWELVE (12), TOWNSHIP TEN (10) NORTH, RANGE THREE (3) EAST OF THE INDIAN MERIDIAN, POTTAWATOMIE COUNTY, OKLAHOMA. SAID AREA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION TWELVE (12) THENCE S 0°18'14" E ON THE WEST LINE OF THE NORTHWEST QUARTER (NW/4) OF SAID SECTION TWELVE (12) A DISTANCE OF 1,078.34 FEET;

THENCE N 89°41'46" E A DISTANCE OF 33.00 FEET TO THE **POINT OF BEGINNING**.

THENCE S 0°18'14" E ON A LINE BEING PARALLEL TO AND 33.00 FEET EAST OF THE WEST LINE OF SAID NORTHWEST QUARTER (NW/4) A DISTANCE OF 1,416.00 FEET;

THENCE N 89°20'39" E A DISTANCE OF 115.52 FEET;

THENCE S 0°18'14" E ON A LINE BEING PARALLEL TO THE WEST LINE OF SAID NORTHWEST QUARTER (NW/4) A DISTANCE OF 968.00 FEET;

THENCE N 89°20'39" E A DISTANCE OF 717.18 FEET;

THENCE N 0°39'21" W A DISTANCE OF 2,106.98 FEET;

THENCE N 71°57'04" W A DISTANCE OF 863.67 FEET BACK TO THE **POINT OF BEGINNING**.

SAID AREA CONTAINS 40.00 ACRES (1,742,548.30 SQ. FT.) AS DESCRIBED

BASIS OF BEARINGS:

GRID NORTH BASED ON NAD 83 OKLAHOMA STATE
PLANE COORDINATE SYSTEM SOUTH ZONE

PROJECT NO.	22-0062
DRAWN BY:	ABH
DATE:	7/18/2022

EXHIBIT "A"



P.O. BOX 7197
EDMOND, OK 73083
405.285.0433

Regular Board of Commissioners

8.

Meeting Date: 10/03/2022

Ordinance

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Consider and take action with respect to an ordinance of the City of Shawnee, Oklahoma, relating to the imposition of a city excise tax (sales tax) of one half of one percent (0.5%) (in addition to any and all other excise taxes now in force) to be levied upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code; providing for the use of the proceeds of said excise tax; providing for the effective date of said excise tax; providing for no repeal of tax; providing for subsisting state permits; providing for payment of tax; providing that the tax is in addition to taxes currently levied; incorporating certain provisions of prior City Ordinances; providing for amendments to this ordinance; providing that the provisions of this ordinance are cumulative and in addition to any and all taxing provisions of other City Ordinances; providing for severability of provisions; and containing other provisions related thereto.

Attachments

Memo

Ordinance



City Manager's Office

16 W. 9th St.
Shawnee, OK 74801
ShawneeOK.org

Date: September 29, 2022
To: City Commission
From: Jacob Foos, Assistant City Manager
Subject: Consideration of an ordinance establishing a 0.5% sales tax and a resolution calling an election for the purpose of submitting the question of the sales tax to the voters.

Background: The discussion of a 0.5% sales tax arose from the funding challenges recently experienced with the wastewater treatment plant project. In order to meet that project's financing requirements, a Utility Improvement Fee was adopted by the City Commission on August 15, 2022. The Utility Improvement Fee has a start date of March 1, 2023, and provides a five-year rate adjustment plan, with the fee reaching \$24 per month, for each customer, in 2027.

Due to the magnitude of the Utility Improvement Fee, the City Commission requested information on how an additional 0.5% sales tax could be implemented in lieu of the monthly fee. By calling an election for the sales tax, Shawnee voters will be empowered to decide to adopt the sales tax, so that the Utility Improvement Fee can be eliminated.

The 0.5% sales tax is structured with a designated purpose to provide funding for capital expenditures, including but not limited to water, wastewater, and streets, and for debt service obligations associated with such expenditures. If sales tax collections exceed the funding requirements for the wastewater treatment plant financing needs, then the excess funds can be utilized for other critical capital expenditures.

It is important to note that due to the way that the sales tax must be structured and implemented to satisfy financing requirements, the first five years of the sales tax is estimated to create a surplus of over \$10.5 million. This is caused because the sales tax would begin to be collected on April 1, 2023. However, the annual debt service payment on the 2022 CWSRF Loan for the wastewater treatment plant project is not estimated to reach the maximum level of approximately \$3.26 Million until the year 2028.

It is also important to note that any sales tax rate approved by the voters provides for an automatic update to the use tax, so that they are both at the same rate. The adoption of a 0.5% sales tax provides a corresponding implementation of a 0.5% use tax. The use tax does not carry with it the obligations or restrictions that are imposed on a sales tax through the ballot language. Use tax collections are deposited into the City's General Fund and can be used for any legal purpose. The 0.5% use tax is estimated to generate approximately \$417,000 the first year.

The 0.5% sales tax would increase the City of Shawnee's municipal sales tax rate from 3.5% to 4%. The new rate would match with Edmond, Stillwater and Muskogee, and it would remain below the municipal sales tax rates of Midwest City, Enid, Oklahoma City, Norman, Lawton, Owasso and Bixby.

The special election will be held on January 10, 2023. If the sales tax is approved, the tax will begin to be collected on April 1, 2023.

Financial Impact: Estimated cost of \$7,500 from the General Fund, City Clerk, Elections, 001-5-0330-53080.

Attachment: Ordinance and resolution.

Staff Recommendation: Approval of the items.

ORDINANCE NO. 2771NS

AN ORDINANCE OF THE CITY OF SHAWNEE, OKLAHOMA, RELATING TO THE IMPOSITION OF A CITY EXCISE TAX (SALES TAX) OF ONE HALF OF ONE PERCENT (0.5%) (IN ADDITION TO ANY AND ALL OTHER EXCISE TAXES NOW IN FORCE) TO BE LEVIED UPON THE GROSS PROCEEDS OR GROSS RECEIPTS DERIVED FROM ALL SALES TAXABLE UNDER THE OKLAHOMA SALES TAX CODE; PROVIDING FOR THE USE OF THE PROCEEDS OF SAID EXCISE TAX; PROVIDING FOR THE EFFECTIVE DATE OF SAID EXCISE TAX; PROVIDING FOR NO REPEAL OF TAX; PROVIDING FOR SUBSISTING STATE PERMITS; PROVIDING FOR PAYMENT OF TAX; PROVIDING THAT THE TAX IS IN ADDITION TO TAXES CURRENTLY LEVIED; INCORPORATING CERTAIN PROVISIONS OF PRIOR CITY ORDINANCES; PROVIDING FOR AMENDMENTS TO THIS ORDINANCE; PROVIDING THAT THE PROVISIONS OF THIS ORDINANCE ARE CUMULATIVE AND IN ADDITION TO ANY AND ALL TAXING PROVISIONS OF OTHER CITY ORDINANCES; PROVIDING FOR SEVERABILITY OF PROVISIONS; AND CONTAINING OTHER PROVISIONS RELATED THERETO.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SHAWNEE, OKLAHOMA, AS FOLLOWS:

Section 1. Citations and Codification. This Ordinance shall be known and may be cited as the City of Shawnee Sales Tax Ordinance of 2023, and the same shall be codified and incorporated into the Code of Ordinances of the City of Shawnee, Oklahoma.

Section 2. Tax Imposed. There is hereby imposed an excise tax of one half of one percent (0.5%) (in addition to any and all other excise taxes now in force) to be levied upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code.

Section 3. Purpose of Revenues. It is hereby declared to be the purpose of this Ordinance to provide revenues to be used for the funding of capital expenditures, including but not limited to water, wastewater, and streets, all for the use and benefit of the City of Shawnee, Oklahoma (the "City") and any public trust having the City as beneficiary thereof and/or for the payment of debt service in connection with obligations heretofore issued or to be issued to finance or refinance said capital expenditures and related costs.

Section 4. Effective Date. The provisions of this Ordinance and the collection of the excise tax referenced herein shall become effective on and after April 1, 2023, subject to approval by a majority of the qualified electors of the City voting on the same in the manner prescribed by law.

Section 5. No Repeal of Tax. This Ordinance and the excise tax levied pursuant hereto shall not be repealed by the City Commission of the City or by referendum of the registered qualified voters of the City in the event the proceeds of the referenced excise tax are being used or have been pledged by the City or any public trust having the City as beneficiary for the purpose of

paying debt service on obligations issued by the City or any public trust having the City as beneficiary.

Section 6. Subsisting State Permits. All valid and subsisting permits to do business issued by the Oklahoma Tax Commission pursuant to the Oklahoma Sales Tax Code are, for the purposes of this Ordinance, hereby ratified, confirmed and adopted in lieu of any requirement for an additional City permit for the same purpose.

Section 7. Payment of Tax. The tax herein levied shall be paid to the Tax Collector at the time and in the manner and form prescribed for payment of the state sales tax under the State Tax Law of the State of Oklahoma.

Section 8. This Tax in Addition to Taxes Currently Levied; Administrative Procedures. The tax levied hereby is in addition to any and all other excise taxes levied or assessed by the City pursuant to existing ordinances (the "Prior Ordinances"); provided, however, that those provisions of said Prior Ordinances relating to Definitions; Tax Collector Defined; Classification of Taxpayers; Subsisting State Permits; the portion of Tax Rate - Sales Subject to Tax, pertaining to Sales Subject to Tax (not rate of Tax); the provisions of said Prior Ordinances regarding Exemptions and Other Exempt Transfers; the provisions of said Prior Ordinances regarding Tax Due When--Returns--Records; the portion of said Prior Ordinances regarding tax constituting debt; Vendor's Duty to Collect Tax; Returns and Remittances - Discounts; Interest and Penalties--Delinquency; Waiver of Interest and Penalties; Erroneous Payments--Claim for Refund; Fraudulent Returns; and Records Confidential shall apply to the excise tax levied and assessed by this Ordinance. For purposes of this Ordinance, references in Prior Ordinances, to specific provisions of the Oklahoma Statutes shall be deemed to be references to said statutory provisions, as amended.

Section 9. Amendments. The people of the City of Shawnee, Oklahoma, by their approval of this Ordinance at the election hereinabove provided for, hereby authorize the City by Ordinance duly enacted to make such administrative and technical changes or additions in the method and manner of administration and enforcing this Ordinance as may be necessary or proper for efficiency and fairness or in order to make the same consistent with the Oklahoma Sales Tax Code, as amended, except that the rate of the tax herein provided for shall not be changed without approval of the qualified electors of the City as provided by law.

Section 10. Provisions Cumulative. The provisions hereof shall be cumulative and in addition to any and all other taxing provisions of City Ordinances.

Section 11. Severability. The provisions of this Ordinance are severable, and if any part or provision hereof shall be adjudged invalid by any court of competent jurisdiction, such adjudication shall not affect or impair any of the remaining parts or provisions hereof.

[Remainder of Page Left Blank Intentionally]

PASSED AND APPROVED THIS 3RD DAY OF OCTOBER, 2022.

CITY OF SHAWNEE, OKLAHOMA

By: _____
ED BOLT, MAYOR

(SEAL)

ATTEST:

LISA LASYONE, CMC, CITY CLERK

Approved as to form and legality this ____ day of _____, 2022.

By: _____
CITY ATTORNEY

CERTIFICATE
OF
CITY COMMISSION ACTION

I, the undersigned, hereby certify that I am the duly qualified and acting City Clerk of the City of Shawnee, Oklahoma.

I further certify that the City Commission of the City of Shawnee, Oklahoma, held a Regular Meeting at 6:00 o'clock p.m., on October 3, 2022, after due notice was given in full compliance with the Oklahoma Open Meeting Act.

I further certify that attached hereto is a full and complete copy of Ordinance No. 2771NS that was passed and approved by said City Commission at said meeting as the same appears in the official records of my office. I further certify that below is listed those Commissioners present and absent at said meeting; those making and seconding the motion that said Ordinance be passed and approved, and those voting for and against such motion:

PRESENT:

ABSENT:

MOTION MADE BY:

MOTION SECONDED BY:

AYE:

NAY:

WITNESS MY HAND THIS 3RD DAY OF OCTOBER, 2022.

CITY OF SHAWNEE, OKLAHOMA

(SEAL)

By: _____
LISA LASYONE, CMC, CITY CLERK

Regular Board of Commissioners

9.

Meeting Date: 10/03/2022

Resolution

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Consider and take action with respect to a resolution authorizing the calling and holding of a special election in the City of Shawnee, State of Oklahoma (the "City"), on the 10th day of January, 2023, for the purpose of submitting to the registered qualified electors of said City the question of approval or rejection of an ordinance of the City relating to a one half of one percent (0.5%) excise tax (sales tax), in addition to all present City, County and State excise taxes, with the proceeds of said tax to be used to fund capital expenditures for the use and benefit of the City, or debt service in connection with capital expenditures, as more specifically set out in an ordinance of said City; and containing other provisions related thereto.

Attachments

Memo

Resolution

Proclamation



City Manager's Office

16 W. 9th St.
Shawnee, OK 74801
ShawneeOK.org

Date: September 29, 2022
To: City Commission
From: Jacob Foos, Assistant City Manager
Subject: Consideration of an ordinance establishing a 0.5% sales tax and a resolution calling an election for the purpose of submitting the question of the sales tax to the voters.

Background: The discussion of a 0.5% sales tax arose from the funding challenges recently experienced with the wastewater treatment plant project. In order to meet that project's financing requirements, a Utility Improvement Fee was adopted by the City Commission on August 15, 2022. The Utility Improvement Fee has a start date of March 1, 2023, and provides a five-year rate adjustment plan, with the fee reaching \$24 per month, for each customer, in 2027.

Due to the magnitude of the Utility Improvement Fee, the City Commission requested information on how an additional 0.5% sales tax could be implemented in lieu of the monthly fee. By calling an election for the sales tax, Shawnee voters will be empowered to decide to adopt the sales tax, so that the Utility Improvement Fee can be eliminated.

The 0.5% sales tax is structured with a designated purpose to provide funding for capital expenditures, including but not limited to water, wastewater, and streets, and for debt service obligations associated with such expenditures. If sales tax collections exceed the funding requirements for the wastewater treatment plant financing needs, then the excess funds can be utilized for other critical capital expenditures.

It is important to note that due to the way that the sales tax must be structured and implemented to satisfy financing requirements, the first five years of the sales tax is estimated to create a surplus of over \$10.5 million. This is caused because the sales tax would begin to be collected on April 1, 2023. However, the annual debt service payment on the 2022 CWSRF Loan for the wastewater treatment plant project is not estimated to reach the maximum level of approximately \$3.26 Million until the year 2028.

It is also important to note that any sales tax rate approved by the voters provides for an automatic update to the use tax, so that they are both at the same rate. The adoption of a 0.5% sales tax provides a corresponding implementation of a 0.5% use tax. The use tax does not carry with it the obligations or restrictions that are imposed on a sales tax through the ballot language. Use tax collections are deposited into the City's General Fund and can be used for any legal purpose. The 0.5% use tax is estimated to generate approximately \$417,000 the first year.

The 0.5% sales tax would increase the City of Shawnee's municipal sales tax rate from 3.5% to 4%. The new rate would match with Edmond, Stillwater and Muskogee, and it would remain below the municipal sales tax rates of Midwest City, Enid, Oklahoma City, Norman, Lawton, Owasso and Bixby.

The special election will be held on January 10, 2023. If the sales tax is approved, the tax will begin to be collected on April 1, 2023.

Financial Impact: Estimated cost of \$7,500 from the General Fund, City Clerk, Elections, 001-5-0330-53080.

Attachment: Ordinance and resolution.

Staff Recommendation: Approval of the items.

RESOLUTION NO. 6673

A RESOLUTION AUTHORIZING THE CALLING AND HOLDING OF A SPECIAL ELECTION IN THE CITY OF SHAWNEE, STATE OF OKLAHOMA (THE "CITY"), ON THE 10TH DAY OF JANUARY, 2023, FOR THE PURPOSE OF SUBMITTING TO THE REGISTERED QUALIFIED ELECTORS OF SAID CITY THE QUESTION OF APPROVAL OR REJECTION OF ORDINANCE NO. 2771NS OF THE CITY RELATING TO A ONE HALF OF ONE PERCENT (0.5%) EXCISE TAX (SALES TAX), IN ADDITION TO ALL PRESENT CITY, COUNTY AND STATE EXCISE TAXES, WITH THE PROCEEDS OF SAID TAX TO BE USED TO FUND CAPITAL EXPENDITURES FOR THE USE AND BENEFIT OF THE CITY, OR DEBT SERVICE IN CONNECTION WITH CAPITAL EXPENDITURES, AS MORE SPECIFICALLY SET OUT IN ORDINANCE NO. 2771NS OF SAID CITY; AND CONTAINING OTHER PROVISIONS RELATED THERETO.

WHEREAS, it is deemed advisable and necessary by the Board of Commissioners of the City to submit to the registered qualified electors of the City the question of approval or rejection of Ordinance No. 2771NS of the City pertaining to the levy and collection of a one half of one percent (0.5%) excise tax (sales tax).

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF SHAWNEE, OKLAHOMA:

Section 1. Proposition. That the Mayor of the City be, or in his absence or incapacity, the duly qualified Vice-Mayor, be and hereby is authorized and directed to call a special election to be held in the City on the 10th day of January, 2023, for the purpose of submitting to the registered qualified electors of the City, the following proposition:

PROPOSITION

Shall the City of Shawnee be authorized to levy and assess a City excise tax (sales tax) of one half of one percent (0.5%), in addition to all other City, County, and State excise taxes presently being levied or assessed, upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code; providing the proceeds of such tax shall be used to fund capital expenditures, including but not limited to water, wastewater, and streets, for the use and benefit of the City and any public trust having the City as beneficiary, and/or for payment of debt service in connection with obligations issued by the City and any public trust having the City as beneficiary to finance or refinance said capital expenditures and related costs; and provided said excise tax shall be levied beginning April 1, 2023; all as more specifically set out in Ordinance No. 2771NS of the City?

/ _____ /

Yes - For the Above Proposition

/ _____ /

No – Against the Above Proposition

Section 2. Election Proclamation. That such call for said election shall be by proclamation and notice, signed by the Mayor or Vice-Mayor of the City and attested by the City Clerk, setting forth the proposition to be voted upon and the hours of opening and closing of the polls. That the ballots shall set forth the proposition to be voted upon substantially as set out in Section 1 hereof, and that the returns of said election shall be made to and canvassed by the Pottawatomie County Election Board. The Board of Commissioners of the City hereby certify to the Pottawatomie County Election Board that Pottawatomie County precincts #630002, #630003, #630004, #630006, #630007, #630009, #630011, #630012, #630013, #630015, #630018, #630022, #630024, #630025, and #630026 are to be opened.

Section 3. Service on County Election Board. That a copy of this Resolution and Special Election Proclamation and Notice shall be personally delivered to the office of the County Election Board of Pottawatomie County, State of Oklahoma, at least sixty (60) days prior to the date of said election.

[Remainder of Page Left Blank Intentionally]

PASSED AND APPROVED THIS 3RD DAY OF OCTOBER, 2022.

CITY OF SHAWNEE, OKLAHOMA

(SEAL)

Mayor

ATTEST:

City Clerk

CERTIFICATE
OF
CITY COMMISSION ACTION

I, the undersigned, hereby certify that I am the duly qualified and acting City Clerk of the City of Shawnee, Oklahoma.

I further certify that the City Commission of the City of Shawnee, Oklahoma, held a Regular Meeting at 6:00 o'clock p.m., on October 3, 2022, after due notice was given in full compliance with the Oklahoma Open Meeting Act.

I further certify that attached hereto is a full and complete copy of Resolution No. 6673 that was passed and approved by said City Commission at said meeting as the same appears in the official records of my office.

I further certify that below is listed those Commissioners present and absent at said meeting; those making and seconding the motion that said Resolution be passed and approved, and those voting for and against such motion:

PRESENT:

ABSENT:

MOTION MADE BY:

MOTION SECONDED BY:

AYE:

NAY:

WITNESS MY HAND THIS 3RD DAY OF OCTOBER, 2022.

CITY OF SHAWNEE, OKLAHOMA

(SEAL)

By: _____
City Clerk

SPECIAL ELECTION PROCLAMATION AND NOTICE

Under and by virtue of the Statutes of the State of Oklahoma, and Acts complementary, supplementary, and enacted pursuant thereto, and Resolution No. 6673 dated October 3, 2022, authorizing the calling of an election on the proposition hereinafter set forth, I, the undersigned Mayor of the City of Shawnee, Oklahoma, hereby call a special election and give notice thereof to be held in the City of Shawnee, Oklahoma, on the 10th day of January, 2023, for the purpose of submitting to the registered, qualified voters in said City the following proposition:

PROPOSITION

Shall the City of Shawnee be authorized to levy and assess a City excise tax (sales tax) of one half of one percent (0.5%), in addition to all other City, County, and State excise taxes presently being levied or assessed, upon the gross proceeds or gross receipts derived from all sales taxable under the Oklahoma Sales Tax Code; providing the proceeds of such tax shall be used to fund capital expenditures, including but not limited to water, wastewater, and streets, for the use and benefit of the City and any public trust having the City as beneficiary, and/or for payment of debt service in connection with obligations issued by the City and any public trust having the City as beneficiary to finance or refinance said capital expenditures and related costs; and provided said excise tax shall be levied beginning April 1, 2023; all as more specifically set out in Ordinance No. 2771NS of the City?

/ _____ /

YES - FOR THE ABOVE PROPOSITION

/ _____ /

NO - AGAINST THE ABOVE PROPOSITION

That only the registered, qualified voters of the City of Shawnee, Oklahoma, may vote upon the proposition as above set forth.

The polls shall be opened at 7:00 o'clock a.m. and shall remain open continuously until and be closed at 7:00 o'clock p.m.

Such election shall be conducted by those precinct officers designated by the County Election Board of Pottawatomie County, Oklahoma, which officers shall also act as counters and certify the results thereof as required by law.

The returns of said election shall be made to and canvassed by the Pottawatomie County Election Board. The Board of Commissioners of the City hereby certify to the Pottawatomie County Election Board that Pottawatomie County precincts #630002, #630003, #630004, #630006, #630007, #630009, #630011, #630012, #630013, #630015, #630018, #630022, #630024, #630025, and #630026 are to be opened.

WITNESS my hand as Mayor of the City of Shawnee, Oklahoma and the Seal of said City
affixed hereto on the 3rd day of October, 2022.

(SEAL)

Mayor

ATTEST:

City Clerk

Regular Board of Commissioners

10. a.

Meeting Date: 10/03/2022

Admin Report

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Homeless Program Update – Erika Genty, Homeless Program Coordinator

Attachments

Memo

Presentation



**City of Shawnee
Homeless Program**

16 W. 9th St.
Shawnee, OK 74801
ShawneeOK.org

Date: September 29, 2022
To: City Commission
From: Erika Genty, Homeless Program Coordinator
Subject: Shawnee Homeless Program Update

Background: The City of Shawnee Homeless Program goals are multi-pronged: collaborate with local, regional, and state service providers and community partners; develop a cohesive response to homelessness, meet the needs of the homeless population; address visible homelessness on Main Street; help the downtown area and public spaces return to their intended purposes; and educate the public about homelessness. To that end, this Homeless Program Update serves to outline recent progress and next steps.

Discussion:

1. What We Have Done

- a. Homelessness in Shawnee Roundtable: Comprised of more than 30 organizations that serve the homeless community in Shawnee, the Homelessness in Shawnee Roundtable has met monthly six times with the goal of creating a coordinated response to homelessness. Organizations have stepped up to fill gaps in the system of services, coordinated services that duplicated efforts, brainstormed ideas, and met the needs of individual clients. The next Homelessness in Shawnee Roundtable meeting is scheduled for Tuesday, October 11, 2022.
- b. Sanitation: Safe, adequate, and accessible public toilet, handwashing, shower, and laundry facilities are scarce or altogether absent for the homeless community. Without access to hygiene facilities and the safety and dignity that they provide, those experiencing homelessness face physical and behavioral health risks, including having to urinate and defecate outdoors as well as forgo handwashing, showers, clean laundry, and sanitary products. Because of this, those experiencing homelessness must live in unhealthy environments contaminated by human waste and thereby being more vulnerable to hepatitis A, meningitis, staph, lice, and other health problems.
 - i. Throughout the summer, five porta-potties were placed at three sites for three purposes.
 - A. Provide much-needed bathrooms for the homeless community.
 - B. Decrease bathroom traffic at the library.

C. Introduce a pilot project to see what effect it may have on human waste in downtown.

It was a successful and prompted business owners and community members to state that they saw a drastic decrease in human waste. Those experiencing homelessness were very thankful, because the only public restroom on Main Street is at the Public Library, and when it is closed there is nowhere to go. Finally, the Public Library saw a decrease in restroom traffic.

- ii. A 24-foot, 3-stall shower trailer was placed at the location of the Homeless Resource Center. Over 700 showers were given, and clients were extremely thankful. With grant money winding down, the Homeless Resource Center looked for alternatives. The owner of the Shawnee Rescue Mission offered to install permanent showers at the facility. This will result in a temporary lack of showers until the showers construction is completed.
 - iii. A laundry service was implemented through a collaboration among the City of Shawnee, Generations Church, and the Suds Bucket. The program allows people to drop off their laundry on Wednesdays and pick up the laundered items on Saturdays. This service has aided in healthy living and also resulted in a decrease of cast-off clothing in downtown.
- c. Homeless Resource Center (HRC): The HRC is open on Mondays from 10 am to 6 pm, on Wednesdays from 1 pm to 6 pm, and on Saturdays from 10 am to 6 pm. The goal is to extend operation hours to 6 days a week as volunteer staffing is added. The purpose of the HRC is to draw the visible homeless population away from the downtown area as well as to more effectively meet the needs of the homeless population. Business owners, Public Library staff, and community members have noticed a significant decrease in visible homeless individuals during HRC hours. Since its opening on July 18, more than 1,700 clients have been served. Individuals can find a safe place out of the elements to rest, socialize, receive case management, search for jobs, and more.
- d. Shawnee Homeless Outreach Program (SHOP): SHOP volunteers meet people where they are, ascertain their needs, connect them with the system of services, and build relationships. Outreach activities are undertaken once a week.
- e. Emergency Solutions Grant - Covid-related (ESG-CV): This U.S. Department of Housing and Urban Development (HUD) grant is winding down. It has paid for Street Outreach (SHOP), the setting up the Homeless Resource Center (HRC), and sanitation projects. The grant has also helped with medication co-pays, training for volunteer staff, and the implementation of the Homeless Management Information System (HMIS). It is important to note that no local tax money or money from the general fund has been used for these activities. This grant funding was also not tied to the number of homeless counted during the annual Point-in-Time (PIT) count that occurred in late January 2022.
- f. Community Outreach: We have had several speaking engagements with churches and other organizations about homelessness. These engagement opportunities are continuing

so as to inform the public of recent, ongoing and future activities and to create community buy-in for the program.

2. What We Are Doing Now

- a. Continuation of Current Programs: The current programs will continue and grow, including the Homeless Resource Center (HRC), Homelessness in Shawnee Roundtable, and the Shawnee Homeless Outreach Program (SHOP). The goal is to open the HRC on Thursdays by November 3, 2022, on Tuesdays on December 1, 2022, and Fridays on January 5, 2023. This is contingent on volunteer staffing levels.
- b. Interns and Volunteers: We are actively recruiting and training new interns and volunteers to work with the City of Shawnee Homeless Program. We currently have ten more individuals undergoing training.
- c. Community Outreach: We are stepping up community outreach, by attending events around the city, speaking at churches and civic organizations, and holding more Community Information Meetings.
- d. Winter Weather Plan: Working on a plan that provides a coordinated response at times when extreme cold weather creates an additional, immediate need for expanded shelter capacity to protect those experiencing homelessness from cold weather injury.
- e. Funding: Actively pursuing funding sources, including grant funding. Working on either finding a 501(c)(3) that can act as a “pass through” entity or setting up a parallel organization to be the fundraising arm for the Homeless Program. This is because many grants are not available to municipalities but are available for 501(c)(3) nonprofits.

3. Where we are going

- a. Continuum of Care (CoC): We are working on creating our own CoC to promote a community-wide response to homelessness. HUD defines a CoC as “a community plan to organize and deliver housing and services to meet the specific needs of people who are homeless, as they move to stable housing and maximize self-sufficiency.” The CoC also maintains the Homeless Management Information System (HMIS), which collects and reports data. The CoC is an evidence-based method of working to end homelessness and encompasses four parts:
 - i. Outreach, Intake, and Assessment: Promoting services to potential clients, coordinating among entry points into the continuum of care for at-risk individuals, and evaluating specific needs of individuals and families to best support them.
 - ii. Emergency Shelter: Providing safe, immediate housing to individuals at risk of sleeping on the streets.
 - iii. Transitional Housing and Supportive Services: Providing individuals and families with supportive housing, health care services, and skill development to help them gain self-sufficiency.

- iv. Permanent and Permanent Supportive Housing: Helping individuals find affordable housing and assistive services.
- b. Built for Zero: Aiding in the evidence-based approach is the Built for Zero program that uses data to combat homelessness - one individual at a time - with the objective of reducing the number of people experiencing homelessness to a minimum. The goal is to maintain a “functional zero,” at which point the Homeless Program can prevent homelessness when possible as well as capture newly homeless to ensure that their homelessness is rare, brief, and one-time.
- c. Housing and Shelter: The lack of housing presents a significant challenge. In line with the proven model of “Housing First”, the Homeless Program will focus on housing and shelter needs to quickly move people from a state of crisis to becoming housed.
 - i. Emergency shelter capacity in Shawnee is extremely limited and needs to be expanded.
 - ii. Transitional housing is a quick, short-term, step in moving people experiencing homelessness towards being housed.
 - iii. Housing First: Housing first is a successful model for dealing with homelessness, based on the ideas that 1) Housing is a basic human right, not a reward, and 2) Once the turmoil of homelessness is removed, a person is able to stabilize faster, and it lasts longer. A roof over their head allows them to fully thrive and progress. This model quickly places people into housing from the streets and shelters without any preconditions, provides strong supportive services, and continued housing is not dependent on participation in services or sobriety.
 - iv. Permanent Supportive Housing (PSH): This is a necessity for a population of people who cannot maintain housing for a variety of reasons, effectively breaking the cycle of homelessness. It works by providing permanent rental assistance, social services, counseling, job training and more.
- d. City Codes & Community Safety: In addition to working towards the implementation of the “Housing First” model, the City of Shawnee will also undertake a review of its City Codes as they pertain to emergency shelter provision, safe parking initiatives, the storage of personal belongings of those who are homeless, as well as the protection of public spaces throughout the community.

Financial Impact: None.

Attachment: PowerPoint presentation.

Recommendation: No action required.



Homeless Program Update

Erika M. Genty
Homeless Program Coordinator

October 3, 2022



What We Have Done

Homelessness in Shawnee Roundtable

- Comprised of over 30 organizations working together to address homelessness



Sanitation

- Porta-potties, showers, laundry



Homeless Resource Center (HRC)

- Open 3 days a week and expanding
- Reduce visible homeless in downtown
- Designed to more effectively meet need





What We Have Done

Shawnee Homeless Outreach Program (SHOP)

- Meet people where they are and get them into the system



ESG-CV Grant

- Winding Down



Community Education

- Continuing to reach out and educate the community

What We Are Doing Now



Continuing and Expanding
Current programs

Interns and Volunteers

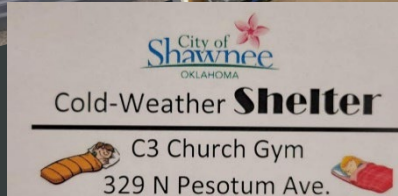


Community Outreach



What We Are Doing Now

**NO ONE SHOULD
FREEZE TO DEATH!**



Winter Weather Plan



Finding Funding

Where We Are Going

COMPONENTS OF AN EFFECTIVE HOUSING CRISIS Response System



Continuum of Care (CoC)

- Community plan for Homelessness
- Evidence-based method
- Increases funding capabilities

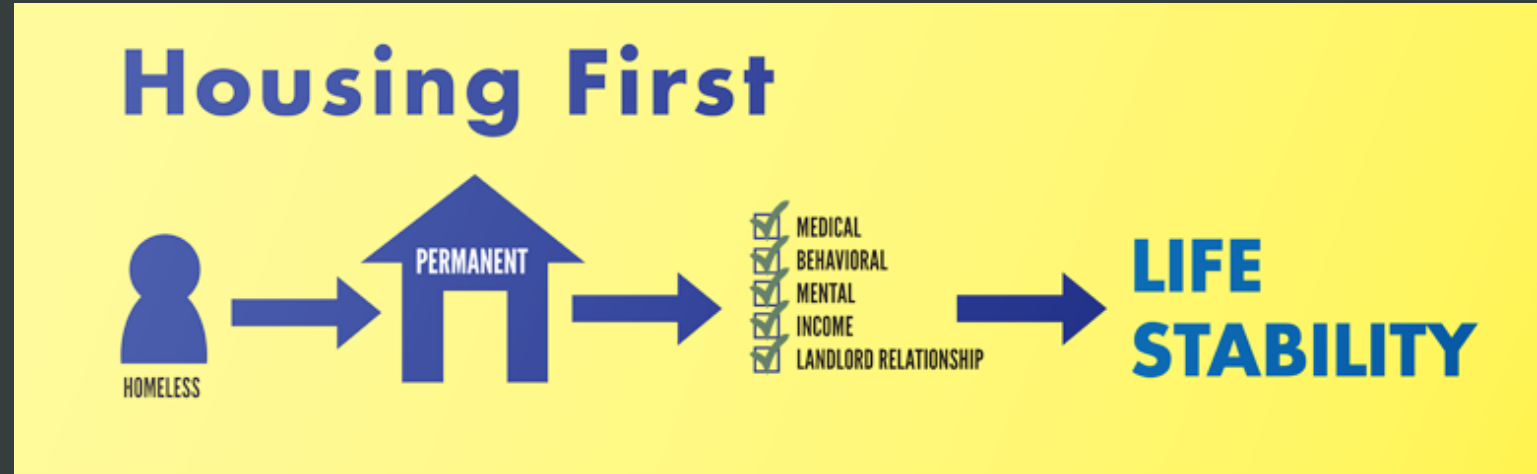
Built for Zero

- Aids in data collection and utilization
- Reduces numbers of individuals experiencing homelessness
- Goal is “Functional Zero”

Where We Are Going

Housing First

- Successful model
- People stabilize faster
- Positive effects last longer



City Codes & Community Safety

- Emergency Shelter
- Safe Parking
- Personal Storage
- Protection of Public Spaces

Housing and Shelter

Where We Are Going

Emergency Shelter

- Increase available shelter beds



Transitional Housing

- Quick intermediate step



Permanent Housing



Permanent Supportive Housing (PSH)

- Breaks cycle of homelessness for those who cannot make it on their own

City Commission Questions



Regular Board of Commissioners

10. b.

Meeting Date: 10/03/2022

Admin Report

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

State of the City – Andrea Weckmueller-Behringer, City Manager

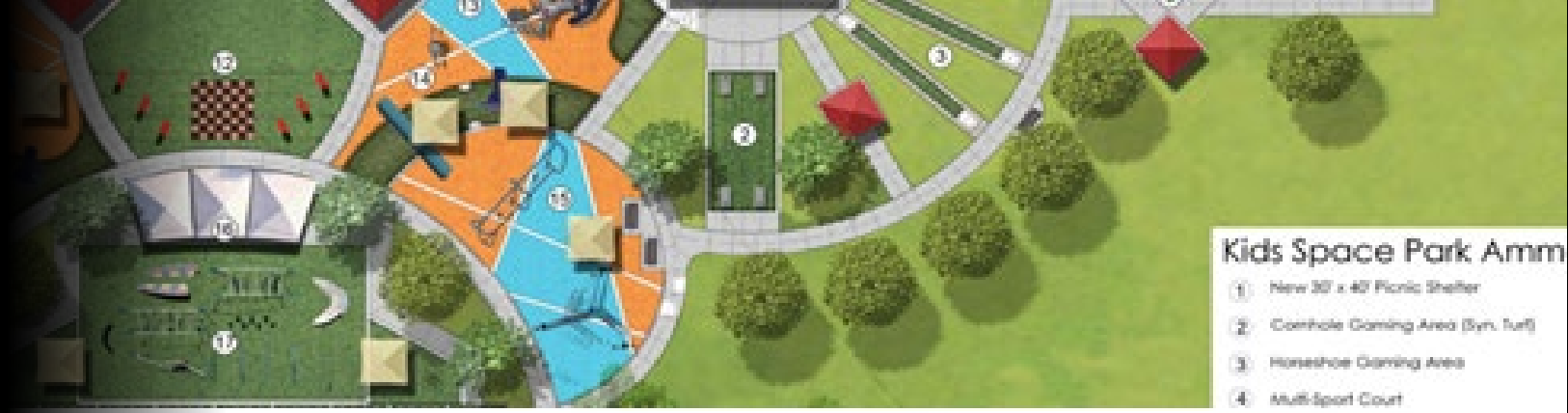
Attachments

Admin Report

State of the City Shawnee, OK

Andrea Weckmueller-Behringer
City Manager

October 3, 2022



A Time for Change



Great Things

...

within
grasping
distance

The Beginning

- Incorporated 10/18/1894 – ahead of Oklahoma Statehood in November 1907
- First Charter adopted 7/3/1908
- Commission-Manager form of government since 1930

Our Government

- 6 wards, each represented by a Commissioner
- One independently-elected Mayor
- 7-Member City Commission
 - Passes all ordinances
 - Appoints City Manager
 - Confirms Department Heads
- City Manager oversees daily operations

Full-Service Municipality

- 15 City Departments serve the Community with approx. 280 full-time employees

Airport

Budget and Finance

City Clerk

City Manager

Court

Emergency Management

Engineering

Fire

Human Resources

Information Technology

Parks & Recreation

Planning (Community Development)

Police, including Animal Welfare

Streets & Utilities

Tourism

plus... Heart of Oklahoma Expo



Our Successes and Challenges

City Infrastructure

City Growth

Community

Quality of Life

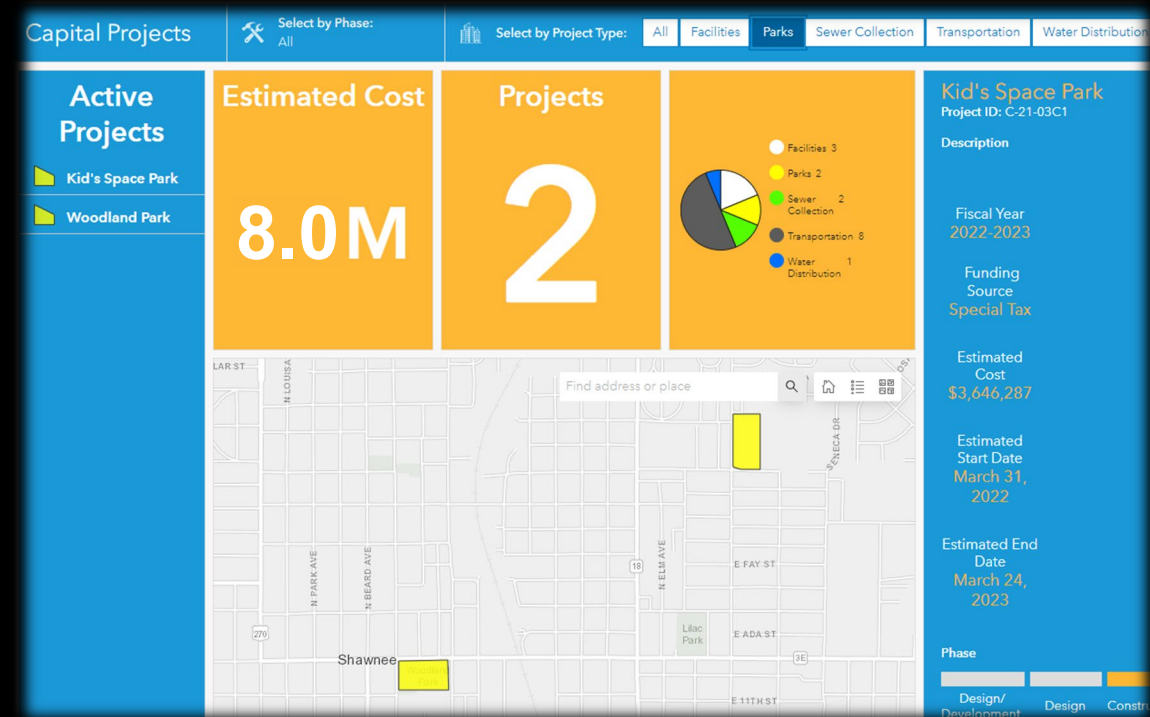
City Infrastructure

Physical Assets

- Streets: 565 lane miles
- Traffic: 42 traffic signals
- Sidewalks: 64 miles
- Trails: 6.7 miles
- 36 Parks (600+ acres)
- Shawnee Twin Lakes & Wes Watkins Reservoir
- 12,370 Water accounts
- 1 Water & 2 Wastewater Treatment Plants
- Water Mains: 241 miles
- Sanitary Sewer: 193 miles
- 3,617 Sanitary Manholes
- 14 Lift Stations
- City-owned Fleet & Equipment
- 54 Facilities, i.e. City Hall & historic Santa Fe Depot ...

Current & Near-term Projects

- 2018 Half-Cent Sales Tax Capital Improvement Projects
- Drinking Water State Revolving Fund Project (DWSRF)
- Clean Water State Revolving Fund Projects (CWSRF)
- American Rescue Plan Act Projects
- General Capital Projects



Utility Improvements & Long-Term Capital Needs

- Water and Wastewater Treatment complete plant updates

&

caring for aging water and wastewater infrastructure



Transportation Improvements & Long-Term Capital Needs

- Roadway and sidewalk projects &

improving
pavement
conditions
and gaps in
the sidewalk



Parks Improvements & Long-Term Capital Needs

- Two major park improvements



&



maintaining 610 acres of parkland
with limited funding

Facilities and Equipment & Long-Term Capital Needs

- Ongoing facility and equipment improvements



& maintaining older buildings and an aging fleet with limited funding

Long-Term Capital Needs Require More Funding



Recurring 40%

- Sales Tax
- Use Tax
- Service Charges
- Licenses & Permits
- Rental
- Interest

Periodic <5%

- Half-cent Sales Tax
- Tax Increment Financing
- Community Development Block Grant (CDBG)

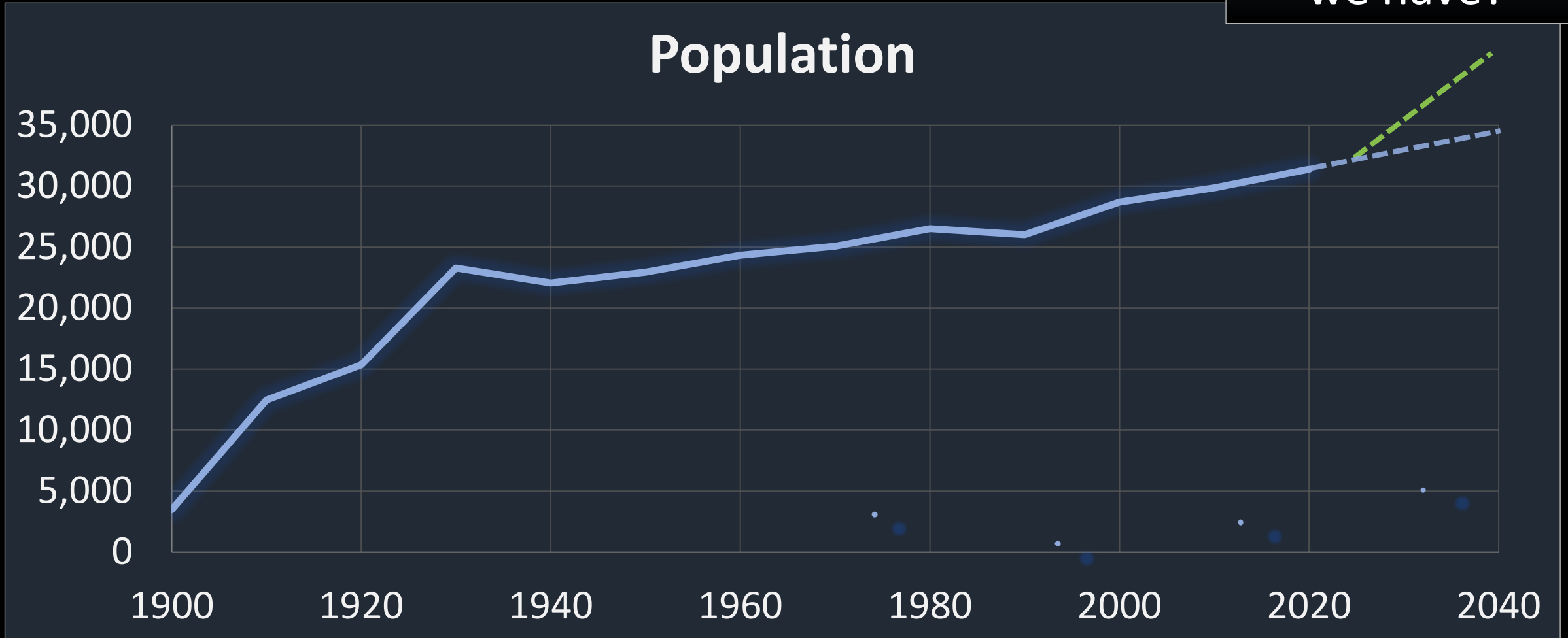
One-Time >55%

- Loans (OWRB)
- ARPA
- One-time Grants
- Unexpended Previous Year Funds
- Donations

City Growth

We are Growing

What growth
trajectory will
we have?



Easy Transportation Access

- 6-laning of I-40, turnpike extension, and vital growth

&

what we are
doing to be ready



SHAWNEE
SHAPING THE FUTURE
Unified Development Code

Home Planning 101 Documents Get Involved Team Contact Us



Shawnee Shaping the Future
Unified Development Code

Welcome to the City of Shawnee's Unified Development Code project website!
This site includes the latest updates about the process, resources and materials,
and opportunities to provide your input. Please check back periodically for
updated information.

Housing Stock

- Historic, turn-of-the century estates and craftsman style homes



&

issues of an aging housing stock and a general lack of housing



Community
Quality of Life

Community Quality of Life

- Safe parks and neighborhoods and an inviting Main Street

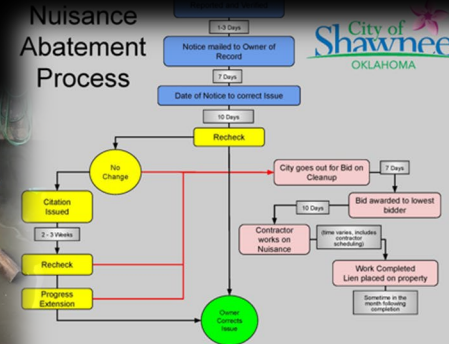
&

a discerning and
compassionate
homeless
mitigation
program

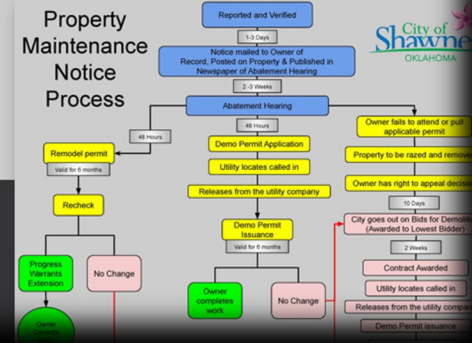


Community Quality of Life

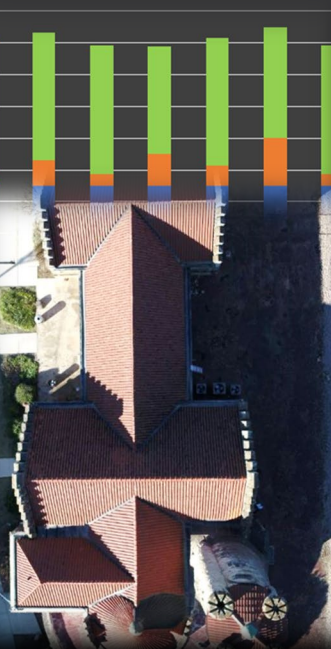
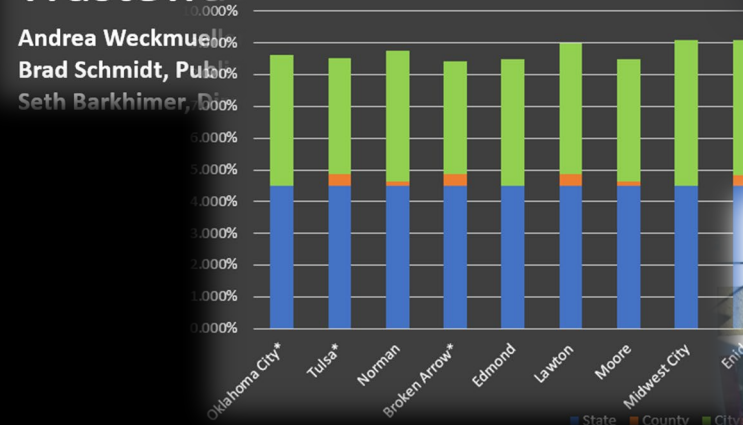
- Positive public engagement & increasing trust in government



Code Enforcement Process to obtain compliance



Wastewater Combined Sales Tax



Santa Fe Depot

Andrea Weckmueller-Behringer, City Manager
December 6, 2021

Community Quality of Life

- Nurturing Partnerships & bringing in outside resources



**CITIES OF
SERVICE**



**OKLAHOMA
AVEDIS**

**OKLAHOMA
Transportation**



FOUNDATION



OKLAHOMA

**Bloomberg Commerce
Philanthropies**



**Central Oklahoma
Regional Transportation Planning Organization**



**OKLAHOMA
Water Resources Board**

Community Quality of Life

- Honoring our past

&

envisioning our future



What's Next?

Toughest Challenges

Deferred Maintenance & Funding

Housing & Homeless

Engaging the Public

Strongest Assets

- Goal-Oriented City Commission
- Collaborative Community Partnerships
- Engaged Volunteers
- Competent Management Team
- Fresh Ideas that Await Implementation

City Top Priorities for 2023

New
Strategic Plan
2022 -2027

Improved Public
Relations

Asset
Management
and Capital
Improvements

Fiscal
Sustainability

Homelessness
Continuum of
Care

Unified
Development
Code

Lake Master Plan

Infill Housing
Palette

Let's Work Together
to Achieve Great Things!

