



Together, Investing in Municipal Excellence

CITY COUNCIL MEETING AGENDA

OCTOBER 7, 2024

723 S. Lewis Street, Room 1122 B

Stillwater, OK 74074

5:30 PM

Mayor Will Joyce, Vice Mayor Amy Dzialowski, Councilors Kevin Clark, Christie Hawkins,
& Tim Hardin

1. Call Meeting to Order
2. Pledge of Allegiance
3. Proclamations and Presentations

a.	Public Power Week
b.	Fire Prevention Week
c.	Stillwater Model Aviation Day

4. Consent Docket

Items listed on the consent docket are routine administrative matters that may be approved without discussion. The Council will take action on these items collectively with a single vote. The requested City Council action is indicated for each item listed. Should a Councilor elect to discuss, amend, revise, or table any item listed on the consent docket, the item will be moved to the section of the agenda titled "Items Removed from the Consent Docket" for consideration and possible action. Additionally, a Councilor or the City Manager may simply ask the Mayor to remove an item from the consent docket prior to action by the City Council and no action will be taken on the removed item at this meeting.

a.	Approve September 23, 2024 regular session meeting minutes	
b.	Approve budget amendment appropriating the remaining Coronavirus Local Fiscal Recovery Funds (ARPA Funds) to the Engineering Services for FY 2025 Water Projects	CC-24-116 David Barth
c.	Approve budget amendment for Stillwater Animal	C-24-117 Royce Stephens

	Welfare for donations, grants, rebates and stipends related to training and vaccination clinics.		
d.	Approve award of Bid #43-2024 to Lambert Construction in the amount of \$216,440 and approve related budget revision in the amount of \$238,084 to include a 10% contingency for the Couch Park Comfort Station; and authorize the City Manager to sign related documents.	CC-24-118	Barbara Bliss
e.	Approve the Encroachment Agreement and Release of Liability for 524 South Duncan Street and authorize the City Manager to execute the agreement.	CC-24-119	Jacquelyn Porter
f.	Approve budget amendment to appropriate Transportation Sales Tax funds for street maintenance materials for Public Works transportation asset management	CC-24-120	Mark White
g.	Approve budget amendments to reflect receipt and appropriation of insurance proceeds.		Christy Cluck

5. Public Comment on Items not Scheduled for Public Hearings

Stillwater City Code, Section 2-53(a) & (b), provides that taxpayers or residents of the city, or their authorized legal representatives, may address the Council at a regularly scheduled meeting on **any item of business listed on the meeting agenda** provided they have submitted a written request prior to the meeting either online at Request to speak form or via the form found in the lobby outside Council chambers.

6. Items Removed from the Consent Docket

Items removed from the consent docket are placed on this section of the agenda for discussion, revision, amendment and/or tabling prior to action by the City Council. The City Council may take action, including a vote or series of votes, on items removed to this section of the agenda after the requested discussion, revision or amendment.

7. Public Hearings

The Council will hear public comments, discuss, and take action including a vote or series of votes on each item listed as presented or as amended by the City Council unless the agenda entry specifically states that no action will be taken.

a.	First public hearing, pursuant to 62 O.S. § 859, and presentation of the proposed Stillwater Data Center Economic Development Project Plan and its supporting six (6) incentive districts for the purpose of providing information, including an analysis of potential positive or negative impacts, and answering questions regarding the proposed Project Plan and Incentive Districts.	Dan Batchelor , Lisa Harden
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8. General Orders

The City Council will hear a staff presentation, discuss, and take action including a vote or series of votes on each item listed as presented or as amended or revised by the City Council unless the agenda entry specifically states that no action will be taken. The requested action is indicated in each agenda entry but may be amended or revised prior to action by the City Council.

a.	Presentation of Lead and Copper Rule Water Service Line Inventory (No action will be taken on this item)	CC-24-121	David Barth
b.	Approve a Professional Services Agreement (PSA) with CEC Corporation for \$722,700 (includes \$664,510 for roadway and \$58,190 for waterlines); authorize the City Manager to sign the related documents; and authorize a budget amendment in the amount of \$433,510 from Transportation Sales Tax Fund.	CC-24-122	Travis Small
c.	An update on the Stillwater Animal Welfare (SAW) project and approve a Professional Services Agreement with Barrett L. Williamson Architects, Inc. for a fee of \$93,958 related to Phase 1 Work for planning and schematic design, 3D rendering and budget development for GO Bond support for the proposed Stillwater Animal Welfare Facility; authorize the City Manager to sign related documents; and approve the associated budget amendment for \$103,354 which includes PSA Phase 1 Work and contingency.	CC-24-123	Candy Staring

9. Resolutions

The City Council will hear a staff presentation, discuss, and take action including a vote or series of votes on each resolution listed as presented or as amended or revised by the City Council.

a.	RESOLUTION NO. CC-2024-30 A RESOLUTION OF THE STILLWATER CITY COUNCIL ADOPTING THE STILLWATER REGIONAL AIRPORT COMMUNITY PARTICIPATION PLAN AS REQUIRED BY THE FEDERAL AVIATION ADMINISTRATION (FAA) FOR RECIPIENTS OF FEDERAL FINANCIAL ASSISTANCE
b.	RESOLUTION NO. CC-2024-31: A RESOLUTION STATING THE CITY OF STILLWATER'S INTENT TO REIMBURSE PROJECT EXPENSES AS REQUIRED BY SECTION 1.150-2 OF THE TREASURY REGULATIONS.
c.	RESOLUTION NO. CC-2024-32: A RESOLUTION ACCEPTING BENEFICIAL INTEREST IN AN AMENDED TRUST INDENTURE CREATING AND RECREATING THE STILLWATER UTILITIES AUTHORITY; AND CONTAINING OTHER PROVISIONS RELATING THERETO.

d.	RESOLUTION NO. CC-2024-33: A RESOLUTION OF THE CITY OF STILLWATER, OKLAHOMA (THE "CITY") APPROVING THE INCURRENCE OF INDEBTEDNESS BY THE STILLWATER UTILITIES AUTHORITY (THE "AUTHORITY") ISSUING ITS UTILITY SYSTEM AND SALES TAX REVENUE BONDS (THE "BONDS") IN ONE OR MORE SERIES FOR THE PURPOSE OF REFUNDING CERTAIN OBLIGATIONS OF THE AUTHORITY; PROVIDING THAT THE ORGANIZATIONAL DOCUMENT CREATING THE AUTHORITY IS SUBJECT TO THE PROVISIONS OF THE BOND INDENTURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING THE SALE OF SAID BONDS BY THE AUTHORITY AT NEGOTIATED SALE AND AT A PRICE LESS THAN PAR; RATIFYING AND CONFIRMING A LEASE AGREEMENT, AS AMENDED, PERTAINING TO THE LEASING OF THE CITY'S WATER, SANITARY SEWER, SOLID WASTE, AND ELECTRIC SYSTEMS TO THE AUTHORITY, AND AUTHORIZING AN AMENDED LEASE AGREEMENT AND OPERATION AND MAINTENANCE CONTRACT; APPROVING AND AUTHORIZING EXECUTION OF A SALES TAX AGREEMENT BY AND BETWEEN THE CITY AND THE AUTHORITY PERTAINING TO A YEAR-TO-YEAR PLEDGE OF CERTAIN SALES TAX REVENUE; APPROVING THE FORMS OF A CONTINUING DISCLOSURE AGREEMENT AND AN OFFICIAL STATEMENT; AND CONTAINING OTHER PROVISIONS RELATING THERETO.
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10. Ordinances

The City Council will hear a staff presentation, discuss, and take action including a vote or series of votes on each ordinance listed as presented or as amended or revised by the City Council.

First Read

a.	ORDINANCE NO. 3546: AN ORDINANCE APPROVING AND ADOPTING THE STILLWATER DATA CENTER ECONOMIC DEVELOPMENT PROJECT PLAN AND SUPPORTING INCENTIVE DISTRICTS, PURSUANT TO THE OKLAHOMA LOCAL DEVELOPMENT ACT; IDENTIFYING AND ESTABLISHING SIX INCENTIVE DISTRICTS; DESIGNATING AND ADOPTING PROJECT AREA AND INCENTIVE DISTRICT BOUNDARIES; DEFERRING THE NUMERICAL DESIGNATIONS AND EFFECTIVE DATES FOR THE INCENTIVE DISTRICTS; ADOPTING CERTAIN FINDINGS; AUTHORIZING THE CITY OF STILLWATER AND THE STILLWATER ECONOMIC DEVELOPMENT AUTHORITY TO CARRY OUT AND ADMINISTER THE PROJECT PLAN; RATIFYING AND CONFIRMING THE ACTIONS, RECOMMENDATIONS AND FINDINGS OF THE REVIEW COMMITTEE AND THE STILLWATER PLANNING COMMISSION; APPROVING AND ADOPTING A TAX INCENTIVE AGREEMENT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY
b.	ORDINANCE NO. 3547: AN ORDINANCE AUTHORIZING THE RESTATEMENT OF THE LEASE AGREEMENT AND OPERATION AND MAINTENANCE CONTRACT DATED APRIL 1, 1979, AS HERETOFORE AMENDED, INCLUDING THE EXTENSION OF THE LEASE TERM; PROVIDING FOR CITIZEN INITIATED REFERENDUM OF SAID LEASE AGREEMENT IN ACCORDANCE WITH SECTION 4- 2 OF THE CITY CHARTER.

Second Read

a.	ORDINANCE NO. 3545: AN ORDINANCE AMENDING THE STILLWATER CITY CODE BY AMENDING CHAPTER 20, FIRE PREVENTION AND PROTECTION, ARTICLE II, FIRE DEPARTMENT, BY AMENDING SECTION 20-30, FIRE SERVICE FEES BY DESIGNATING HOW FUNDS COLLECTED ARE TO BE USED AND BY INCREASING THE RURAL FIRE SERVICES CONTRACT ANNUAL FEE; REPEALING ALL ORDINANCES TO THE CONTRARY; AND PROVIDING FOR SEVERABILITY.
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11. Reports from Officers and Boards

Announcements and remarks of general interest may be made by Councilors, City Manager or City Attorney. Items of City business that may require discussion or action including a vote or series of votes are listed below.

a.	Miscellaneous items from the City Attorney
b.	Miscellaneous items from the City Manager
c.	Miscellaneous items from the City Council
i.	Announcement of November 4, 2024, as the date of the Second Public Hearing and presentation of the Stillwater Data Center Economic Development Project Plan, at which time any interested persons shall have the opportunity to be heard in support of or opposition to the proposed Project Plan prior to any action with regard to adoption of the proposed Project Plan.

12. Questions and Inquiries

13. Adjourn

On October 4, 2024 at 11:50 a.m., a true and correct copy of this agenda was posted on the kiosk outside City Hall, 723 S. Lewis Street, Stillwater, OK.

The City of Stillwater encourages participation from all citizens. If participation at any public meeting is not possible due to a disability, please notify the City Manager's office at least 48 hours prior to the meeting by calling 405.742.8243.

- Meetings are televised on AT&T U-verse channel 99 and Optimum channel 14.
- Find meeting agendas and minutes online at [Agendas and Minutes](#)
- Official minutes are archived in the City Clerk's office.



Stillwater Public Power Week, October 6-12, 2024

WHEREAS, the residents of Stillwater, Oklahoma, place value on local control of community services and have chosen to operate a community-owned electric utility; and, as customers and owners of this electric utility have a voice in utility operations and policies; and

WHEREAS, Stillwater Electric Utility provides homes, businesses, social service, healthcare, and local government agencies with reliable, efficient, and cost-effective electricity employing sound business practices designed to ensure the best possible service at competitive rates; and

WHEREAS, Stillwater Electric Utility is a valuable community asset that contributes to the well-being of local residents through financial support of the general government, including public safety, transportation, parks, library, and recreation; and

WHEREAS, Stillwater Electric Utility is a dependable and trustworthy institution whose local operation provides many consumer protections and continues to make the community a better place to live and work, and contributes to protecting the global environment; and

WHEREAS, Stillwater Electric Utility will continue to work to bring low cost, safe, reliable electricity to community homes and businesses just as it has since 1901 when the utility was created to serve all Stillwater residents; and

WHEREAS, the Stillwater community joins with more than 2,000 other public power systems in the United States in celebration of public power; and

NOW, THEREFORE, I, William H. Joyce, Mayor of Stillwater, Oklahoma, do hereby proclaim the week of October 6-12, 2024, as Public Power Week to recognize Stillwater Electric Utility for its contributions to the community and the benefits of public power.

WILLIAM H. JOYCE, MAYOR

ATTEST:

TERESA KADAVY, CITY CLERK



Stillwater Fire Prevention Week, October 6-12, 2024

WHEREAS, the City of Stillwater is committed to ensuring the safety and security of all residents and visitors; and

WHEREAS, fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk; and

WHEREAS, home fires caused 3,790 civilian deaths in the United States in 2022, according to the U.S. Fire Administration latest statistics; and

WHEREAS, residents who have planned and practiced a home fire escape plan are more prepared and will therefore be more likely to survive a fire; and

WHEREAS, Stillwater residents should make sure their smoke and carbon monoxide (CO) alarms meet the needs of all their family members, including those with sensory or physical disabilities; and

WHEREAS, Stillwater first responders are dedicated to reducing the occurrence of home fires and home fire injuries through prevention and protection education; and

WHEREAS, the 2024 Fire Prevention Week™, serves to remind residents it is important to have a home fire escape plan.

NOW, THEREFORE, I, William H. Joyce, Mayor of Stillwater, Oklahoma, do hereby proclaim the week of October 6-12, 2024, as Fire Prevention Week and I urge all the people of Stillwater to plan and practice a home fire escape and support public safety activities of Stillwater Fire and emergency services.

WILLIAM H. JOYCE, MAYOR

ATTEST:

TERESA KADAVY, CITY CLERK



WHEREAS, radio-controlled model aviation has been studied and utilized for more than 80 years; and

WHEREAS, radio-controlled model aviation is an educational and enjoyable activity for all ages; and

WHEREAS, model aviation is a Science, Technology, Engineering, and Math (STEM) initiative to teach mechanical design, aerodynamics, engineering, and electronics; and

WHEREAS, the Stillwater Radio Control Flyers is a chartered association of the national organization for model aviation Academy of Model Aeronautics, and has been established in Stillwater for more than 50 years; and

WHEREAS, the organization promotes educational growth and community involvement and will host their annual Stillwater Model Aviation Day for attendees to learn more about the organization and STEM initiative on Saturday, October 12, 2024, at the Oklahoma State University Unmanned Aircraft Flight Station, 4015 N Clay Road.

NOW, THEREFORE, I, William H. Joyce, Mayor of Stillwater, Oklahoma, do hereby proclaim Saturday, October 12, 2024, as Model Aviation Day in Stillwater.

WILLIAM H. JOYCE, MAYOR

ATTEST:

TERESA KADAVY, CITY CLERK

IN ACCORDANCE WITH THE OKLAHOMA OPEN MEETING LAW
THE AGENDA WAS POSTED SEPTEMBER 19, 2024 AT 4:30 P.M.
AT THE MUNICIPAL BUILDING, 723 SOUTH LEWIS, STILLWATER, OKLAHOMA

MINUTES
STILLWATER CITY COUNCIL
REGULAR MEETING
COUNCIL HEARING ROOM
723 S. LEWIS
SEPTEMBER 23, 2024

PRESENT: MAYOR WILLIAM H. JOYCE, VICE MAYOR AMY DZIALOWSKI,
COUNCILORS CHRISTIE HAWKINS AND TIM HARDIN
ABSENT: COUNCILOR KEVIN CLARK

1. CALL MEETING TO ORDER

Mayor Joyce called the meeting to order at 5:30 p.m.

2. PLEDGE OF ALLEGIANCE

The Stillwater City Council led the audience in the Pledge of Allegiance.

3. CONSENT DOCKET

- a. Approve September 9, 2024 regular and executive session meeting minutes
- b. Approve and execute Concurrence Letter for school speed zone modifications in the vicinity of Highland Park Elementary
- c. Approve Professional Services Agreement with Meshek & Associates, LLC for engineering, planning, grant management and GIS services required to review and update the City of Stillwater's Hazard Mitigation Plan.
- d. Approve Amendment #2 with Meshek & Associates for expanded Stormwater CIP to cover all areas in City Limits; approve associated budget amendment and authorize the City Manager to sign related documents.
- e. Approve budget amendments reflecting receipt and appropriation of \$23,363 in donations to the Stillwater Public Library

MOTION BY COUNCILOR HARDIN, SECOND BY COUNCILOR HAWKINS TO APPROVE THE CONSENT DOCKET AS PRESENTED.

ROLL CALL VOTE: JOYCE-YEA, DZIALOWSKI-YEA, HAWKINS-YEA, HARDIN-YEA.
NAY-NONE. MOTION CARRIED WITH FOUR YEA VOTES.

4. PUBLIC COMMENT ON AGENDA ITEMS NOT SCHEDULED FOR PUBLIC HEARING

There were no requests to speak on agenda items not scheduled for public hearing.

5. ITEMS REMOVED FROM CONSENT DOCKET

None.

6. GENERAL ORDERS

- a. An update from the Parks & Community Resources Director to provide a report on the Arrowhead Park survey, implementation of site and neighborhood surveys, and communication related to opportunities for community involvement in the city parks discussion

Parks & Community Resources Director Barbara Bliss stated that she was going to give an update on what has been happening in the Parks & Community Resources Department. She reported that staff met with Vice Mayor Dzialowski and Councilor Clark and a Park Study Session was held on August 26 and was attended by City Councilors and residents. She reported that at this meeting discussion was held about researching legalities and appraisals regarding sale of park land. Ms. Bliss reported that no park land can be sold without approval of City Council and sale of land is a possibility to reinvest back into the parks. She stated that Sunset Park is an area under consideration. The tennis courts at this park need major repair and it would be a huge project to repair those courts. Staff believes that if this land could be sold then reinvested into the parks by building some additional tennis courts and pickleball courts at Couch Park. The Arrowhead Park survey has been completed with 81 responses received and the overwhelming comments identified a need for shaded picnic tables, benches and open green space for activities and dog play. Ms. Bliss presented shade structures and other amenities that could be placed at Arrowhead Park depending on the budget. Surveys are being conducted for four other neighborhood parks, but the next focus will be on Myers Park. The playground and artificial turf at this park must be replaced and just the turf will cost approximately \$35,000. Public input will help decide what amenities will be placed in Myers Park. Ms. Bliss stated that volunteers to help in the parks are very welcome and appreciated so anyone interested in helping to please contact her. Ms. Bliss reported that there will be a community meeting on January 9, 2025, at the Community Center to discuss the "Vision Plan" for the parks and facilities. This meeting will be an opportunity for the citizens to express what they would like to see in the City parks.

Vice Mayor Dzialowski thanked staff for the survey approach to the neighborhood parks giving the residents that live close to those park spaces a chance to provide feedback. She reminded staff to keep the bigger vision in mind so there will be a comprehensive park system for the community. Vice Mayor stated it was discussed that the City start to build an identity in the community with the park spaces by using some consistency with design perspectives, signage or other features.

Discussion was held amongst Council and Ms. Bliss answered their questions.

No action was taken on this item.

7. RESOLUTIONS

- a. Resolution No. CC-2024-28: A resolution authorizing the City of Stillwater to submit a grant application for the FEMA Hazard Mitigation Grant Program (HMGP) administered by the Oklahoma Department of Emergency Management and FEMA for the purpose of assisting in implementation of Long-Term Hazard Mitigation Planning; authorizing Meshek & Associates, LLC to submit the grant application on behalf of the City of Stillwater in connection with its grant administration services; approving the associated budget amendment; and authorizing the Mayor or Vice-Mayor to sign grant application documents

City Attorney Kimberly Carnley presented Resolution No. CC-2024-28.

MOTION BY VICE MAYOR DZIALOWSKI, SECOND BY COUNCILOR HAWKINS TO ADOPT RESOLUTION NO. CC-2024-28 AS PRESENTED.

ROLL CALL VOTE: JOYCE-YEA, DZIALOWSKI-YEA, HAWKINS-YEA, HARDIN-YEA.
NAY-NONE. MOTION CARRIED WITH FOUR YEA VOTES.

- b. Resolution CC-2024-29: A resolution adopting a revised rate schedule for Fire Service Fees pursuant to the Stillwater City Code Chapter 20, Fire Prevention and Protection, Article II, Fire Department, Section 20-30, Fire Service Fees.

City Attorney Kimberly Carnley reported that Exhibit A with Resolution CC-2024-29 has been revised to include the minimum run charge in the amount of \$500.

Fire Chief Terry Essary reported that the Stillwater Fire Department (SFD) offers a rural fire service contract for customers within the response district that are located outside the corporate city limits. The current annual fee for the contract is \$100. The contract sets a maximum charge of \$2,000 per incident and a minimum charge of \$500 per incident. The program also establishes hourly rates for apparatus and personnel. Chief Essary stated that the contract fee and hourly rates were established in 2008 and have not been adjusted since that time.

Chief Essary reported that the Stillwater Fire Department hired NewGen Strategies and Solutions to conduct an independent review of the rural fire contract fee and hourly rates for apparatus and personnel. Dave Yanke, with NewGen Strategies and Solutions presented his findings and recommendations to the City Council on February 26, 2024. According to NewGen's findings, SFD is recovering approximately 40% of current personnel costs and 56% of apparatus costs. Chief Essary stated that after an in-depth analysis of NewGen's report and recommendations, staff recommends increasing the annual contract fee to \$200 and updating hourly rates for personnel and equipment. These increases will enable the SFD to recover a reasonable amount of costs for providing fire protection in the rural fire districts. Chief Essary reported that the new yearly contract rate of \$200 would be effective January 1, 2025.

Chief Essary answered Council's questions.

City Attorney Kimberly Carnley clarified that the resolution will adopt the revised rate schedule for fire service fees effective January 1, 2025. The rural fire contract fee of \$200 is set by ordinance which will be considered under First Read Ordinance No. 3545 this evening.

MOTION BY COUNCILOR HAWKINS, SECOND BY VICE MAYOR DZIALOWSKI TO ADOPT RESOLUTION NO. CC-2024-29 AS PRESENTED.

ROLL CALL VOTE: JOYCE-YEA, DZIALOWSKI-YEA, HAWKINS-YEA, HARDIN-YEA.
NAY-NONE. MOTION CARRIED WITH FOUR YEA VOTES.

8. ORDINANCES

a. First Reading

Ordinance No. 3545: An ordinance amending the Stillwater City Code by amending Chapter 20, Fire Prevention and Protection, Article II, Fire Department, by amending Section 20-30, Fire Service Fees by designating how funds collected are to be used and by increasing the Rural Fire Services Contract Annual Fee; repealing all ordinances to the contrary; and providing for severability.

MOTION BY VICE MAYOR DZIALOWSKI, SECOND BY COUNCILOR HARDIN TO ADVANCE ORDINANCE NO. 3545 TO SECOND READ AS PRESENTED.

ROLL CALL VOTE: JOYCE-YEA, DZIALOWSKI-YEA, HAWKINS-YEA, HARDIN-YEA.
NAY-NONE. MOTION CARRIED WITH FOUR YEA VOTES.

9. REPORTS FROM OFFICERS & BOARDS

- a. Miscellaneous items from the City Attorney: None.
- b. Miscellaneous items from the City Manager:
 - Deputy City Manager Brady Moore announced that the City is developing the Envision Stillwater 2045 Comprehensive Plan. This document will be utilized as a blueprint to determine housing, economic development, work force, and much more. Please complete the brief survey to contribute your ideas about housing type options, property values, affordability of housing, jobs, where money should be invested, and much more. To access the online survey and other information go to envisionstillwater2045.com. The survey is also available in hard copy at the public library.
- c. Miscellaneous items from the City Council:
 - Councilor Hardin informed residents that there is better way to park for Oklahoma State Football games. OSU Athletics, City of Stillwater, and Visit Stillwater have teamed up to offer free parking, shuttle service, and more. Park downtown and utilize the Park and Ride Shuttle Service. It begins three hours before the game and runs every 30 minutes. The pick-up and drop-off location is at 7th Avenue and Lewis Street. Also, check out visitstillwater.org for a gameday guide.
 - Councilor Hawkins announced that on Saturday, October 19th, the City's Watershed Quality Department will have its bi-annual "Household Hazardous Waste Collection" event. The event will be from 8 a.m. to 1 p.m. at the Convenience Collection Center located at 807 S. Perkins Road. During this event, residents are encouraged to drop off any household pollutants for free. Accepted items include oil-based paints, pesticides, herbicides, household cleaning products, pool chemicals, unused pharmaceuticals, and more. The Convenience Collection Center will still accept regular trash and recycling that day. However, trailers and commercial waste are not allowed. Yard waste will be accepted after 1 p.m.
 - Vice Mayor Dzialowski announced that the City is accepting applications for various committees including the Stillwater Reinvestment Plan Implementation Policy Committee, also known as the Downtown TIF #3. Committees are essential for increased development and infrastructure projects within our community. If anyone would like to get involved in their local government and help make Stillwater even greater, please consider serving on one or more of these committees.
 - Mayor Joyce informed residents that the Stillwater Police Department has responded to multiple car burglaries in the last few months. It is important to remember that car theft is a crime of convenience. Citizens can make small changes to protect their vehicles. Please remember to lock your vehicle and take your key fobs with you, park in a well-lit area, do not leave valuables in your car, never leave a gun in your car and always keep your car locked.
 - Mayor Joyce informed residents that the Public Hearings for the Data Center Project Plan, originally scheduled for September 23, 2024, and October 7, 2024, have been removed from the agendas. Due to an error in publishing the project plan area map in the public notice, new notices will be published for two upcoming public hearings, now scheduled for October 7, 2024, and November 4, 2024. We appreciate your understanding and welcome your continued participation in these proceedings.
 - Mayor Joyce expressed condolences to the Larry Jones family on the passing of Kayo Jones and commented on the great contributions Kayo and Larry both made to the City of Stillwater and the Kameoka Sister Cities program.

- i. Discussion about scheduling items for future meetings.

10. QUESTIONS & INQUIRIES

None.

11. ADJOURN

MOTION BY COUNCILOR HARDIN, SECOND BY COUNCILOR HAWKINS TO ADJOURN THE SEPTEMBER 23, 2024 REGULAR MEETING OF THE STILLWATER CITY COUNCIL.

ROLL CALL VOTE: JOYCE-YEA, DZIALOWSKI-YEA, HAWKINS-YEA, HARDIN-YEA. NAY-NONE. MOTION CARRIED WITH FOUR YEA VOTES.

The September 23, 2024 regular meeting of the Stillwater City Council adjourned at 6:07 p.m.

**WILLIAM H. JOYCE, MAYOR
STILLWATER CITY COUNCIL**

**TERESA KADAVY
CITY CLERK**

REPORT TO: CITY COUNCIL

MEETING DATE: OCTOBER 7, 2024



Agenda Item:	4.b. CC-24-116
Previous/Related Action:	CC 22-37; ARPA Funds CC 24-54; Task Order Agreement with Black and Veatch for Engineering Services for FY25 Water and Sewer Capital Projects
Background/Issue:	On April 4, 2022, the City Council adopted Resolution No. CC-2022-8 which authorized the acceptance of ARPA funds. The ARPA funds must be encumbered by December 31, 2024 and expended by December 31, 2026. Currently, there is \$1,026,735 remaining to be encumbered by the end of 2024. On September 23, 2024, SUA Trustees authorized a Task Order Agreement with Black and Veatch to provide engineering services for the FY25 Water and Sewer Capital Program. For this Program, a budget amendment was approved appropriating funds for Task Orders 1 and 2 from the Water Fund. Task Order 2 (TO2), totaling \$1,658,431, includes design of improvements to water storage tanks and the water treatment plant. Utilizing the remaining ARPA funds to fund a portion of TO2 is in the best interest of the City.
Proposal/Solution:	Staff has prepared a budget amendment allocating the funding for a portion of TO2 from the remaining ARPA funds. An equal amount will be returned to the Water Fund with a budget amendment to be considered during the SUA meeting.
Financial Source/Impact:	There is no new appropriation with this request.
Related Strategic Priority:	#1 EFFECTIVE SERVICES & ACCOUNTABLE GOVERNMENT
Recommended Action/Motion:	Approve budget amendment appropriating the remaining Coronavirus Local Fiscal Recovery Funds (ARPA Funds) to the Engineering Services for FY2025 Water Projects.
Prepared By:	David Barth, Engineering Manager of Water Utilities
Reviewed By:	Candy Staring Brady Moore Teresa Kadavy
Submitted By:	Kimberly Meek, City Manager

Attachments

1. CC ARPA BA David

Budget Amendment Request
For Budget Year 2025

Department of Finance
723 S. Lewis Street/P.O. Box 1449
Stillwater, OK 74076-1449

Office: 405.372.0025
Web: stillwater.org

Date: 09/27/2024

Department: Water Resources

Requested by: Candy Staring

Explanation:

Expenditures:
Appropriate funds for Task Order Agreement with Black and Veatch for Engineering Services for year 1 Water Capital Projects and Execution Plan and correct previously approved budget amendments to show partial funding from ARPA Grant Funds. See related budget amendment on 10/7/2024 SUA agenda.

	Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:	CIP-Engineering and Execution Plan	1809216 - 54009	25WL03180	\$ 0	\$ 1,026,735	\$ 1,026,735
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0
Decrease:	Lagoon Dredging	1809216 - 54009	23WT07180	\$ 1,344,938	(\$ 12,800)	\$ 1,332,138
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0

Net Change: (will usually result in a total increase or decrease)

\$ 1,013,935

Reviewed by Department Manager: _____

Date: _____

Reviewed by Finance: Cheryl Cluck

Date: 9-30-24

Approved by CMO: _____

Date: _____

Approved by City Council: ☐ Yes ☐ No

Date: _____

Processed by Finance: _____

Date: _____

Set ID: _____

Date Sent to SA&I: _____

--Print on Yellow Paper--

REPORT TO: CITY COUNCIL

MEETING DATE: OCTOBER 7, 2024



Agenda Item:	4.c. C-24-117
Previous/Related Action:	None
Background/Issue:	The Stillwater Animal Welfare (SAW) receives numerous small donations, grants and rebates throughout the year based on various conferences and clinics they participate in as well as purchases they make in conjunction with their mission. Recently they received an \$86.00 rebate from their pharmaceutical purchases, \$331.00 in citizen donations for community vaccine clinics, a \$1,000 one-time grant pursuant to their attendance at the National Animal Welfare Best Friends Conference and a \$500 travel stipend donation from the Best Friends Animal Society.
Proposal/Solution:	SPD is requesting the \$86.00 be transferred from the Miscellaneous Revenue account to the SAW Medication account, the \$331.00 be transferred from the Vaccine Clinic Donation account to the Vaccine Clinic Project, the \$1,000 transferred from the Grant account to the Professional Services Project for a Tag, Neuter and Release feral cat program and the \$500 be transferred from the Miscellaneous Revenue account to the Travel account.
Financial Source/Impact:	There is no financial impact as these funds are coming from outside reimbursements, grants and donations, to replenish and extend accounts and projects.
Related Strategic Priority:	#1 EFFECTIVE SERVICES & ACCOUNTABLE GOVERNMENT
Recommended Action/Motion:	Approve budget amendment for Stillwater Animal Welfare for donations, grants, rebates and stipends related to training and vaccination clinics.
Prepared By:	Royce Stephens, Acting Chief of Police
Reviewed By:	Shannon Jordan Teresa Kadavy
Submitted By:	Kimberly Meek, City Manager

Attachments

1. AW Budget Amendments for 10-7-2024 meeting

Budget Amendment Request
 For Budget Year 2025

Department of Finance
 723 S. Lewis Street/P.O. Box 1449
 Stillwater, OK 74076-1449
 Office: 405.372.0025
 Web: stillwater.org

Date: 07/18/2024

Department: Police

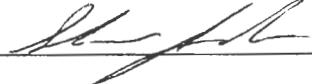
Requested by: Shannon Jordan

Explanation: Expenditure:
 Appropriate funds for donations, grant and rebates received during first quarter.

	Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:	Medication	1016027 - 52033		\$ 37.896	\$ 86	\$ 37,982
	Vaccine Clinick	1016027 - 52033	23PD03101	\$ 4.896	\$ 331	\$ 5,227
	Best Friends Animal Society Grant	1016027 - 53069	25PD01101	\$ 0	\$ 1,000	\$ 1,000
		-				\$ 0
		-				\$ 0
Decrease:		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0

Net Change: (will usually result in a total increase or decrease)

\$ 1,417

Reviewed by Department Manager: 

Date: 09-26-24

Reviewed by Finance: _____

Date: _____

Approved by CMO: _____

Date: _____

Approved by City Council: ☐ Yes ☐ No

Date: _____

Processed by Finance: _____

Date: _____

Set ID: _____

Date Sent to SA&I: _____

--Print on Yellow Paper--



Budget Amendment Request

For Budget Year 2025

Department of Finance
723 S. Lewis Street/P.O. Box 1449
Stillwater, OK 74076-1449

Office: 405.372.0025
Web: stillwater.org

Date: 09/25/2024

Department: Police

Requested by: Shannon Jordan

Explanation: Revenue:
Increase revenue projections for donations, grant and rebates received during first quarter.

Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:					
Misc Revenue	1016027 - 48700		\$ 0	\$ 86	\$ 86
Vaccine Clinic Donation	1016027 - 48701	23PD03101	\$ 0	\$ 331	\$ 331
Best Friends Animal Society Grant	1016027 - 43000	25PD01101	\$ 0	\$ 1,000	\$ 1,000
	-				\$ 0
	-				\$ 0
Decrease:					
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0

Net Change: (will usually result in a total increase or decrease)

\$ 1,417

Reviewed by Department Manager: [Signature]

Date: 09.26.24

Reviewed by Finance: _____

Date: _____

Approved by CMO: _____

Date: _____

Approved by City Council: ☐ Yes ☐ No

Date: _____

Processed by Finance: _____

Date: _____

Set ID: _____

Date Sent to SA&I: _____

--Print on Yellow Paper--

Budget Amendment Request
For Budget Year 2025

Department of Finance
723 S. Lewis Street/P.O. Box 1449
Stillwater, OK 74076-1449

Office: 405.372.0025
Web: stillwater.org

Date: 07/18/2024

Department: Police

Requested by: Shannon Jordan

Explanation: Revenue:
Increase revenue projections for travel stipend from Best Friends Animal Society to attend national conference.

	Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:	Misc Revenue	1016027 - 48700		\$ 0	\$ 500	\$ 500
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0
Decrease:		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0

Net Change: (will usually result in a total increase or decrease)

\$ 500

Reviewed by Department Manager: [Signature]

Date: 09-26-24

Reviewed by Finance: _____

Date: _____

Approved by CMO: _____

Date: _____

Approved by City Council: ☐ Yes ☐ No

Date: _____

Processed by Finance: _____

Date: _____

Set ID: _____

Date Sent to SA&I: _____

--Print on Yellow Paper--

Budget Amendment Request

For Budget Year 2025

Department of Finance
 723 S. Lewis Street/P.O. Box 1449
 Stillwater, OK 74076-1449

Office: 405.372.0025
 Web: stillwater.org

Date: 07/18/2024

Department: Police

Requested by: Shannon Jordan

Explanation: Expenditure:
 Appropriate funds to attend Best Friends National Conference. Funding is from a travel stipend received from the Best Friends Animal Society.

	Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:	Travel	1016027 - 53068		\$ 3,500	\$ 500	\$ 4,000
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0
Decrease:		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0

Net Change: (will usually result in a total increase or decrease)

\$ 500

Reviewed by Department Manager: 

Date: 09-26-24

Reviewed by Finance: _____

Date: _____

Approved by CMO: _____

Date: _____

Approved by City Council: ☐ Yes ☐ No

Date: _____

Processed by Finance: _____

Date: _____

Set ID: _____

Date Sent to SA&I: _____

--Print on Yellow Paper--

REPORT TO: CITY COUNCIL

MEETING DATE: OCTOBER 7, 2024



Agenda Item:	4.d. CC-24-118
Previous/Related Action:	Previous bids for the Couch Park bathroom were rejected due to exceeding the budgeted amount.
Background/Issue:	Couch Park has been without a permanent bathroom for approximately two years and is currently being serviced by portable toilets.
Proposal/Solution:	A down-scaled version of a permanent structure was rebid and four companies responded with bids ranging from \$215,000 to \$408,000. The new facility will have two separate unisex bathrooms, stainless steel amenities, window vents and heat. It will be ADA compliant. Lambert Construction was the low bidder.
Financial Source/Impact:	Money which was not used for the city's indoor LED light replacement proposal was transferred to pay for this structure.
Related Strategic Priority:	#1 EFFECTIVE SERVICES & ACCOUNTABLE GOVERNMENT
Recommended Action/Motion:	Approve award of Bid #43-2024 to Lambert Construction in the amount of \$216,440 (\$215,000 with an additional \$1440.00 for heaters) and approve related budget revision in the amount of \$238,084 to include a 10% contingency for the Couch Park Comfort Station; and authorize the City Manager to sign related documents.
Prepared By:	Barbara Bliss, Community Resources Director
Reviewed By:	Barbara Bliss Christy Driskel Teresa Kadavy
Submitted By:	Kimberly Meek, City Manager

Attachments

1. Lambert Construction Couch Park
2. BudgetRevision Couch Park

43-2024 Addendum 1
Lambert Construction Company
Supplier Response

Event Information

Number: 43-2024 Addendum 1
Title: Comfort Station at Couch Park
Type: Invitation For Bid
Issue Date: 8/24/2024
Deadline: 9/18/2024 03:00 PM (CT)
Notes: Notice is hereby given that City of Stillwater/Stillwater Utilities Authority will receive sealed bids for the following:

Bid #43-2024
Comfort Station at Couch Park

Bids will be received via our online portal until 3:00 pm, Wednesday, September 18th, 2024. Mailed, emailed, and faxed bids will not be accepted.

Bids will be publicly opened at 3:00 pm and read aloud by the City Clerk at the Municipal Building, Conference Room 1112 B, 723 South Lewis, Stillwater, Oklahoma 74074.

Any questions regarding this Notice or the proposal documents should be submitted via the questions tab in the bid portal.

Contact Information

Contact: John McClenny
Address: 723 S. Lewis Street
Stillwater, OK 74074
Phone: (405) 742-8233
Email: john.mcclenny@stillwater.org

Lambert Construction Company Information

Contact: Donna Abbott
Address: 2508 East 6th Avenue
Stillwater, OK 74074
Phone: (405) 372-1444
Email: donna@lambertconstructionco.com
Web Address: www.lambertconstructionco.com

By submitting your response, you certify that you are authorized to represent and bind your company.

Chris Allen

Signature

Submitted at 9/18/2024 02:42:02 PM (CT)

chris@lambertconstructionco.com

Email

Requested Attachments

Bid Bond (5%)

Bid Bond.pdf

The required Bid Bond shall be made payable to the Owner ("City of Stillwater") for the sum of 5% of the Bidder's bid total. Complete form, scan, and attach to your bid.

Non-Collusion Affidavit

Non-Collusion Affd-Signed.pdf

Required by the Oklahoma Competitive Bidding Act, 61 O.S. 108. Fill out, sign, scan and attach to your bid.

Business Relationship Affidavit

Business Relationships Affd -
Signed.pdf

Required by the Oklahoma Competitive Bidding Act, 61 O.S. 108. Fill out, sign, scan and attach to your bid.

Bid Attributes

1 Bidder's Exact Legal Name:

(Must be Bidder's company name as reflected on its organizational documents, filed with the state in which bidder is organized; not simply a DBA)

Lambert Construction Company

2 Bidder's email address:

chris@lambertconstructionco.com

3 Project Manual and Plans

I have read and understand the project manual and plans.

☒ Yes

4 Standard Contract

I have read and understand the City of Stillwater Standard Contract. I understand and agree that it will be the basis for any contract awarded under this bid.

☒ Yes

5 Instructions For Bidders

I have read and understand the Instructions For Bidders.

☒ Yes

6 General Terms

I have read, understand, and agree to the City of Stillwater's General Terms.

☒ Yes

7 Special Requirements

I have read, understand, and agree to the Special Requirements including insurance requirements.

☒ Yes

8 Bond Requirements

I understand that any contract under this bid will require a Performance Bond, Maintenance Bond, and Statutory Bond in the full amount of the contract. I have read and understand the bond documents provided under the attachments tab.

☒ Yes

9 Acknowledgement of Addendum #1

I have received, read, and understand Addendum #1.

☒ Yes

Bid Lines**1 Base Bid - Comfort Station at Couch Park per plans and specifications**

Quantity: 1 UOM: Lump Sum Price: \$215,000.00 Total: \$215,000.00

2 Add Alternate #1 - Drinking Fountain

(Line excluded from response total)

Quantity: 1 UOM: Lump Sum Price: \$6,500.00 Total: \$6,500.00

Item Notes: Provide drinking fountain(s) as identified in the specifications.

3 Add Alternate #2 - Windows

(Line excluded from response total)

Quantity: 1 UOM: Lump Sum Price: \$0.00 Total: \$0.00

Item Notes: Provide the manufacturer's standard windows with frosted glazing with sizes as identified on the drawings.

4 Add Alternate #3 - Heaters

(Line excluded from response total)

Quantity: 1 UOM: Lump Sum Price: \$1,440.00 Total: \$1,440.00

Item Notes: Provide heaters as identified in the specifications.

Response Total: \$215,000.00

BUSINESS RELATIONSHIP AFFIDAVIT

(Required by Oklahoma Competitive Bidding Act, 61 O.S. § 108)

I, Chris Allen, of lawful age, being first duly sworn, on oath says that (s)he is the agent authorized by the bidder to submit the attached bid. Affiant further states that the nature of any partnership, joint venture, or other business relationship presently in effect or which existed within one (1) year prior to the date of this statement with the architect, engineer, or other party to the project is as follows:

None

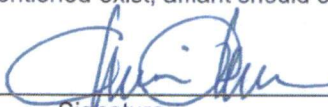
Affiant further states that any such business relationship presently in effect or which existed within one (1) year prior to the date of this statement between any officer or director of the bidding company and any officer or director of the architectural or engineering firm or other party to the project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

None

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

None

(If none of the business relationships hereinabove mentioned exist, affiant should so state.)

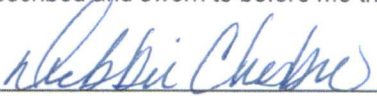
By: 

Signature

Printed Name: Chris Allen

Title: Project Manager

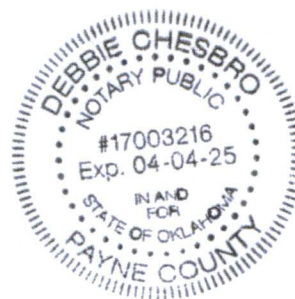
Subscribed and sworn to before me this 18th day of September, 2024.


Notary Public Debbie Chesbro

My Commission Expires: April 04, 2025

Notary Commission Number: 17003216

County & State where Notarized: Payne County, Oklahoma



The Affidavit must be signed by an authorized agent and notarized

NON-COLLUSION AFFIDAVIT

(Required by Oklahoma Competitive Bidding Act, 61 O.S. § 138)

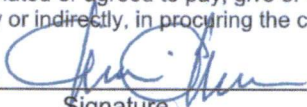
STATE OF Oklahoma)
)ss.

COUNTY OF Payne)

I, Chris Allen, of lawful age, being first duly sworn, state that:
(Seller's Authorized Agent)

1. I am the authorized agent of Seller herein for the purpose of certifying facts pertaining to the existence of collusion among and between Bidders and municipal officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the letting of any contract pursuant to the Bid to which this statement is attached.
2. I am fully aware of the facts and circumstances surrounding the making of the Bid to which this statement relates, and I have been personally and directly involved in the proceedings leading to the submission of such Bid; and
3. Neither the Seller nor anyone subject to the Seller's direction or control has been a party:
 - a. to any collusion among Bidders in the restraint of freedom of competition by agreement to Bid or contract at a fixed price or to refrain from bidding or contracting,
 - b. to any collusion with any municipal official or employee as to quantity, quality, or price in the prospective contract, or as to any other terms of such prospective contract, nor
 - c. in any discussions between Bidders and any municipal official concerning exchange of money or other thing of value for special consideration in the letting of a contract,

I certify, if awarded the contract, whether competitively bid or not, neither the business entity I represent nor anyone subject to the business entity's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of the City of Stillwater any money or other thing of value, either directly or indirectly, in procuring the contract to which this statement relates.

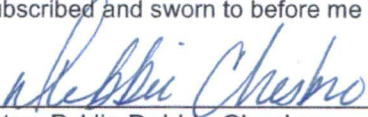
By: 

Signature

Printed Name: Chris Allen

Title: Project Manager

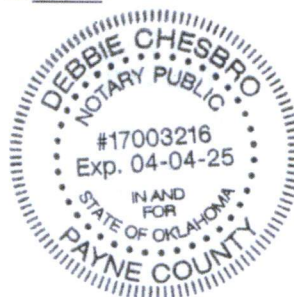
Subscribed and sworn to before me this 18th day of September, 2024.


Notary Public Debbie Chesbro

My Commission Expires: April 04, 2025

Notary Commission Number: 17003216

County & State where Notarized: Payne County, Oklahoma



The Affidavit must be signed by an authorized agent and notarized

BID BOND

Any singular reference to Bidder, Surety, Owner, or other party shall be considered plural where applicable.

BIDDER (Name and Address):

Lambert Construction Company
2508 East 6th Avenue
Stillwater, OK 74074

SURETY (Name and Address of Principal Place of Business):

The Gray Casualty & Surety Company
PO Box 6202
Metairie, LA 70009-6202

OWNER (Name and Address):

City of Stillwater, Oklahoma/Stillwater Utilities Authority
PO Box 1449
Stillwater, OK 74076

BID

Bid Due Date: September 18, 2024

Project (Brief Description Including Location): City of Stillwater - Comfort Station at Couch Park
East Alcott Drive Stillwater, OK 74074

BOND

Bond Number:

Date (Not later than Bid due date):

Penal sum	<u>Five Percent of Total Amount Bid</u>	<u>(5% of Total Amount Bid)</u>
	(Words)	(Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

BIDDER**SURETY**

Lambert Construction Company
Bidder's Name and Corporate Seal

(Seal)

By: Mark Lambert, President
Signature and Title

Attest: Robert Chesley, Witness
Signature and Title

The Gray Casualty & Surety Company
Surety's Name and Corporate Seal

(Seal)

By: Becky Killman
Signature and Title
(Attach Power of Attorney)

Attest: Brianna Tislow
Signature and Title Brianna Tislow, Witness

Note: Above addresses are to be used for giving required notice.

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Surety's liability.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation shall be null and void if:
 - 3.1. Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
 - 3.2. All Bids are rejected by Owner, or
 - 3.3. Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default by Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after Bid due date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.
11. The term "Bid" as used herein includes a Bid, offer, or proposal as applicable.

**THE GRAY INSURANCE COMPANY
THE GRAY CASUALTY & SURETY COMPANY**

GENERAL POWER OF ATTORNEY

Bond Number: Principal: Lambert Construction Company

Project: City of Stillwater - Comfort Station at Couch Park

KNOW ALL BY THESE PRESENTS, THAT The Gray Insurance Company and The Gray Casualty & Surety Company, corporations duly organized and existing under the laws of Louisiana, and having their principal offices in Metairie, Louisiana, do hereby make, constitute, and appoint: **Joshua Bryan, Kristin Lewis, John K. Deer, Gary Liles, Stephen Michael Poleman, Becky Killman, Austin K. Greenhaw, Shelli R. Sammel, Deborah L. Raper, Thomas Perrault, Randy D. Webb, Christopher William Webb, Seth Leonard, Carey Kennemer, Vicki Wilson, Travis E. Brown, Vaughn Graham Jr., Ryan Teubner, Brian Story, D. Aaron Woolsey, Jamie Burris, and John McClellan of Tulsa, Oklahoma jointly and severally** on behalf of each of the Companies named above its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its deed, bonds, or other writings obligatory in the nature of a bond, as surety, 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 of suretyship executed under this authority shall exceed the amount of \$25,000,000.00.

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 both The Gray Insurance Company and The Gray Casualty & Surety Company at meetings duly called and held on the 26th day of June, 2003.

"RESOLVED, that the President, Executive Vice President, any Vice President, or the 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 is hereby authorized to attest to the execution of such Power of Attorney, and to attach 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 signature or facsimile seal shall be binding upon the Company now and in the future when so affixed with regard to any bond, undertaking or contract of surety to which it is attached.

IN WITNESS WHEREOF, The Gray Insurance Company and The Gray Casualty & Surety Company have caused their official seals to be hereinto affixed, and these presents to be signed by their authorized officers this 4th day of November, 2022.



By:

Michael T. Gray

Michael T. Gray
President
The Gray Insurance Company

Cullen S. Piske

Cullen S. Piske
President



The Gray Casualty & Surety Company

State of Louisiana

ss:

Parish of Jefferson

On this 4th day of November, 2022, before me, a Notary Public, personally appeared Michael T. Gray, President of The Gray Insurance Company, and Cullen S. Piske, President of The Gray Casualty & Surety Company, personally known to me, being duly sworn, acknowledged that they signed the above Power of Attorney and affixed the seals of the companies as officers of, and acknowledged said instrument to be the voluntary act and deed, of their companies.



Leigh Anne Henican
Notary Public
Notary ID No. 92653
Orleans Parish, Louisiana

Leigh Anne Henican

Leigh Anne Henican
Notary Public, Parish of Orleans State of Louisiana
My Commission is for Life

I, Mark S. Manguno, Secretary of The Gray Insurance Company, do hereby certify that the above and forgoing is a true and correct copy of a Power of Attorney given by the companies, which is still in full force and effect. IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Company this 18th day of September, 2024

Mark S. Manguno

I, Leigh Anne Henican, Secretary of The Gray Casualty & Surety Company, do hereby certify that the above and forgoing is a true and correct copy of a Power of Attorney given by the companies, which is still in full force and effect. IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Company this 18th day of September, 2024

Leigh Anne Henican





**City of Stillwater
Budget Revision #2815**

Date: 9/26/2024

Budget Year: 2025

Requested: Christy Cluck

Department: City Managers Office

Explanation: Use remaining balance from the completed Indoor LED Light Replacement project to fund the Couch Park comfort station.

SetID:

Increase:

Account Name	Account Number	Project Number	Current Budget	Amount of Change	New Budget
Couch Park Bathroom	1055010-54012	22PR01105	\$16,716	\$227,808	\$244,524

Decrease:

Account Name	Account Number	Project Number	Current Budget	Amount of Change	New Budget
Indoor LED Light Replacement	1051020-54008	24GG02105	\$432,436	\$227,808	\$204,628

Approval:

Submitted: 09/26/24 10:40 am - christy.cluck

REPORT TO: CITY COUNCIL

MEETING DATE: OCTOBER 7, 2024



Agenda Item:	4.e. CC-24-119
Previous/Related Action:	
Background/Issue:	The owner of the property addressed as 524 South Duncan Street, The First Presbyterian Church of Stillwater, Oklahoma, has an existing encroachment of a brick post and wood panel fence approximately 7 to 7.3 feet in height that projects from the north of the building roughly 14 feet and encroaches 5 feet into West 5th Avenue right-of-way and runs parallel to it for 61 feet. It replaces the existing cooling tower and pad with a new cooling tower and pad that is 88.94 feet from the west property line and is on a concrete pad that is 9 feet wide by 11 feet in length and 20 feet tall that also encroaches in the West 5 th Avenue right-of-way by 2.5 feet.
Proposal/Solution:	This Encroachment Agreement and Release of Liability (EARL) is an agreement between the City of Stillwater and the current property owner of 524 South Duncan Street to allow for the existence and construction of two structures: 1) A brick post and wood panel fence, approximately 7 to 7.3 foot in height that projects from the north of the building roughly 14 feet and encroaches 5 feet into West 5th Avenue right-of-way and runs parallel along West 5th Avenue for 61 feet; and 2) a cooling tower 88.94 feet from the west property line on a concrete pad that is 9 feet wide by 11 feet in length and 20 feet tall that also encroaches on West 5th Avenue by 2.5 feet.
Financial Source/Impact:	None
Related Strategic Priority:	#5 UNIQUE CULTURE #6 ENGAGED & INVESTED RESIDENTS
Recommended Action/Motion:	Motion to approve Encroachment Agreement and Release of Liability for 524 South Duncan Street and authorize the City Manager or Deputy City Manager to execute the Agreement.
Prepared By:	Jacquelyn Porter, Planner
Reviewed By:	Jeff Mathews Brady Moore Teresa Kadavy
Submitted By:	Kimberly Meek, City Manager

Attachments

1. Encroachment Agreement-524 S DUNCAN ST-ROWA24-0003

ENCROACHMENT AGREEMENT AND RELEASE OF LIABILITY
(Existing Encroachment)

This Encroachment Agreement and Release of Liability for an encroachment on a Public Property/Easement/Right-of-Way is entered into by and between the City of Stillwater, an Oklahoma municipality (City), and The First Presbyterian Church of Stillwater, Oklahoma, a Corporation, (Owner).

The City owns public property, right-of-way across, upon or adjacent to Owner's property. Owner's property is more particularly described as:

Lot 24, Block 27 of College Addition, being the South half of the Southwest quarter of Section 14, Township 19 North, Range 2 East, Stillwater, Oklahoma, according to the recorded plat thereof.

Owner has, without permission of the City, constructed or permitted the construction of two structures, 1) approximately 7 to 7.3 foot in height brick post and wood panel fence that projects from the north of the building roughly 14 feet and encroaches 5 feet into West 5th Avenue right-of-way and runs parallel with the West 5th Avenues for 61 feet and 2) at 88.94 feet from the west property line a cooling tower on a concrete pad that is 9 feet wide by 11 feet in length and 20 feet tall that also encroaches West 5th Avenue by 2.5 feet on or adjacent to Owner's property, both located in a portion of right-of-way described as:

A description of tract of land, being a portion of the public right of way of 5th Avenue adjacent to the North line of Lot 24, Block 27 of College Addition, being the South Half of the Southwest quarter of Section 14, Township 19 North, Range 2 East, Stillwater, Oklahoma, according to the recorded plat thereof. It is based on the boundary survey attached (Exhibit A) with a basis of bearing S 89°51'59" W and distance of 140.04 feet for the North of Lot 24, being more particularly described as follows:

Commencing at the Northeast corner of Lot 24;
Thence, South 89°51'59" West, along the North line of Lot 24, a distance of 14.00 feet to the Point of Beginning.
Thence, North 00°08'01" West, a distance of 5.00 feet;
Thence, South 89°51'59" West, a distance of 61.00 feet;
Thence, South 00°08'01" East, distance of 5.00 feet to the North line of Lot 24;
Thence, North 89°51'59" East, along the North line of Lot 24, a distance of 61.00 feet to the Point of Beginning.

Containing an area of 0.01 acres.

Further depicted in the attached Exhibit A.

The City grants to Owner permission to maintain the structure or other encroachment on the above-

described portion of public property/easement/right-of-way.

The Owner shall not construct or permit additional encroachments upon the public property/easement/right-of-way, and shall not alter, improve, replace or add to the permitted encroachment without prior written permission of the City.

The City reserves the right to remove, allow the removal, or require Owner to remove all encroachments from the applicable public property/easement/right-of-way at any time in the event that the encroached upon public property/easement/right-of-way is required, in the sole judgment of the City, to be used for public purposes.

In consideration of the City's agreement to not require Owner to immediately remove all encroachments from the applicable public property/easement/right-of-way, Owner agrees, on behalf of Owner, Owner's family and heirs, agents, devisees, successors, grantees, and assigns (collectively referred to as "Owner") to **waive any and all claims, causes of action, for damages of any kind or nature, including but not limited to any foreseen or unforeseen personal injury (including death), property damages (including loss of use), or other losses or damages** against the City of Stillwater, Oklahoma, its employees, officers, agents or assigns, which may arise out of or in connection with any aspect of the encroachment upon the above described public property/easement/right-of-way.

In consideration of the City's agreement to not require Owner to immediately remove all encroachments from the applicable public property/easement/right-of-way, Owner also agrees to **indemnify, defend (at the City's option), and hold harmless** the City, its employees, officials, agents, representatives and volunteers **from and against any and all causes of action (whether groundless or not), losses, liabilities, damages, injuries (including death), property damage (including loss of use), claims, liens, judgments, costs, expenses, suits, actions, or proceedings and reasonable attorney's fees, and actual damages of any kind or nature** directly or indirectly arising out of or in connection with the encroachment upon the above described public property/easement/right-of-way.

In consideration of the City's agreement to not require Owner to immediately remove all encroachments from the applicable public property/easement/right-of-way, Owner also agrees to **reimburse City for any direct or indirect costs or expenses** that the City may incur as a direct or indirect result of any encroachment upon the above-described property. The presence or absence of any insurance shall not be construed as a limitation on the duties or obligations of Owner under this Agreement.

Owner shall obtain release agreements as required by all other applicable utilities companies, and shall comply with all local, state, and federal regulations and laws which may be applicable to Owner's encroachment upon the above property/easement/right-of-way.

OWNER UNDERSTANDS THE PERSONAL, PROPERTY, AND/OR FINANCIAL RISKS ASSOCIATED WITH THIS AGREEMENT, AND OWNER AGREES TO ACCEPT THESE RISKS KNOWINGLY AND VOLUNTARILY.

Owner seeks this agreement with the City voluntarily, and acknowledges that no promises, agreements or other inducements have been made to Owner. Owner understands that the City of Stillwater, Oklahoma will rely on this statement, the terms of this Agreement are contractual in nature, and this Agreement is specifically designed to protect the City of Stillwater, Oklahoma, its citizens, employees, officers, agents, and assigns.

The Owner shall not assign this agreement without the prior written consent of the City, which shall not be unreasonably withheld.

I HAVE READ THE ABOVE STATEMENT AND I UNDERSTAND IT. I HAVE SOUGHT AND OBTAINED ANY AND ALL LEGAL ADVICE I NEEDED OR MAY HAVE NEEDED PRIOR TO SIGNING THIS DOCUMENT, AND I SIGN THIS DOCUMENT FREELY AND VOLUNTARILY.

The First Presbyterian Church of Stillwater, Oklahoma

Dennis Ferrell,
Chair of Board of Trustees

Larry Caldwell
Secretary of Board of Trustees

State of Oklahoma)
) ss.
County of Payne)

On this ____ day of _____, 2024 before me personally appeared _____, known to me to be the person(s) named herein and who executed the foregoing **ENCROACHMENT AGREEMENT AND RELEASE OF LIABILITY**, and who acknowledged to me that he/she/they knowingly and voluntarily executed the same.

My Commission Expires

Notary Public

APPROVED by the City Council of the City of Stillwater, Oklahoma on: _____, 2024.

CITY OF STILLWATER, a municipal corporation

By: _____
Mayor

ATTEST:

APPROVED:

City Clerk

City Attorney

EXHIBIT A

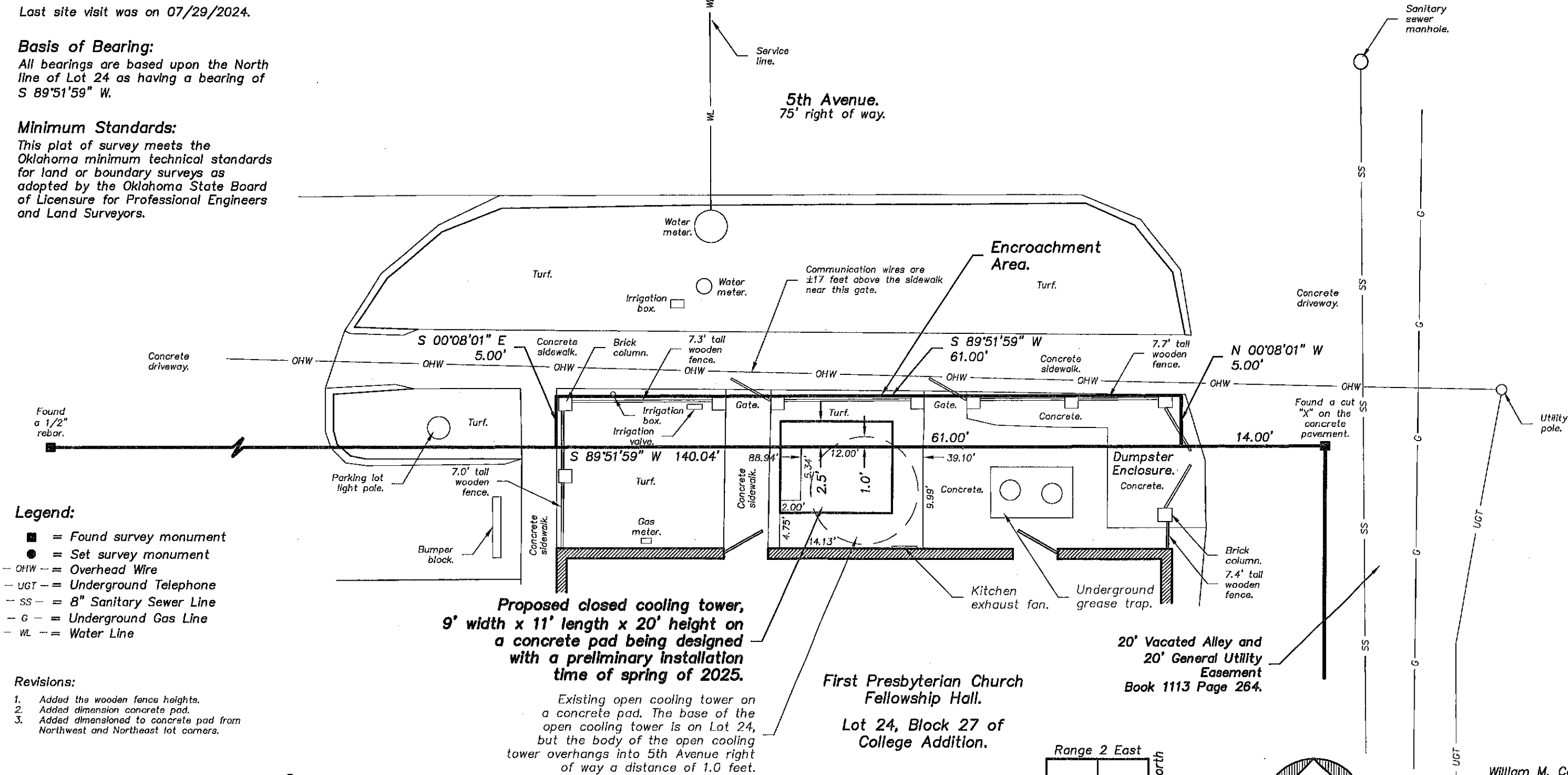
Content:
Page 1 Plat of Survey
Page 2 Encroachment Description

Notes:
Last site visit was on 07/29/2024.

Basis of Bearing:
All bearings are based upon the North line of Lot 24 as having a bearing of S 89°51'59" W.

Minimum Standards:
This plat of survey meets the Oklahoma minimum technical standards for land or boundary surveys as adopted by the Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors.

Plat of Survey



William M. Cole, PLS 1596
william.cole@boundaries-ok.com

Boundaries,
A Land Surveying Company, LLC
PO Box 1344
Stillwater, Oklahoma 74076
(405) 372-8478 Office
(405) 880-4754 Mobile

Certificate of Authorization Number 6403.

William M. Cole, PLS 1596

William M. Cole

Revised signature date: 09/03/2024
Signature date: 07/31/2024
Page 1 of 2

Encroachment Description:

A description of a tract of land, being a portion of the public right of way of 5th Avenue adjacent to the North line of Lot 24, Block 27 of College Addition, being the South Half of the Southwest quarter of Section 14, Township 19 North, Range 2 East, Stillwater, Oklahoma, according to the recorded plat thereof, created by William M. Cole, Licensed Professional Land Surveyor 1596, on August 2, 2024. It is based on a boundary survey shown on a Plat of Survey dated July 31, 2024 with a basis of bearing S 89°51'59" W and distance of 140.04 feet for the North of Lot 24, being more particularly described as follows:

1. Commencing at the Northeast corner of Lot 24;
2. Thence, South 89°51'59" West, along the North line of Lot 24, a distance of 14.00 feet to the Point of Beginning.
3. Thence, North 00°08'01" West, a distance of 5.00 feet;
4. Thence, South 89°51'59" West, a distance of 61.00 feet;
5. Thence, South 00°08'01" East, a distance of 5.00 feet to the North line of Lot 24;
6. Thence, North 89°51'59" East, along the North line of Lot 24, a distance of 61.00 feet to the Point of Beginning.

Containing an area of 0.01 acres.

William M. Cole, PLS 1596
william.cole@boundaries-ok.com

Boundaries,
A Land Surveying Company, LLC

PO Box 1344
Stillwater, Oklahoma 74076

(405) 372-8478 Office
(405) 880-4754 Mobile

Page 2 of 2

Certificate of Authorization Number 6403.

REPORT TO: CITY COUNCIL

MEETING DATE: OCTOBER 7, 2024



Agenda Item:	4.f. CC-24-120
Previous/Related Action:	
Background/Issue:	• On February 8, 2022 voters approved the 022 Transportation Sales Tax of one percent (1%) for a ten-year period commencing on July 1, 2022 and ending June 30, 2032. • On November 14, 2022, City Council approved and adopted Resolution No. CC-2022-33 establishing a citizen committee to be known as the "Transportation Projects Advisory Committee" (TPAC) whose duty is to advise the City Council regarding projects proposed for funding from revenues generated by the 2022 Transportation Sales Tax. • At the June 27, 2024 and August 22, 2024 TPAC meetings, at the request of TPAC board members, staff presented reports of material costs purchased by Public Works specifically for street and sidewalk repairs. TPAC members shared the support for Transportation Sales Tax funds being utilized for the material costs that are used in street and sidewalk repair. Staff emphasized that no Transportation Sales Tax funds will be used for Public Works labor, only for material costs.
Proposal/Solution:	Under its purview of making recommendations to the CC regarding transportation projects for which revenues from the 2022 Transportation Sales Tax are to be utilized, TPAC requested that staff research and report back to the committee on the utilization of these funds to purchase street maintenance materials by the Public Works Department to perform transportation asset management. It was determined by staff that this was appropriate utilization of the funds and that the department had the capability to provide staff and labor to perform the transportation asset maintenance. With the support of TPAC, staff recommends approving a budget amendment to allocate funds to public works for this purpose.
Financial Source/Impact:	
Related Strategic Priority:	#4 CONNECTED SPACES #1 EFFECTIVE SERVICES & ACCOUNTABLE GOVERNMENT

Recommended Action/Motion:	Staff recommends approving the budget amendment to allocate Transportation Sales Tax funds to Public Works for the purpose of purchasing materials for transportation asset management.
Prepared By:	Mark White, Public Works Dir.
Reviewed By:	Teresa Kadavy
Submitted By:	Kimberly Meek, City Manager

Attachments

1. BA Public Works



Budget Amendment Request
For Budget Year 2025

Department of Finance
723 S. Lewis Street/P.O. Box 1449
Stillwater, OK 74076-1449

Office: 405.372.0025
Web: stillwater.org

Date: 09/25/2024

Department: Operations

Requested by: Mark White

Explanation: Expenditures:
Appropriate funds for concrete/sand/asphalt materials for street maintenance by Public Works staff. Project funded from the Transportation Sales Tax Fund.

Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:					
Concrete/Sand/Asphalt	2604841 - 52037		\$ 0	\$ 200,000	\$ 200,000
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
Decrease:					
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0

Net Change: (will usually result in a total increase or decrease)

\$ 200,000

Reviewed by Department Manager: Mark White

Date: 9-25-2024

Reviewed by Finance: Cheryl Chuch

Date: 9-25-24

Approved by CMO: _____

Date: _____

Approved by City Council: ☐ Yes ☐ No

Date: _____

Processed by Finance: _____

Date: _____

Set ID: _____

Date Sent to SA&I: _____

--Print on Yellow Paper--

Budget Amendment Request
For Budget Year 2025

Department of Finance
723 S. Lewis Street/P.O. Box 1449
Stillwater, OK 74076-1449

Office: 405.372.0025
Web: stillwater.org

Date: 09/27/2024

Department: Police

Requested by: Shannon Jordan

Explanation: Revenue:
Increase revenue projections for receipt of insurance proceeds.

Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase: Misc Revenue	1016025 - 48700		\$ 150,000	\$ 13,340	\$ 163,340
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
Decrease:	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0

Net Change: (will usually result in a total increase or decrease)

\$ 13,340

Reviewed by Department Manager: _____

Date: _____

Reviewed by Finance: Cheryl Cluck

Date: 9-27-24

Approved by CMO: _____

Date: _____

Approved by City Council: ☐ Yes ☐ No

Date: _____

Processed by Finance: _____

Date: _____

Set ID: _____

Date Sent to SA&I: _____

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Budget Amendment Request

For Budget Year 2025

Department of Finance
723 S. Lewis Street/P.O. Box 1449
Stillwater, OK 74076-1449

Office: 405.372.0025
Web: stillwater.org

Date: 09/27/2024

Department: Police

Requested by: Shannon Jordan

Explanation: Expenditures:
Appropriate funds for repair of damage to vehicle as a result of traffic accident. Repairs funded by insurance proceeds received in FY25.

Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase: Repair Vehicles	1016025 - 53018		\$ 22,457	\$ 13,340	\$ 35,797
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
Decrease:	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0

Net Change: (will usually result in a total increase or decrease)

\$ 13,340

Reviewed by Department Manager: _____

Date: _____

Reviewed by Finance: Chris Clark

Date: 9-27-24

Approved by CMO: _____

Date: _____

Approved by City Council: ☐ Yes ☐ No

Date: _____

Processed by Finance: _____

Date: _____

Set ID: _____

Date Sent to SA&I: _____

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Budget Amendment Request
For Budget Year 2025

Department of Finance
723 S. Lewis Street/P.O. Box 1449
Stillwater, OK 74076-1449

Office: 405.372.0025
Web: stillwater.org

Date: 09/27/2024

Department: Operations

Requested by: Mark White

Explanation: Revenue:
Increase revenue projections for receipt of insurance proceeds.

Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase: Misc Revenue	1010000 - 48700		\$ 250,000	\$ 6,420	\$ 256,420
Insurance Proceeds	1014841 - 62001		\$ 0	\$ 961	\$ 961
	-				\$ 0
	-				\$ 0
	-				\$ 0
Decrease:	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0

Net Change: (will usually result in a total increase or decrease)

\$ 7,381

Reviewed by Department Manager: _____

Date: _____

Reviewed by Finance: Clay Cluck

Date: 9-27-24

Approved by CMO: _____

Date: _____

Approved by City Council: ☐ Yes ☐ No

Date: _____

Processed by Finance: _____

Date: _____

Set ID: _____

Date Sent to SA&I: _____

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Budget Amendment Request

For Budget Year 2025

Department of Finance
723 S. Lewis Street/P.O. Box 1449
Stillwater, OK 74076-1449

Office: 405.372.0025
Web: stillwater.org

Date: 09/27/2024

Department: Operations

Requested by: Mark White

Explanation: Expenditures:
Appropriate funds for repair of damage to vehicle as a result of traffic accident. Repairs funded by insurance proceeds received in FY25.

Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:					
Repair Vehicles	1014841 - 53018		\$ 0	\$ 7,381	\$ 7,381
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
Decrease:					
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0

Net Change: (will usually result in a total increase or decrease)

\$ 7,381

Reviewed by Department Manager: _____

Date: _____

Reviewed by Finance: Cheryl Cluck

Date: 9-27-24

Approved by CMO: _____

Date: _____

Approved by City Council: ☐ Yes ☐ No

Date: _____

Processed by Finance: _____

Date: _____

Set ID: _____

Date Sent to SA&I: _____

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Budget Amendment Request
For Budget Year 2025

Department of Finance
723 S. Lewis Street/P.O. Box 1449
Stillwater, OK 74076-1449

Office: 405.372.0025
Web: stillwater.org

Date: 09/27/2024

Department: Airport

Requested by: Kellie Reed

Explanation:

Revenue:
Increase revenue projections for receipt of insurance proceeds as a result of traffic accident.

Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:					
Insurance Proceeds	8107040 - 62001		\$ 0	\$ 405	\$ 405
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
Decrease:					
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0

Net Change: (will usually result in a total increase or decrease)

\$ 405

Reviewed by Department Manager: _____

Date: _____

Reviewed by Finance: Cheryl Church

Date: 9-27-24

Approved by CMO: _____

Date: _____

Approved by City Council: ☐ Yes ☐ No

Date: _____

Processed by Finance: _____

Date: _____

Set ID: _____

Date Sent to SA&I: _____

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Budget Amendment Request

For Budget Year 2025

Department of Finance
723 S. Lewis Street/P.O. Box 1449
Stillwater, OK 74076-1449

Office: 405.372.0025

Web: stillwater.org

Date: 09/27/2024

Department: Airport

Requested by: Kellie Reed

Explanation:

Expenditures:
Appropriate funds for repair of damage to vehicle as a result of traffic accident. Repairs funded by insurance proceeds received in FY25.

	Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:	Repair Vehicles	8107040 - 53018		\$ 300	\$ 405	\$ 705
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0
Decrease:		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0

Net Change: (will usually result in a total increase or decrease)

\$ 405

Reviewed by Department Manager: _____

Date: _____

Reviewed by Finance: Cheryl Cluch

Date: 9-27-24

Approved by CMO: _____

Date: _____

Approved by City Council: ☐ Yes ☐ No

Date: _____

Processed by Finance: _____

Date: _____

Set ID: _____

Date Sent to SA&I: _____

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STILLWATER DATA CENTER ECONOMIC DEVELOPMENT PROJECT PLAN

A Project Plan under the Oklahoma Local Development Act, 62 O.S. §§ 850–869

PREPARED BY:

THE CITY OF STILLWATER, OKLAHOMA

**Mayor Will Joyce
Vice Mayor Amy Dzialowski
Councilor Christie Hawkins
Councilor Kevin Clark
Councilor Tim Hardin**

WITH THE ASSISTANCE OF:

**CENTER FOR ECONOMIC DEVELOPMENT LAW
301 North Harvey, Suite 200
Oklahoma City, Oklahoma 73102
(405) 232-4606
www.econlaw.com**

**RECOMMENDED FOR APPROVAL BY REVIEW COMMITTEE: JULY 10, 2024
RECOMMENDED FOR APPROVAL BY PLANNING COMMISSION: JULY 16, 2024**

STILLWATER DATA CENTER ECONOMIC DEVELOPMENT PROJECT PLAN

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II.	PROJECT DESCRIPTION	1
III.	BOUNDARIES OF PROJECT AREA AND INCENTIVE DISTRICTS	2
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XI.	ECONOMIC DEVELOPMENT FINANCING	8
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EXHIBIT A: PROJECT AREA AND INCENTIVE DISTRICT MAPS

EXHIBIT B: PROJECT AREA AND INCENTIVE DISTRICT LEGAL DESCRIPTIONS

EXHIBIT C: EXISTING USES AND CONDITIONS

EXHIBIT D: PROPOSED IMPROVEMENTS AND USES

APPENDIX: CAPITAL FINANCIAL PROJECTIONS

STILLWATER DATA CENTER ECONOMIC DEVELOPMENT PROJECT PLAN

I. INTRODUCTION

A leading company specializing in artificial intelligence and data processing, acting through a subsidiary entity, Kipper LLC (the “**Company**”), has proposed to undertake the development of a data center campus in the City of Stillwater. The proposed development may consist of up to six phases, with each phase estimated to cost at least \$500 million. This Project Plan will offer incentives to the Company for each phase of the development to help offset its costs of infrastructure and utility capacity required to serve the data center development. In exchange, the local taxing jurisdictions and the City of Stillwater (“**City**”) will receive certain annual payments from the Company, as provided below. This additional source of funding will bolster the City’s economic development initiatives, contribute to the financing of vital public infrastructure needs, and fulfill the capital and operational needs essential to the City’s growth.

II. PROJECT DESCRIPTION

This “**Project Plan**,” adopted under the Local Development Act, 62 O.S. § 850, *et seq.* (the “**Act**”), is designed to provide the economic incentives necessary to stimulate at least five hundred million dollars (\$500,000,000) in initial private investment by the Company in the City of Stillwater with the potential for five (5) additional phases of development of similar magnitude (the “**Project**”).¹ The Company constructs and operates data centers, and intends to construct a data center campus within the Project Area (as defined below).

The Company intends to proceed with the Project in phases. The term “**Phase**” as used herein refers to all new investments in real and personal property within an Incentive District. Each developed Phase will include a data center comprised of approximately 300,000 square feet (each a “**Data Center**”), together with certain ancillary buildings, structures and infrastructure that support or are related to the data center campus operations, including but not limited to, utility buildings, structures, and appurtenances and office buildings; however, the precise number and size of Data Centers is subject to change.²

Each Phase of the Project will be undertaken in accordance with this Project Plan and the terms of an Economic Development Agreement among the City, the Stillwater Economic Development Authority, a public trust (“**SEDA**”), and the Company (“**Economic Development Agreement**”). The Economic Development Agreement will establish a mutually beneficial relationship to implement long-term obligations of the parties and incentivize implementation.

¹ The term “Project” shall refer to all Phases that are constructed in the Project Area.

² The Taxing Entities (as defined below) acknowledge that the Company desires to build six (6) Phases, with a Data Center in each of the Incentive Districts but may construct fewer Data Centers resulting in fewer Phases.

Using the tools of the Act to create six (6) tax incentive districts (the “**Incentive Districts**”), one for each potential Data Center, the City aims to ensure that the Project occurs within the City. In addition to stimulating new private investment, this Project Plan also aims to ensure that the Taxing Entities (as defined herein) receive direct revenue as a result of the Project in the form of annual payments in lieu of taxes (“**PILOTs**”) for each Data Center developed, as further described in Section X.B. herein and in a tax incentive agreement by and between the City, the Company, and each of the Taxing Entities (the “**Tax Incentive Agreement**”). Because of the potential scope of the Company’s investment, the Project is likely to promote further private investment and economic development from related businesses throughout the area, including new businesses that locate to the area and existing local businesses that supply goods or services to the Project.

The combination of increased revenue to local taxing entities and private economic development from the Project is likely to enhance the value of other real property in the area and to promote the general public interest.

III. BOUNDARIES OF PROJECT AREA AND INCENTIVE DISTRICTS

A. The “**Project Area**” is the area in which Project activities will take place. The Project Area contains approximately 386.698 acres of land located in the City of Stillwater. The Project Area is divided into six (6) Incentive Districts, where the tax incentives described herein will be provided, with each Incentive District encompassing one Phase of the Project. All the Phases and Incentive Districts will be located within the jurisdictional boundaries of the Stillwater Public School District. The Incentive Districts are contiguous, and the boundaries of the combined Incentive Districts are identical to the boundaries of the Project Area.

B. Depictions of both the Project Area and each Incentive District are included in **Exhibit A** to this Project Plan.

C. The Project Area can be generally described as a portion of land located south of East Richmond Road, north of East Airport Road, east of North Perkins Road (Hwy-177) and west of North Jardot Road. Detailed legal descriptions of the boundaries of the Project Area and each Incentive District are included in **Exhibit B** to this Project Plan.

IV. ELIGIBILITY

The entirety of the Project Area and the Incentive Districts are within an “enterprise area,” as defined by 62 O.S. § 853(6), due to its location within an enterprise zone designated by the Oklahoma Department of Commerce. The entirety of the Project Area is also a reinvestment area, as defined by the Oklahoma Local Development Act. Public improvements are required to reverse economic stagnation or decline, to serve as a catalyst for expanding employment, to attract investment, and to preserve and enhance the tax base.

V. OBJECTIVES

The principal objectives of this Project Plan and the Incentive Districts are:

- A. To attract the Project and the accompanying investment and development to the City, which would not occur without the tax incentives described in this Project Plan.
- B. To generate new revenues for Stillwater Public Schools, the Meridian Technology Center, Payne County, and the Payne County Department of Health (collectively, the “**Taxing Entities**”) in the form of annual PILOTs for each Phase developed as part of the Project, in accordance with Section X.B and as more particularly described in the Tax Incentive Agreement and the Economic Development Agreement.
- C. To generate new revenues for the City through Community Betterment Payments and Franchise Fees (each as defined below), in accordance with Section 11, and as more particularly described in the Economic Development Agreement.
- D. To achieve the City’s economic development goals and objectives.
- E. To spur economic development in the surrounding area and generate additional wealth for local and regional businesses through the Company’s consumption of local services for its data center campus.
- F. To foster research, technological, and career-training partnerships between the Company and community institutions, including OSU and Meridian Technology Center.
- G. To create and attract new temporary and permanent high-quality jobs to the community.

VI. STATEMENT OF PRINCIPAL ACTIONS

Implementation actions for this Project Plan, including all necessary, appropriate and supportive steps will consist principally of (i) offering tax incentives available under the Act to support the Project, which are designed to attract and expand investment and quality employment opportunities within the Project Area, (ii) administering this Project Plan, (iii) supporting and accelerating the City’s economic development initiatives, and (iv) enhancing the City’s capabilities to fund capital projects and operational requirements.

VII. ESTABLISHMENT OF INCENTIVE DISTRICTS

- A. This Project Plan creates six (6) Incentive Districts, identified herein as Incentive Districts “1,” “2,” “3,” “4,” “5,” and “6”, and as illustrated on **Exhibit A** attached hereto. Pursuant to 62 O.S. §856(B)(2), the City Council is authorized to defer determination of the effective date of each Incentive District. All Incentive Districts must be made effective within ten (10) years of the date of adoption of this Project Plan.
- B. Concurrently with approval of this Project Plan, the City, SEDA, and the Company shall enter into an Economic Development Agreement providing for the development of Phase 1 and Phase 2 of the Project. The Company must provide written notice to the City that it intends to commence Phase 2 within two (2) years of completion of Phase 1. If the Company fails to commence development of Phase 2 within two (2) years of such notice, the City may terminate the undeveloped Incentive Districts.

C. Upon execution of a Supplemental Economic Development Agreement by the City, SEDA, and the Company for Phases 3 through 6 of the Project, whether one or more, the Company shall undertake the development of each such Phase in accordance with the Supplemental Economic Development Agreement(s).

D. The effective date for the Incentive Districts for Phases 1 and 2 shall be the later of: (i) the completion of a Data Center within that Incentive District as evidenced by the issuance of the final, unrestricted certificate of occupancy for the Data Center ("**Certificate of Occupancy**"), or (ii) January 1 after the date of issuance of the Certificate of Occupancy. In lieu of a Certificate of Occupancy, the Company may deliver notice of substantial completion to the City to trigger the effective date, which shall be January 1 immediately following the issuance of the notice of substantial completion.

E. If the Company has completed Phase 2 but the development of Phase 3 has not commenced within 10 years of adoption of this Project Plan, then the undeveloped Incentive Districts for Phases 3, 4, 5, and 6 shall terminate.

F. If Phase 2 has been completed and the Company thereafter commences Phase 3 pursuant to an executed Supplemental Economic Development Agreement (including design, engineering, permitting, construction for the site and/or associated infrastructure) within 10 years of the adoption of this Project Plan, then the Incentive Districts for Phases 3, 4, 5, and 6 will become effective as of January 1 of the year in which the tenth anniversary of approval of this Project Plan occurs.

G. If the Company has not commenced Phase 4 of the Project pursuant to an executed Supplemental Economic Development Agreement within 12 years of the adoption of this Project Plan, then the undeveloped Incentive Districts for Phases 4, 5, and 6 shall terminate. If the Company has not commenced Phase 5 of the Project pursuant to an executed Supplemental Economic Development Agreement within 14 years of the adoption of the Project Plan, then the undeveloped Incentive Districts for Phases 5 and 6 shall terminate. If the Company has not commenced Phase 6 of the Project pursuant to an executed Supplemental Economic Development Agreement within 16 years of the adoption of the Project Plan, then the Incentive District for Phase 6 shall terminate.

H. Each Incentive District shall have a term of twenty-five years from its effective date ("**Term**"). For each Incentive District, all qualifying new investments in real and personal property in the Incentive District made after approval of this Project Plan and throughout the Term shall be afforded a one hundred percent (100%) exemption and no ad valorem taxes shall be assessed against such property.

I. Because the Project site plan is subject to change, if a Data Center is constructed that is located within the boundaries of more than one Incentive District, then the City, Taxing Entities, and Company agree to the following: First, if an adjustment of the Incentive District boundaries can be made that would result in the Data Center being located within a single Incentive District and would not result in an addition to an Incentive District constituting more than five percent of

that Incentive District in accordance with 62 O.S. § 858(D), the City Manager will administratively adjust the Incentive District boundaries via a minor amendment in accordance with Sections VIII.E and VIII.F without any further legislative action required. If such an adjustment of the Incentive District boundaries cannot be made, then the exemption for all Incentive Districts in which the Data Center is located will be made effective on January 1 following the issuance of a Certificate of Occupancy or notice of substantial completion for the Data Center in accordance with Section VII.D. Any subsequently constructed qualifying Project buildings, including Data Centers, that are completed within an Incentive District for which the effective date has already commenced, will still be subject to the ad valorem tax exemption for the remaining Term of that Incentive District. The Company will pay an annual PILOT for each Data Center constructed.

VIII. PROJECT AND INCENTIVE DISTRICT AUTHORIZATIONS

A. Principal Entity. The City is designated and authorized as the principal public entity to carry out and administer the provisions of this Project Plan and to exercise all powers necessary or appropriate thereto pursuant to 62 O.S. § 854, including all powers set forth in this Project Plan and the Tax Incentive Agreement. SEDA is authorized to enter into the Economic Development Agreement and Supplemental Economic Development Agreements, and to assist in performing obligations thereunder.

B. Economic Development Agreement. Concurrent with the adoption of this Project Plan, the Company shall enter into an Economic Development Agreement with the City for development of Phase 1 and Phase 2. The Economic Development Agreement shall provide for the joint and complementary endeavors of the parties with respect to the data center development, the provision and expansion of public infrastructure and utility services, Community Betterment Payments and Franchise Fees, pursuant to Section XI, and the continuing efforts of the parties to stimulate and implement economic development activities for the benefit of the community with respect to Phase 1 and 2. Thereafter, the City, SEDA, and the Company may enter into one or more Supplemental Economic Development Agreements setting forth the terms with respect to Phases 3 through 6.

C. Tax Incentive Agreement. Within sixty (60) days of the adoption of this Project Plan, the Company shall enter into a Tax Incentive Agreement with the City and every Taxing Entity, as required by 62 O.S. § 865(A) and (B).

D. Person in Charge. The City Manager Kimberly Meek, or her successor in office or her designee, shall be the person in charge of implementation of the Project Plan in accordance with the provisions, authorizations, and respective delegations of responsibilities contained in this Project Plan.

E. Implementation Authorizations and Delegation of Authority. The City is authorized to enter into the Tax Incentive Agreement with the Company and other Taxing Entities. The City shall not determine the effective date of any Incentive District until the Tax Incentive Agreement has been approved and executed by every Taxing Entity whose taxes will be subject to the incentives provided under this Project Plan, as required by 62 O.S. § 865(A) and (B). The City officers, SEDA, and the City Manager are authorized to provide such information, to execute, certify or furnish documents, and to take any measures necessary and incidental to carrying out

the provisions of this Project Plan, and to make minor amendments to this Project Plan as provided in Section F of this Article.

F. Minor Amendments. The City reserves the right to approve minor amendments to the Project Plan, as provided in the 62 O.S. § 858(D), where desirable and appropriate to implement and achieve the objectives of this Project Plan, as long as any such amendment does not change the character or purpose of the plan. These minor amendments include adding to the area of any Incentive District, so long as the additions, considered on a cumulative basis during the twenty-five (25) year term of each Incentive District, do not exceed five (5) percent of the area of the Incentive District.

IX. COSTS OF THE PROJECT

The costs of the Project, including any required public infrastructure, will be funded by the Company, and would not occur without the incentives provided pursuant to this Project Plan.

X. PRIVATE AND PUBLIC INVESTMENTS EXPECTED FOR THE PROJECT, AND ASSOCIATED FINANCIAL IMPACTS

A. Projected Private Investment. The total estimated private investment is expected to be at least Five Hundred Million Dollars (\$500,000,000.00) for each Phase. The Company plans to develop up to two Phases in the near term, with an additional four Phases potentially planned for future development. Private investment in the Project Area is expected to consist of the construction, operation, and maintenance of the Project. The direct, indirect, and induced economic impacts are estimated to range between \$750 million to \$1.25 billion per Phase.

B. Projected Public Revenues.

1. PILOT Payments to Taxing Entities. Pursuant to this Project Plan and the Tax Incentive Agreement, the Company shall make annual PILOT payments to the Taxing Entities, as follows:

a. Phase 1 and 2. For each of Phase 1 and Phase 2 of the Project, the Company shall make annual PILOT payments to the Taxing Entities beginning in the year immediately following the year in which a Certificate of Occupancy or notice of substantial completion is issued for a Data Center per Section VII.D. (the “**PILOT Commencement Year**”). The initial annual PILOT payment for Phase 1 will total Eight Hundred Sixty-Seven Thousand Five Hundred Sixty-Eight and No/100 Dollars (\$867,568.00). This amount will be disbursed to the Taxing Entities as follows:

Taxing Entity	Initial Annual Payment for Phase 1	Share of Total PILOT Payments
Stillwater Public Schools	\$624,022.98	71.93%
Meridian Technology Center	\$135,599.18	15.63%
Payne County	\$89,984.51	10.37%
County Health Department	\$17,961.33	2.07%
Total	\$867,568.00	100%

After the first annual payment, the PILOT payments to each Taxing Entity will increase by one percent (1.00%) each year. The PILOT payments for Phase 2 will be set using the same schedule as Phase 1. For instance, if Phase 1 is completed in 2026 with a PILOT Commencement Year of 2027, and Phase 2 is completed in 2032 with a PILOT Commencement Year of 2033, then in 2033, the Company shall pay two equal PILOTS, each in the total amount of \$920,940.00. These payments will be allocated to the Taxing Entities in the same proportions established above for Phase 1.

b. Phases 3 through 6. For Phases 3 through 6 of the Project, the initial PILOT for each Phase will be the product of the PILOT applicable to Phase 1 in the amount indicated in the table above and the quotient of the CPI in the PILOT Commencement Year for the applicable Phase divided by the CPI in the year 2024. In other words, the initial PILOT for each Phase shall be calculated as follows:

Phase 1 PILOT from the table above $\times$ $\frac{\text{CPI in PILOT Commencement Year for applicable Phase}}{\text{CPI in 2024}}$

Thereafter, the PILOT for that Phase will increase by one percent (1.00%) each year. For purposes of this Project Plan, CPI refers to the annual average of United States Department of Labor, Bureau of Labor Statistics, Revised Consumer Price Index for All Urban Consumers (CPI-U): U.S. Cities Average, all items index (Reference Base 1982-84 equal 100) (“CPI”).

Projections for the PILOT Payments payable to the Taxing Entities for all Phases are contained in the attached Financial Projections Appendix.

C. Financial Impact on Taxing Jurisdictions. In general, each potential Phase of the Project is likely to result in a modest increase in demand for services from the affected Taxing Entities, both during the construction and operation of each Phase. Thus, for instance, each potential Phase may result in modest increases in enrollment in Stillwater Public Schools and demands for Health Department services. However, any new costs associated with additional Phases are likely to be substantially outweighed by both the direct PILOTs to these Taxing Entities described in Section X.B. herein and further direct and indirect economic development that may result from the Project.

With respect to Stillwater Public Schools in particular, valuation increases associated with the Project will not cause a reduction in the calculation of state school aid. The Oklahoma State School Aid formula specifically excludes any such increased valuation within active Incentive Districts in calculating chargeable income in both Foundation Aid and Salary Incentive Aid. Such values

also are excluded from the valuations used to set debt limitations and sinking fund levies (for all taxing jurisdictions, not just school districts).

D. Financial Impacts on Business Activities. The Project will have a positive economic impact and impacts on business activities within the Project Area and the greater Stillwater community, region, and state, primarily due to the relatively low number of permanent employees anticipated, which mitigates the impact on the affected taxing jurisdictions, and due to expenditures with local contractors.

The Project is anticipated to create thirty (30) high quality jobs per phase, along with hundreds of construction jobs and significant expenditures with local contractors during both the construction and the operation of each Phase, all of which may draw additional payroll/income to the area per Phase. Most importantly, the Project Plan revenues will enable the City to enhance quality of life through public improvements and accelerate investment and development activities through approved economic development plans.

XI. ECONOMIC DEVELOPMENT FINANCING AND REVENUE SOURCES

The City and SEDA will plan, approve, finance, and implement public funding initiatives and economic development activities utilizing funding sources created by the undertaking of this Project Plan.

A. Financing Revenue Sources. The revenue sources expected to finance eligible Project Costs pursuant to this Project Plan, are those funds provided to the City pursuant the Economic Development Agreement between the City and the Company for Phases 1 and 2, and any Supplemental Economic Development Agreement for the future Phases, described as follows:

1. Community Betterment Payments. The Company shall make an annual payment to the City, herein a “Community Betterment Payment”, for each Phase of the Project, beginning in the PILOT Commencement Year. The initial annual Community Betterment Payment for Phase 1 shall be One Hundred Thirty-Two Thousand Four Hundred Thirty-Two and No/100 Dollars (\$132,432.00). After the first annual payment, the amount of the Community Betterment Payment to the City will increase by one percent (1.00%) each year for each Phase. The Community Betterment Payment for Phase 2 will follow the same payment schedule as Phase 1. For example, if Phase 1 is complete in 2026, with a PILOT Commencement Year of 2027, and Phase 2 is complete in 2032, with a PILOT Commencement Year of 2033, then in 2033, the Company shall make two equal Community Betterment Payments to the City, one for each Phase, each in the amount of \$140,579. For Phases 3 through 6 of the Project, the Community Betterment Payment for each Phase will be determined as provided in Supplemental Development Agreement(s) between the City and the Company.

2. Franchise Fee. During the Term of the Incentive Districts for Phase 1 and Phase 2 of the Project, to the extent the Company uses OG&E, the City shall receive a franchise fee equal to three percent (3%) of gross revenues generated from the sale of electric power to the Company. This fee shall not exceed an annual maximum cap of \$4.5 million. Upon reaching this cap, it shall

be subject to an annual increase of two percent (2%). This franchise fee shall be in lieu of any other City franchise, excise, license, occupation, privilege, permit, or other fees, taxes or assessments on purchases of electricity from OG&E. Upon termination or expiration of the Incentive Districts for Phase 1 and Phase 2, the cap shall expire. The City and the Company shall thereafter negotiate in good faith to establish a suitable franchise fee. These provisions apply exclusively to Phase 1 and Phase 2 and shall remain subject to change for all future Phases.

In the event OG&E is not the Company's selected provider, the Company and the City will engage in good faith discussions to establish an equitable revenue obligation payable to the City is in place, on mutually agreeable terms, provided the benefit to the City shall be no less than that stipulated for Phase 1 and Phase 2.

B. Other Contributions and Payments. The City and SEDA may utilize revenues from other sources, as well as Community Betterment Payments and Franchise Fees to pay eligible Project Costs. Additional financing may be provided by state local government matching payments pursuant to the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act, 62 O.S. § 840, *et seq.*

C. Financial Reports and Audits. The activities undertaken by the City or SEDA pursuant to this Project Plan shall be accounted for and publicly reported by the appropriate and necessary annual fiscal year audits and reports. Annual reports on the operation of each Incentive District shall be prepared and submitted to the Oklahoma Department of Commerce and each Taxing Entity pursuant to 62 O.S. §§ 860(F) and 867(B). A summary of these annual reports shall be published in a newspaper of general circulation in the City of Stillwater, as required by 62 O.S. § 867(C).

D. Other Necessary and Supporting Costs. SEDA or another public entity designated by the City is authorized to issue bonds and notes and to apply for and obtain grants from other sources for costs incurred or to be incurred in connection with the Project Plan and the construction of improvements therein in addition to Project Costs to be financed pursuant to this Project Plan.

XII. ESTIMATED REVENUES AND BUDGET OF PROJECT COSTS

The projected revenue and expenditures attributable to Phase 1 and Phase 2 of the Project, over 25 years, are:

Revenues:

Phase 1 Community Betterment Payments	\$ 3,740,303
Phase 2 Community Betterment Payments	\$ 3,815,483
Phase 1 Franchise Fees	\$ 51,750,000
Phase 2 Franchise Fees	\$ 51,750,000

Total Project Revenues³ **\$ 111,055,786**

Eligible Project Costs:

Project Administration (1%)	\$ 1,110,558
Parks & Public Spaces Operations/Facilities Maint. (30%)	\$ 33,316,736
Parks & Public Amenities/Facilities Improvements (29%)	\$ 32,206,178
Public Infrastructure and Economic Development (40%)	\$ 44,206,178

Total Eligible Project Costs⁴ **\$ 111,055,786**

In the event additional public costs become necessary or appropriate under this Project Plan, the City may approve such costs at any time, subject to availability of funding and subject to constitutional and statutory restrictions.

Projections for Phases 1 through 6 are provided in the attached Financial Projections Appendix. The Community Betterment Payments and Franchise Fees to the City for the future phases will be determined pursuant to Supplemental Economic Development Agreement(s) between the City and the Company. Thereafter, the City shall adopt a supplement to this Project Plan authorizing the budget for the future phases.

XIII. LAND USE

A. Current land uses and conditions of the real property in the Project Area are shown on the map attached as **Exhibit C**, “Existing Uses and Conditions.” The proposed improvements to and the proposed uses of the Project Area are shown on **Exhibit D**, “Proposed Improvements and Uses.”

B. To accommodate the Project, the City has previously approved a zoning change with respect to certain portions of the Project Area. The Project conforms to the City’s Comprehensive Plan.

³ The projected Franchise Fee revenues represent the City’s estimates and are not projections provided by the Company. Project revenues shall be special funds of the City to be held in a separate account of the City.

⁴ Any funds not disbursed or pledged under a specific budget category may be allocated to any other budget category.

EXHIBIT A: DEPICTION OF PROJECT AREA AND INCENTIVE DISTRICTS

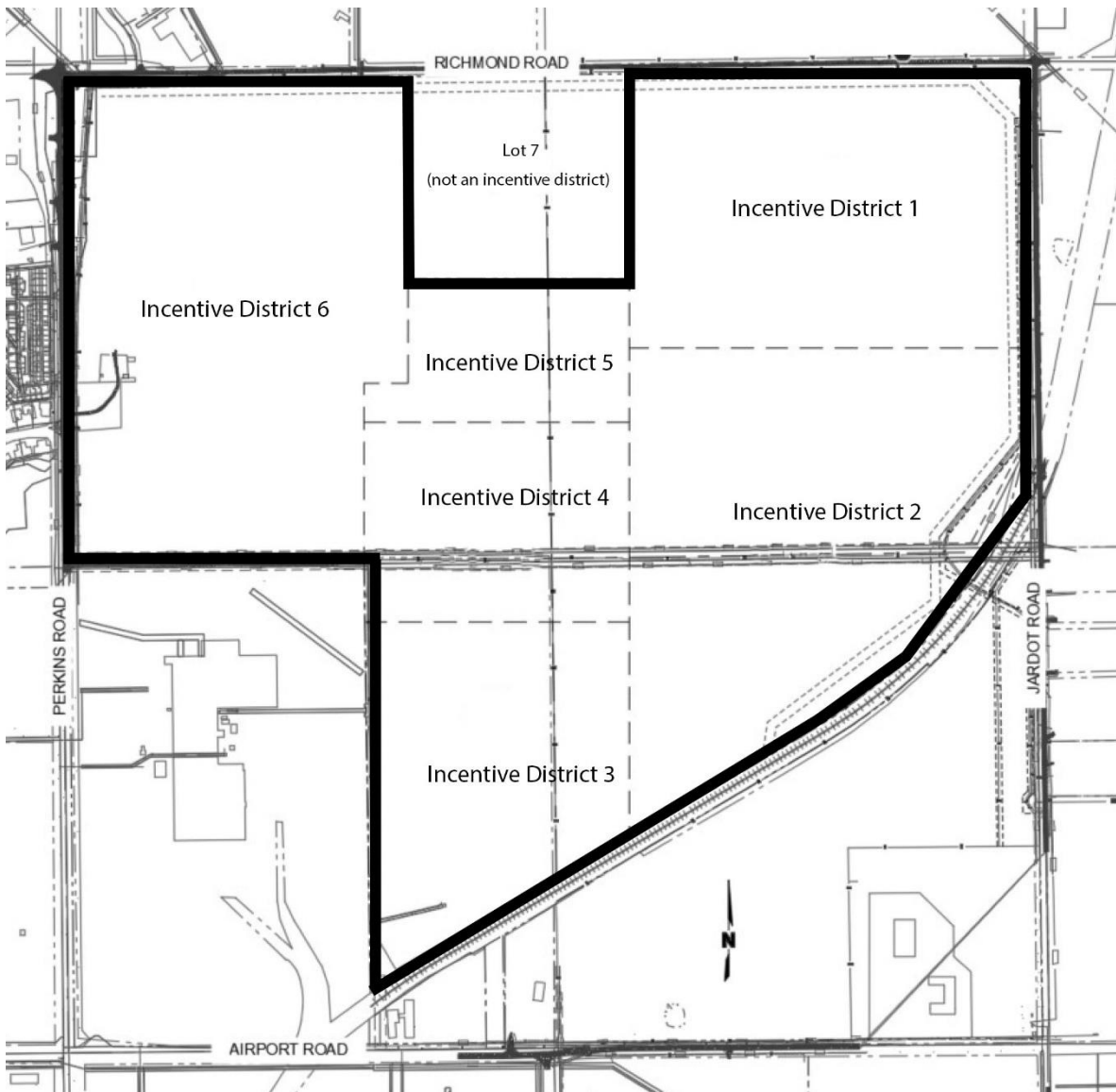


EXHIBIT B: PROJECT AREA AND INCENTIVE DISTRICT LEGAL DESCRIPTIONS⁵

The Project Area will consist of the area within which all of the Incentive Districts are located.

Project Area Legal Description

A tract of land located in the Northeast Quarter (NE/4), Northwest Quarter (NW/4), and Southwest Quarter (SW/4), and Southeast Quarters (SE/4) of Section Thirty-Six (36), Township Twenty (20) North, Range Two (2) East of the Indian Base and Meridian (I.B. & M.), Payne County, Oklahoma, being more particularly described as metes and bounds by Darrel Ray Mason OKLS1690 on March 13, 2024 as follows:

COMMENCING at the SW/C, SW/4, S36-T20-R2E monumented by a 1" Rail Road Spike; thence with a BASIS OF BEARING of N 00°41'24" W along the west line of the SW/4 a distance of 2638.58 feet to the NW/C, SW/4, SEC36-T20N-R3E monumented by a 1/2" Rebar AND the POINT OF BEGINNING;

Thence along the west line of the NW/4 with a bearing of N 00°42'47" W a distance of 2630.81 feet to the NW/C, NW/4 SEC36-T20N-R2E monumented by a Railroad Spike;

Thence with a bearing of N 89°13'38" E along the north line of the NW/4 a distance of 2629.53 feet to the NE/C, NW/4 SEC36-T20N-R2E monumented by a 1/2" Rebar;

Thence with a bearing of N 89°18'29" E along the north line of the NE/4 a distance of 2630.74 feet to the NE/C, NE/4, SEC36-T20N-R2E monumented by a Mag Nail;

Thence with a bearing of S 00°49'51" E along the east line of the NE/4 a distance of 2122.35 feet to a point on the East Line of NE/4, SEC36-T20N-R2E, also being a point on the Northerly Rail Road R/W line of Eastern Oklahoma Railway particularly described in Book 7, Page 208;

Thence in a southwesterly direction with a non-tangent curve turning to the right with a radius of 2793.96 feet, having a chord bearing of S 27°41'11" W and a chord distance of 761.36, and an arc length of 763.73 feet to a point on said Northerly Rail Road R/W Line;

Thence with a bearing of N 54°28'57" E a distance of 20.00 feet to a point on said Northerly Rail Road R/W Line;

Thence in a southwesterly direction with a non-tangent curve turning to the right with a radius of 2773.96 feet, having a chord bearing of S 40°33'13" W and a chord distance of 487.07 feet, and an arc length of 487.70 to a point on said Northerly Rail Road R/W Line monumented by a 1/2" Rebar w/ cap PLS 1802;

Thence with a bearing of S 44°24'34" E a distance of 20.00 feet to a point on said Northerly Rail Road R/W Line monumented by a 1/2" Rebar w/ cap PLS 1802;

Thence in a southwesterly direction with a non-tangent curve turning to the right with a radius of 2793.69 feet, having a chord bearing of S 51°55'38" W and a chord distance of 616.73, and an arc length of 617.99 feet to a point on said Northerly Rail Road R/W Line monumented by a 1/2" Rebar w/ cap PLS 1802;

Thence with a bearing of S 59°21'10" W a distance of 1676.22 feet to a point on said Northerly Rail Road R/W Line;

Thence with a bearing of S59°21'10" W a distance of 614.77 feet to a point on said Northerly Rail Road R/W Line;

⁵ Note that until City Council approves this Project Plan, the legal descriptions set forth herein remain subject to review and revision based on updated surveys and related information.

Thence in a southwesterly direction with a tangent curve turning to the left with a radius of 2915.05 feet, having a chord bearing of S 55°26'11"W and a chord distance of 387.62 feet, and an arc length of 387.91 feet to a point on said Northerly Rail Road R/W Line monumented by a 1/2" Rebar w/ cap Hitech;

Thence with a bearing of N 00°47'43" W along the west line of the east 60 acres of the SW/4 a distance of 2333.99

feet to a point on the north line of the SW/4, SEC36-T20N-R2E monumented by a 1/2" pipe;

Thence along said north line of said SW/4 with a bearing of S 89°28'48" W a distance of 1645.64' back to the POINT OF BEGINNING.

Less and Except:

A tract of land located in the Northwest Quarter (NW/4) and Northeast Quarters (NE/4) of Section Thirty-Six (36), Township Twenty (20) North, Range Two (2) East of the Indian Base and Meridian (I.B. & M.), Payne County, Oklahoma, being more particularly described as metes and bounds by Darrel Ray Mason OKLS1690 on August 3, 2024 as follows:

BEGINNING at the Northeast Corner of the Northwest Quarter of said Section 36, Thence along the North line of the Northeast Quarter of said Section 36 N 89° 18' 29" E, a distance of 452.85 feet;

Thence departing said North line S 00° 00' 42" W, a distance of 1143.51 feet;

Thence S 89° 59' 34" W, a distance of 1,189.48 feet;

Thence N 00° 00' 04" E, a distance of 1,128.25 feet to a point on the North line of the Northwest Quarter of said Section 36;

Thence along said North line N 89° 13' 38" E, a distance of 736.95 feet back to the POINT OF BEGINNING.

Containing 16,844,572 square feet OR 386.698 acres more or loss

The boundaries of six (6) proposed Incentive Districts, whose dates of creation are proposed to be deferred for a period of up to ten years, are described as follows:

Incentive District 1 Legal Description

A tract of land located in the Northeast Quarter (NE/4) of Section Thirty-Six (36), Township Twenty (20) North, Range Two (2) East of the Indian Base and Meridian (I.B. & M.), Payne County, Oklahoma, being more particularly described as metes and bounds by Darrel Ray Mason OKLS1690 on August 3, 2024 as follows:

BEGINNING at the Northeast Corner of the Northeast Quarter of said Section 36, Thence along the East line of the said Northeast Quarter S 00° 49' 50" E, a distance of 1542.63 feet; Thence departing said East line, S 89° 59' 44" W, a distance of 2,200.10 feet; Thence N 00° 00' 01" E, a distance of 1,516.34 feet to a point on the North line of said Northeast Quarter; Thence along said North line N 89° 18' 29" E, a distance of 2,177.89 feet back to the POINT OF BEGINNING.

Containing 3,347,887 square feet OR 76.857 acres more or less.

Incentive District 2 Legal Description

A tract of land located in the Southeast Quarter (SE/4) and Northeast Quarter (NE/4) of Section Thirty-Six (36), Township Twenty (20) North, Range Two (2) East of the Indian Base and Meridian (I.B. & M.), Payne County, Oklahoma, being more particularly described as metes and bounds by Darrel Ray Mason OKLS1690 on August 3, 2024 as follows:

COMMENCING at the Northeast Corner of the Northeast Quarter of said Section 36, Thence along the East line of the said Northeast Quarter S 00° 49' 50" E, a distance of 1542.63 feet to the POINT OF BEGINNING;

Thence S 00° 49' 52" E, a distance of 579.72 feet to a point being a non-tangent curve to the right also being a point on the Northeasterly Railroad Right-Of-Way line recorded at Book 7, Page 208 in the records of Payne County Clerk's Office; Thence along the Northwestern Right-Of-Way line for the next six (6) calls:

(1) Along said curve to the right having a radius of 2,799.14 feet, an arc length of 763.70 feet, and having a chord bearing of S 27° 41' 41" W, a chord length of 761.34 feet to a point of non-tangency;

(2) Thence N 54° 28' 57" W, a distance of 20.00 feet to a non-tangent curve to the right;

(3) Thence along curve to the right having a radius of 2773.96 feet, an arc length of 487.70 feet, and having a chord bearing of S 40° 33' 14" W, a chord length of 487.07 feet to a point of non-tangency;

(4) Thence S 44° 24' 34" E, a distance of 20.00 feet to a non-tangent curve to the right;

(5) Thence along curve to the right having a radius of 2793.69 feet, an arc length of 617.99 feet, and having a chord bearing of S 51° 55' 38" W, a chord length of 616.73 feet to a point of non-tangency;

(6) Thence S 59° 19' 00" W, a distance of 1,221.25 feet;

Thence departing from said Northwestern Right-Of-Way line N 00° 00' 12" E, a distance of 1,155.08 feet;

Thence N 00° 00' 00" W, a distance of 1,075.36 feet;

Thence N 00° 00' 00" E, a distance of 399.42 feet;

Thence N 89° 59' 44" E, a distance of 2,200.12 feet back to the POINT OF BEGINNING.

Containing 4,111,928 square feet OR 94.397 acres more or less.

Incentive District 3 Legal Description

A tract of land located in the Southeast Quarter (SE/4) and Southwest Quarter (SW/4) of Section Thirty-Six (36), Township Twenty (20) North, Range Two (2) East of the Indian Base and Meridian (I.B. & M.), Payne County, Oklahoma, being more particularly described as metes and bounds by Darrel Ray Mason OKLS1690 on August 3, 2024 as follows:

COMMENCING at the Southwest Corner of the Northwest Quarter of said Section 36;

Thence along the South line of said Northwest Quarter S 89° 28' 48" E, a distance of 1645.61 feet;

Thence along the West line of Lot Four (4) Richmond Road & Highway 177 Addition, S 00° 48' 02" E, a distance of 334.80 feet to the POINT OF BEGINNING;

Thence N 89° 59' 20" E, a distance of 1,399.15 feet; Thence S 00° 00' 12" W, a distance of 1,155.08 feet to a point on the Northwestern line of a Railroad Right-Of-Way recorded at Book 7, Page 208 in the records of Payne County Clerk's Office; Thence continuing along said Northwestern line S 59° 19' 00" W, a distance of 1,223.40 feet to a non-tangent curve to the left; Thence along said curve having a radius of 2915.00 feet, an arc length of 387.91 feet, and having a chord bearing of S 55° 26' 11" W, a chord length of 387.62 feet to a point of non-tangency; Thence departing said Northwestern line N 00° 47' 43" W, a distance of 1999.19 feet back to the POINT OF BEGINNING.

Containing 2,172,023 square feet OR 49.878 acres more or less.

Incentive District 4 Legal Description

A tract of land located in the Southeast Quarter (SE/4) and Southwest Quarter (SW/4) and Northeast Quarter (NE/4) and Northwest Quarter (NW/4) of Section Thirty-Six (36), Township Twenty (20) North, Range Two (2) East of the Indian Base and Meridian (I.B. & M.), Payne County, Oklahoma, being more particularly described as metes and bounds by Darrel Ray Mason OKLS1690 on August 3, 2024 as follows:

COMMENCING at the Southwest Corner of the Northwest Quarter of said Section 36; Thence along the South line of said Northwest Quarter S 89° 28' 48" E, a distance of 1622.33 feet to the POINT OF BEGINNING;

Thence N 00° 00' 46" W, a distance of 740.78 feet; Thence N 89° 59' 20" E, a distance of 1427.27 feet;

Thence S 00° 00' 00" W, a distance of 1075.36 feet; Thence S 89° 59' 20" W, a distance of 1399.15 feet;

Thence N 00° 48' 02" W, a distance of 334.80 feet; Thence continuing along said South line S 89° 28' 48" W, a distance of 23.28 feet back to the POINT OF BEGINNING.

Containing 1,526,135 square feet OR 35.035 acres more or less.

Incentive District 5 Legal Description

A tract of land located in the Northwest Quarter (NW/4) and Northeast Quarters (NE/4) of Section Thirty-Six (36), Township Twenty (20) North, Range Two (2) East of the Indian Base and Meridian (I.B. & M.), Payne County, Oklahoma, being more particularly described as metes and bounds by Darrel Ray Mason OKLS1690 on August 3, 2024 as follows:

COMMENCING at the Northeast Corner of the Northwest Quarter of said Section 36, Thence along the North line of the Northeast Quarter of said Section 36, N 89° 18' 29" E, a distance of 452.85 feet;

Thence departing said North line and along the East line of Lot Seven (7) in Richmond Road & Highway 177 Addition, S 00° 00' 42" W, a distance of 1143.51 feet to the POINT OF BEGINNING;

Thence S 00° 02' 04" E, a distance of 372.20 feet; Thence S 00° 00' 00" W, a distance of 399.42 feet;

Thence S 89° 59' 20" W, a distance of 1,427.27 feet; Thence N 00° 00' 17" E, a distance of 210.20 feet;
Thence N 90° 00' 00" E, a distance of 237.55 feet; Thence N 00° 00' 00" W, a distance of 562.17 feet;
Thence N 89° 59' 34" E, a distance of 1,189.48 feet to the POINT OF BEGINNING.

Containing 968,675 square feet OR 22.238 acres more or less.

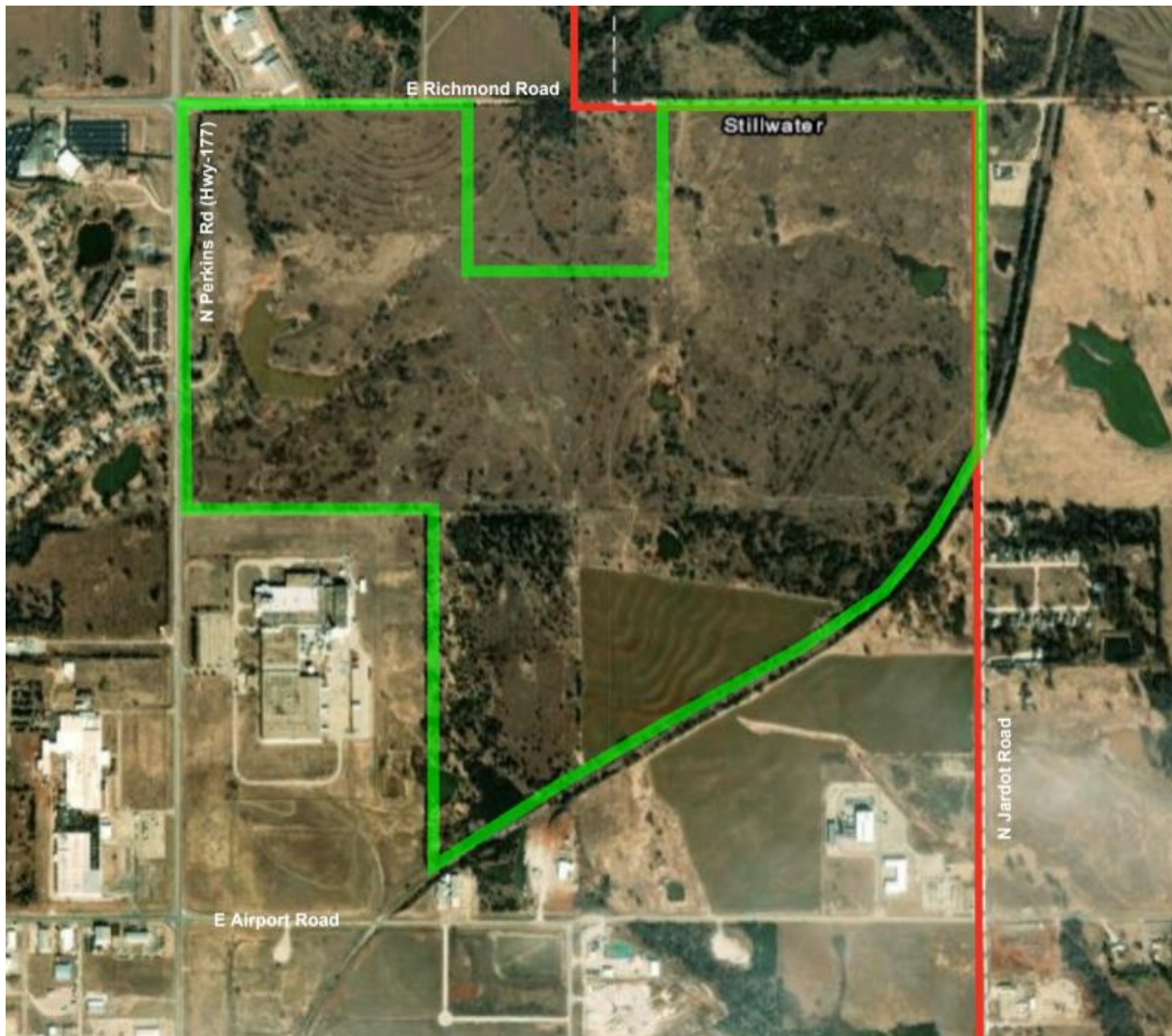
Incentive District 6 Legal Description

A tract of land located in the Northwest Quarter (NW/4) of Section Thirty-Six (36), Township Twenty (20) North, Range Two (2) East of the Indian Base and Meridian (I.B. & M.), Payne County, Oklahoma, being more particularly described as metes and bounds by Darrel Ray Mason OKLS1690 on August 3, 2024 as follows:

BEGINNING at the Northwest Corner of the Northwest Quarter of said Section 36, Thence along the North line of said Section 36 N 89° 13' 38" E, a distance of 1,892.59 feet;
Thence departing from said North line S 00° 00' 03 " W, a distance of 1690.42 feet;
Thence S 89° 56' 04" W, a distance of 237.57 feet;
Thence S 00° 00' 00" W, a distance of 209.93 feet;
Thence S 00° 00' 46" E, a distance of 740.78 feet to a point on the South line of the Northwest Quarter of said Section 36; Thence along said South line S 89° 28' 48" W, a distance of 1622.33 feet to the Southwest corner of the Northwest Quarter; Thence departing said South line and along the West line of the Northwest Quarter of said Section 36 N 00° 42' 47" W, a distance of 2630.81 feet back to the POINT OF BEGINNING.

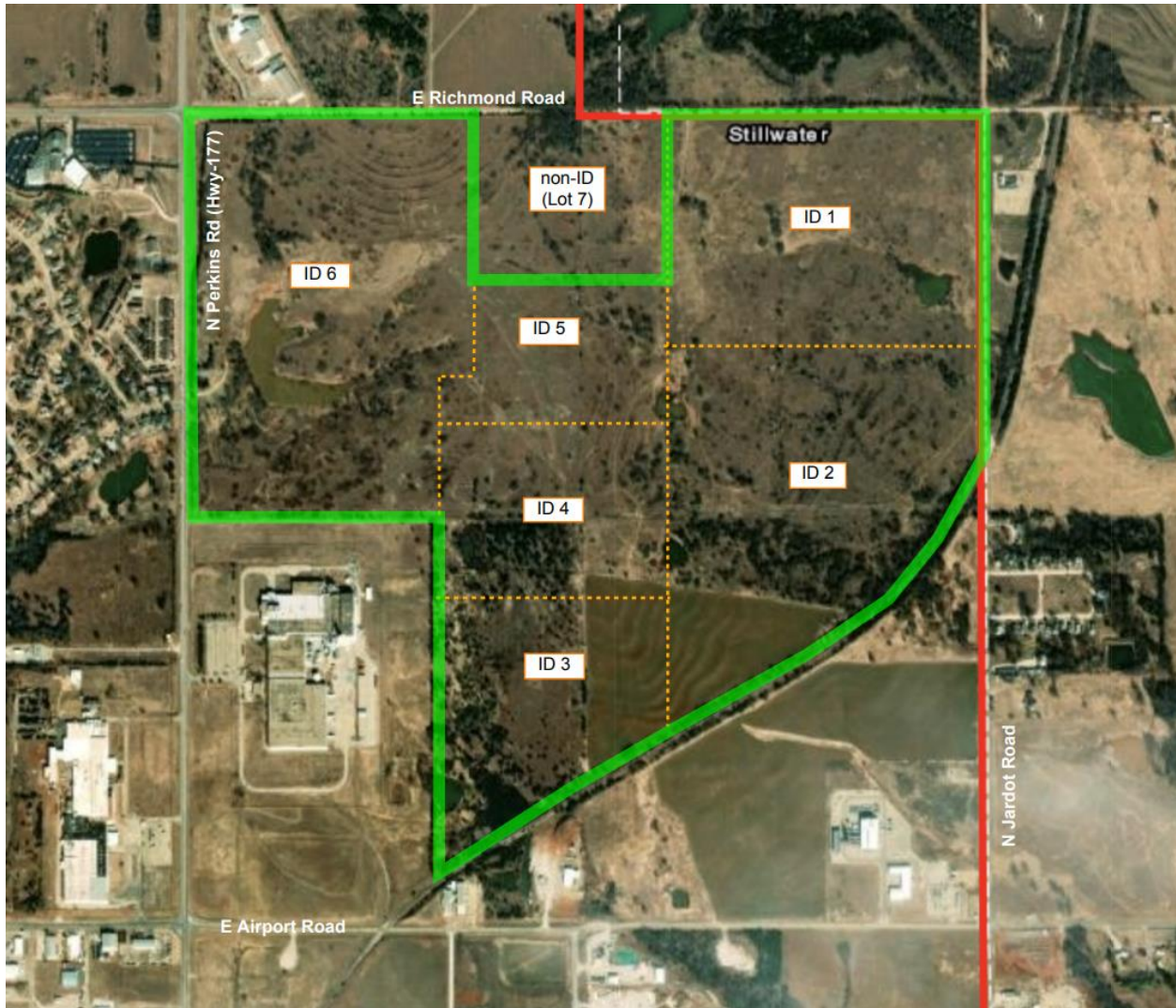
Containing 4,717 996 square feet OR 108.310 acres more or less.

EXHIBIT C: EXISTING USES AND CONDITIONS



The Project Area is currently undeveloped and has been used for limited agricultural purposes (grazing and crop leases). After the passage of City of Stillwater Ordinance No. 3535 on May 8, 2024, the entirety of the Project Area is zoned IG General Industrial District in anticipation of the development of the Project.

EXHIBIT D: PROPOSED IMPROVEMENTS AND USES



The Project Area will be developed as a data center campus. The public works and improvements for the Project will include infrastructure necessary to deliver water to and transport wastewater from the Project Area, and road improvements to Richmond Road. Additional water and wastewater infrastructure may be necessary to accommodate future phases of the Project.



FINANCIAL PROJECTIONS APPENDIX
to the
STILLWATER DATA CENTER ECONOMIC
DEVELOPMENT PROJECT PLAN

Phase 1

Year	PILOT Payments					Community Betterment Payments	Franchise Fees*	Total
	SPS	Meridian Tech	County	County Health				
2027	\$ 624,023	\$ 135,599	\$ 89,985	\$ 17,961	\$ 132,432	\$ 2,070,000	\$ 1,000,000	
2028	\$ 630,263	\$ 136,955	\$ 90,884	\$ 18,141	\$ 133,756	\$ 2,070,000	\$ 1,010,000	
2029	\$ 636,566	\$ 138,325	\$ 91,793	\$ 18,322	\$ 135,094	\$ 2,070,000	\$ 1,020,100	
2030	\$ 642,932	\$ 139,708	\$ 92,711	\$ 18,506	\$ 136,445	\$ 2,070,000	\$ 1,030,301	
2031	\$ 649,361	\$ 141,105	\$ 93,638	\$ 18,691	\$ 137,809	\$ 2,070,000	\$ 1,040,604	
2032	\$ 655,854	\$ 142,516	\$ 94,575	\$ 18,878	\$ 139,187	\$ 2,070,000	\$ 1,051,010	
2033	\$ 662,413	\$ 143,941	\$ 95,520	\$ 19,066	\$ 140,579	\$ 2,070,000	\$ 1,061,520	
2034	\$ 669,037	\$ 145,381	\$ 96,476	\$ 19,257	\$ 141,985	\$ 2,070,000	\$ 1,072,135	
2035	\$ 675,727	\$ 146,834	\$ 97,440	\$ 19,450	\$ 143,405	\$ 2,070,000	\$ 1,082,857	
2036	\$ 682,485	\$ 148,303	\$ 98,415	\$ 19,644	\$ 144,839	\$ 2,070,000	\$ 1,093,685	
2037	\$ 689,310	\$ 149,786	\$ 99,399	\$ 19,840	\$ 146,287	\$ 2,070,000	\$ 1,104,622	
2038	\$ 696,203	\$ 151,284	\$ 100,393	\$ 20,039	\$ 147,750	\$ 2,070,000	\$ 1,115,668	
2039	\$ 703,165	\$ 152,797	\$ 101,397	\$ 20,239	\$ 149,228	\$ 2,070,000	\$ 1,126,825	
2040	\$ 710,196	\$ 154,325	\$ 102,411	\$ 20,442	\$ 150,720	\$ 2,070,000	\$ 1,138,093	
2041	\$ 717,298	\$ 155,868	\$ 103,435	\$ 20,646	\$ 152,227	\$ 2,070,000	\$ 1,149,474	
2042	\$ 724,471	\$ 157,426	\$ 104,469	\$ 20,853	\$ 153,749	\$ 2,070,000	\$ 1,160,969	
2043	\$ 731,716	\$ 159,001	\$ 105,514	\$ 21,061	\$ 155,287	\$ 2,070,000	\$ 1,172,579	
2044	\$ 739,033	\$ 160,591	\$ 106,569	\$ 21,272	\$ 156,840	\$ 2,070,000	\$ 1,184,304	
2045	\$ 746,424	\$ 162,197	\$ 107,635	\$ 21,484	\$ 158,408	\$ 2,070,000	\$ 1,196,147	
2046	\$ 753,888	\$ 163,819	\$ 108,711	\$ 21,699	\$ 159,992	\$ 2,070,000	\$ 1,208,109	
2047	\$ 761,427	\$ 165,457	\$ 109,798	\$ 21,916	\$ 161,592	\$ 2,070,000	\$ 1,220,190	
2048	\$ 769,041	\$ 167,111	\$ 110,896	\$ 22,135	\$ 163,208	\$ 2,070,000	\$ 1,232,392	
2049	\$ 776,731	\$ 168,782	\$ 112,005	\$ 22,357	\$ 164,840	\$ 2,070,000	\$ 1,244,716	
2050	\$ 784,499	\$ 170,470	\$ 113,125	\$ 22,580	\$ 166,489	\$ 2,070,000	\$ 1,257,163	
2051	\$ 792,344	\$ 172,175	\$ 114,256	\$ 22,806	\$ 168,153	\$ 2,070,000	\$ 1,269,735	
Total	\$ 17,624,406	\$ 3,829,755	\$ 2,541,450	\$ 507,285	\$ 3,740,303	\$ 51,750,000	\$ 79,993,200	

*The Franchise Fee revenues represent the City's estimates and are not projections provided by the Company.

Phase 2

Year	PILOT Payments					Community Betterment Payments	Franchise Fees*	Total
	SPS	Meridian Tech	County	County Health				
2033	\$ 662,413	\$ 143,941	\$ 95,520	\$ 19,066	\$ 140,579	\$ 2,070,000	\$ 1,061,520	
2034	\$ 669,037	\$ 145,381	\$ 96,476	\$ 19,257	\$ 141,985	\$ 2,070,000	\$ 1,072,135	
2035	\$ 675,727	\$ 146,834	\$ 97,440	\$ 19,450	\$ 143,405	\$ 2,070,000	\$ 1,082,857	
2036	\$ 682,485	\$ 148,303	\$ 98,415	\$ 19,644	\$ 144,839	\$ 2,070,000	\$ 1,093,685	
2037	\$ 689,310	\$ 149,786	\$ 99,399	\$ 19,840	\$ 146,287	\$ 2,070,000	\$ 1,104,622	
2038	\$ 696,203	\$ 151,284	\$ 100,393	\$ 20,039	\$ 147,750	\$ 2,070,000	\$ 1,115,668	
2039	\$ 703,165	\$ 152,797	\$ 101,397	\$ 20,239	\$ 149,228	\$ 2,070,000	\$ 1,126,825	
2040	\$ 710,196	\$ 154,325	\$ 102,411	\$ 20,442	\$ 150,720	\$ 2,070,000	\$ 1,138,093	
2041	\$ 717,298	\$ 155,868	\$ 103,435	\$ 20,646	\$ 152,227	\$ 2,070,000	\$ 1,149,474	
2042	\$ 724,471	\$ 157,426	\$ 104,469	\$ 20,853	\$ 153,749	\$ 2,070,000	\$ 1,160,969	
2043	\$ 731,716	\$ 159,001	\$ 105,514	\$ 21,061	\$ 155,287	\$ 2,070,000	\$ 1,172,579	
2044	\$ 739,033	\$ 160,591	\$ 106,569	\$ 21,272	\$ 156,840	\$ 2,070,000	\$ 1,184,304	
2045	\$ 746,424	\$ 162,197	\$ 107,635	\$ 21,484	\$ 158,408	\$ 2,070,000	\$ 1,196,147	
2046	\$ 753,888	\$ 163,819	\$ 108,711	\$ 21,699	\$ 159,992	\$ 2,070,000	\$ 1,208,109	
2047	\$ 761,427	\$ 165,457	\$ 109,798	\$ 21,916	\$ 161,592	\$ 2,070,000	\$ 1,220,190	
2048	\$ 769,041	\$ 167,111	\$ 110,896	\$ 22,135	\$ 163,208	\$ 2,070,000	\$ 1,232,392	
2049	\$ 776,731	\$ 168,782	\$ 112,005	\$ 22,357	\$ 164,840	\$ 2,070,000	\$ 1,244,716	
2050	\$ 784,499	\$ 170,470	\$ 113,125	\$ 22,580	\$ 166,489	\$ 2,070,000	\$ 1,257,163	
2051	\$ 792,344	\$ 172,175	\$ 114,256	\$ 22,806	\$ 168,153	\$ 2,070,000	\$ 1,269,735	
2052	\$ 800,267	\$ 173,897	\$ 115,399	\$ 23,034	\$ 169,835	\$ 2,070,000	\$ 1,282,432	
2053	\$ 808,270	\$ 175,636	\$ 116,553	\$ 23,265	\$ 171,533	\$ 2,070,000	\$ 1,295,256	
2054	\$ 816,352	\$ 177,392	\$ 117,719	\$ 23,497	\$ 173,249	\$ 2,070,000	\$ 1,308,209	
2055	\$ 824,516	\$ 179,166	\$ 118,896	\$ 23,732	\$ 174,981	\$ 2,070,000	\$ 1,321,291	
2056	\$ 832,761	\$ 180,958	\$ 120,085	\$ 23,969	\$ 176,731	\$ 2,070,000	\$ 1,334,504	
2057	\$ 841,089	\$ 182,767	\$ 121,286	\$ 24,209	\$ 178,498	\$ 2,070,000	\$ 1,347,849	
Total	\$ 18,708,662	\$ 4,065,362	\$ 2,697,801	\$ 538,494	\$ 3,970,407	\$ 51,750,000	\$ 81,730,725	

*The Franchise Fee revenues represent the City's estimates and are not projections provided by the Company.

Phase 3*

Year	PILOT Payments				Total
	SPS	Meridian Tech	County	County Health	
2037	\$ 977,024	\$ 212,306	\$ 140,887	\$ 28,122	\$ 1,358,339
2038	\$ 986,794	\$ 214,429	\$ 142,296	\$ 28,403	\$ 1,371,922
2039	\$ 996,662	\$ 216,573	\$ 143,719	\$ 28,687	\$ 1,385,641
2040	\$ 1,006,629	\$ 218,739	\$ 145,156	\$ 28,974	\$ 1,399,498
2041	\$ 1,016,695	\$ 220,926	\$ 146,608	\$ 29,264	\$ 1,413,493
2042	\$ 1,026,862	\$ 223,135	\$ 148,074	\$ 29,556	\$ 1,427,628
2043	\$ 1,037,130	\$ 225,367	\$ 149,555	\$ 29,852	\$ 1,441,904
2044	\$ 1,047,502	\$ 227,620	\$ 151,050	\$ 30,150	\$ 1,456,323
2045	\$ 1,057,977	\$ 229,897	\$ 152,561	\$ 30,452	\$ 1,470,886
2046	\$ 1,068,557	\$ 232,196	\$ 154,087	\$ 30,756	\$ 1,485,595
2047	\$ 1,079,242	\$ 234,518	\$ 155,627	\$ 31,064	\$ 1,500,451
2048	\$ 1,090,035	\$ 236,863	\$ 157,184	\$ 31,375	\$ 1,515,456
2049	\$ 1,100,935	\$ 239,231	\$ 158,756	\$ 31,688	\$ 1,530,610
2050	\$ 1,111,944	\$ 241,624	\$ 160,343	\$ 32,005	\$ 1,545,916
2051	\$ 1,123,064	\$ 244,040	\$ 161,946	\$ 32,325	\$ 1,561,375
2052	\$ 1,134,294	\$ 246,480	\$ 163,566	\$ 32,649	\$ 1,576,989
2053	\$ 1,145,637	\$ 248,945	\$ 165,202	\$ 32,975	\$ 1,592,759
2054	\$ 1,157,094	\$ 251,435	\$ 166,854	\$ 33,305	\$ 1,608,687
2055	\$ 1,168,665	\$ 253,949	\$ 168,522	\$ 33,638	\$ 1,624,773
2056	\$ 1,180,351	\$ 256,488	\$ 170,207	\$ 33,974	\$ 1,641,021
2057	\$ 1,192,155	\$ 259,053	\$ 171,909	\$ 34,314	\$ 1,657,431
2058	\$ 1,204,076	\$ 261,644	\$ 173,629	\$ 34,657	\$ 1,674,006
Total	\$ 23,909,322	\$ 5,195,457	\$ 3,447,739	\$ 688,185	\$ 33,240,703

**CPI growth based on the 25-year average of 3.5088%*

Note: Community Betterment Payments and Franchise Fees to the City for future phases will be determined pursuant to Supplemental Development Agreement(s) between the City and the Company.

Phase 4*

Year	PILOT Payments				Total
	SPS	Meridian Tech	County	County Health	
2039	\$ 1,046,790	\$ 227,466	\$ 150,948	\$ 30,130	\$ 1,455,334
2040	\$ 1,057,258	\$ 229,740	\$ 152,457	\$ 30,431	\$ 1,469,887
2041	\$ 1,067,831	\$ 232,038	\$ 153,982	\$ 30,736	\$ 1,484,586
2042	\$ 1,078,509	\$ 234,358	\$ 155,522	\$ 31,043	\$ 1,499,432
2043	\$ 1,089,294	\$ 236,702	\$ 157,077	\$ 31,353	\$ 1,514,426
2044	\$ 1,100,187	\$ 239,069	\$ 158,648	\$ 31,667	\$ 1,529,571
2045	\$ 1,111,189	\$ 241,460	\$ 160,234	\$ 31,983	\$ 1,544,866
2046	\$ 1,122,301	\$ 243,874	\$ 161,837	\$ 32,303	\$ 1,560,315
2047	\$ 1,133,524	\$ 246,313	\$ 163,455	\$ 32,626	\$ 1,575,918
2048	\$ 1,144,859	\$ 248,776	\$ 165,089	\$ 32,953	\$ 1,591,677
2049	\$ 1,156,308	\$ 251,264	\$ 166,740	\$ 33,282	\$ 1,607,594
2050	\$ 1,167,871	\$ 253,776	\$ 168,408	\$ 33,615	\$ 1,623,670
2051	\$ 1,179,550	\$ 256,314	\$ 170,092	\$ 33,951	\$ 1,639,907
2052	\$ 1,191,345	\$ 258,877	\$ 171,793	\$ 34,291	\$ 1,656,306
2053	\$ 1,203,258	\$ 261,466	\$ 173,511	\$ 34,634	\$ 1,672,869
2054	\$ 1,215,291	\$ 264,081	\$ 175,246	\$ 34,980	\$ 1,689,597
2055	\$ 1,227,444	\$ 266,722	\$ 176,998	\$ 35,330	\$ 1,706,493
2056	\$ 1,239,718	\$ 269,389	\$ 178,768	\$ 35,683	\$ 1,723,558
2057	\$ 1,252,116	\$ 272,083	\$ 180,556	\$ 36,040	\$ 1,740,794
2058	\$ 1,264,637	\$ 274,804	\$ 182,361	\$ 36,400	\$ 1,758,202
Total	\$ 23,049,280	\$ 5,008,571	\$ 3,323,721	\$ 663,430	\$ 32,045,002

**CPI growth based on the 25-year average of 3.5088%*

Note: Community Betterment Payments and Franchise Fees to the City for future phases will be determined pursuant to Supplemental Development Agreement(s) between the City and the Company.

Phase 5*

Year	PILOT Payments				Total
	SPS	Meridian Tech	County	County Health	
2041	\$ 1,121,539	\$ 243,709	\$ 161,727	\$ 32,281	\$ 1,559,255
2042	\$ 1,132,754	\$ 246,146	\$ 163,344	\$ 32,604	\$ 1,574,848
2043	\$ 1,144,082	\$ 248,607	\$ 164,977	\$ 32,930	\$ 1,590,596
2044	\$ 1,155,522	\$ 251,093	\$ 166,627	\$ 33,260	\$ 1,606,502
2045	\$ 1,167,078	\$ 253,604	\$ 168,293	\$ 33,592	\$ 1,622,567
2046	\$ 1,178,748	\$ 256,140	\$ 169,976	\$ 33,928	\$ 1,638,793
2047	\$ 1,190,536	\$ 258,702	\$ 171,676	\$ 34,267	\$ 1,655,181
2048	\$ 1,202,441	\$ 261,289	\$ 173,393	\$ 34,610	\$ 1,671,733
2049	\$ 1,214,466	\$ 263,901	\$ 175,127	\$ 34,956	\$ 1,688,450
2050	\$ 1,226,610	\$ 266,540	\$ 176,878	\$ 35,306	\$ 1,705,334
2051	\$ 1,238,876	\$ 269,206	\$ 178,647	\$ 35,659	\$ 1,722,388
2052	\$ 1,251,265	\$ 271,898	\$ 180,433	\$ 36,015	\$ 1,739,612
2053	\$ 1,263,778	\$ 274,617	\$ 182,238	\$ 36,375	\$ 1,757,008
2054	\$ 1,276,416	\$ 277,363	\$ 184,060	\$ 36,739	\$ 1,774,578
2055	\$ 1,289,180	\$ 280,137	\$ 185,901	\$ 37,107	\$ 1,792,324
2056	\$ 1,302,072	\$ 282,938	\$ 187,760	\$ 37,478	\$ 1,810,247
2057	\$ 1,315,092	\$ 285,767	\$ 189,637	\$ 37,852	\$ 1,828,349
2058	\$ 1,328,243	\$ 288,625	\$ 191,534	\$ 38,231	\$ 1,846,633
Total	\$ 21,998,697	\$ 4,780,281	\$ 3,172,226	\$ 633,191	\$ 30,584,396

**CPI growth based on the 25-year average of 3.5088%*

Note: Community Betterment Payments and Franchise Fees to the City for future phases will be determined pursuant to Supplemental Development Agreement(s) between the City and the Company.

Phase 6*

Year	PILOT Payments				Total
	SPS	Meridian Tech	County	County Health	
2043	\$ 1,201,625	\$ 261,111	\$ 173,275	\$ 34,587	\$ 1,670,597
2044	\$ 1,213,641	\$ 263,722	\$ 175,008	\$ 34,932	\$ 1,687,303
2045	\$ 1,225,777	\$ 266,359	\$ 176,758	\$ 35,282	\$ 1,704,176
2046	\$ 1,238,035	\$ 269,023	\$ 178,525	\$ 35,635	\$ 1,721,218
2047	\$ 1,250,415	\$ 271,713	\$ 180,311	\$ 35,991	\$ 1,738,430
2048	\$ 1,262,919	\$ 274,430	\$ 182,114	\$ 36,351	\$ 1,755,814
2049	\$ 1,275,549	\$ 277,175	\$ 183,935	\$ 36,714	\$ 1,773,372
2050	\$ 1,288,304	\$ 279,946	\$ 185,774	\$ 37,081	\$ 1,791,106
2051	\$ 1,301,187	\$ 282,746	\$ 187,632	\$ 37,452	\$ 1,809,017
2052	\$ 1,314,199	\$ 285,573	\$ 189,508	\$ 37,827	\$ 1,827,107
2053	\$ 1,327,341	\$ 288,429	\$ 191,403	\$ 38,205	\$ 1,845,379
2054	\$ 1,340,614	\$ 291,313	\$ 193,317	\$ 38,587	\$ 1,863,832
2055	\$ 1,354,021	\$ 294,226	\$ 195,251	\$ 38,973	\$ 1,882,471
2056	\$ 1,367,561	\$ 297,169	\$ 197,203	\$ 39,363	\$ 1,901,295
2057	\$ 1,381,236	\$ 300,140	\$ 199,175	\$ 39,756	\$ 1,920,308
2058	\$ 1,395,049	\$ 303,142	\$ 201,167	\$ 40,154	\$ 1,939,511
Total	\$ 20,737,473	\$ 4,506,219	\$ 2,990,357	\$ 596,889	\$ 28,830,939

**CPI growth based on the 25-year average of 3.5088%*

Note: Community Betterment Payments and Franchise Fees to the City for future phases will be determined pursuant to Supplemental Development Agreement(s) between the City and the Company.

REPORT TO: CITY COUNCIL

MEETING DATE: OCTOBER 7, 2024



Agenda Item:	8.a. CC-24-121
Previous/Related Action:	None
Background/Issue:	• In 1986 Congress amended the Safe Drinking Water Act, prohibiting the use of pipes, solder or flux that were not “lead free” in public water systems or plumbing in facilities providing water for human consumption. • In 1991, the Lead and Copper Rule was adopted for the purpose of minimizing the amount of lead and copper in drinking water, primarily by reducing water corrosivity. • In 2021, the EPA revised the Lead and Copper Rule (LCRR) requiring municipalities to develop and release to the public a water service line inventory by October 16, 2024. • There is no safe level of lead exposure. It is possible for lead to leach from pipes and other materials due to corrosion.
Proposal/Solution:	• The City has 18,849 water services within the distribution system. Of those, 18,071 services have materials that are considered non-lead (PVC, HDPE, Copper, Galvanized). This determination was made either by visual inspection of the service or based on the date the service was installed. • The remaining 778 services are considered unknown material. • Of the 18,071 services with known service line materials, 287 are galvanized pipe requiring replacement according to the LCRR. • Staff compiled the above data into a water service line inventory which was then linked to the City’s GIS system to create an interactive map. • The inventory and map will be published on the City’s website before October 16, 2024 to comply with the LCRR and will be updated on a regular basis.
Financial Source/Impact:	City-owned water service lines that must be replaced and related costs will be funded by the Water Fund.
Related Strategic Priority:	#4 CONNECTED SPACES

	#1 EFFECTIVE SERVICES & ACCOUNTABLE GOVERNMENT
Recommended Action/Motion:	This is a presentation to the City Council with no recommended action.
Prepared By:	David Barth, Engineering Manager of Water Utilities
Reviewed By:	Candy Staring Brady Moore Teresa Kadavy
Submitted By:	Kimberly Meek, City Manager

Attachments

None

REPORT TO: CITY COUNCIL

MEETING DATE: OCTOBER 7, 2024



Agenda Item:	8.b. CC-24-122
Previous/Related Action:	CC-21-67, April 19, 2021: FY21 Pavement Management Plan (PMP) CC-24-34, April 1, 2024: FY24 Projects Proposal & FY25 PMP SUA-21-31, August 16, 2021: Waterline Improvements to Support FY21 PMP
Background/Issue:	On April 19, 2021, City Council approved the FY21 Pavement Management Plan which included a roadway project on Knoblock from 4th to University. On April 1, 2024, staff presented a proposal to City Council to combine efforts for additional roadway work in the same area. The full list of proposed areas of reconstruction and rehabilitation include the following: • Knoblock from 4th to University • 4th from Hester to Duck • 4th from Orchard to Walnut • 4th from Garfield to Lincoln • Lincoln from 6th to 4th On August 16, 2021, a waterline improvement project was approved by SUA for the following areas in support of the original roadway improvement plan: • Knoblock from 4th to 3rd • 4th from Hester to West • 3rd from Hester to West
Proposal/Solution:	Staff issued a Request for Proposals (RFP), focused on providing professional services to address roadway and waterline improvements in the locations identified above. Staff received responses from 4 highly qualified firms. Each response underwent a detailed assessment based upon the criteria provided in the RFP solicitation. Following scoring and ranking of the responses by staff, CEC

	Corporation was selected as the top candidate. Staff and CEC have negotiated an agreement which includes the following services: survey; geotechnical investigation; design services for roadway, waterline, landscape/hardscape, electrical, lighting, irrigation and other; right-of-way coordination; utility; and construction administration.
Financial Source/Impact:	Sufficient funds are available in Transportation Sales Tax Fund and the Water Fund to complete the effort.
Related Strategic Priority:	#4 CONNECTED SPACES
Recommended Action/Motion:	Staff recommends a motion to: • Approve a Professional Services Agreement (PSA) with CEC Corporation for \$722,700 (includes \$664,510 for roadway and \$58,190 for waterlines). • Authorize the City Manager to execute the PSA; and • Authorize a Budget Amendment in the amount of \$433,510 from Transportation Sales Tax Fund.
Prepared By:	Travis Small, Division Manager Transportation & Drainage
Reviewed By:	Candy Staring Brady Moore Teresa Kadavy
Submitted By:	Kimberly Meek, City Manager

Attachments

1. BA 25TR04 260 Transportation
2. 25TR04 - Professional Services Agreement

Budget Amendment Request
For Budget Year 2025

Office: 405.372.0025
Web: stillwater.org

Date: 09/30/2024

Department: Transportation

Requested by: Candy Staring

Explanation:

Appropriate funds for the design agreement for Knoblock/4th/Lincoln improvement project. Project funded from the Transportation Sales Tax Fund.

Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Knoblock/4th/Lincoln	2604035 - 54020	25TR04260	\$ 0	\$ 433,510	\$ 433,510
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0
	-				\$ 0

Increase:

Decrease:

Net Change: (will usually result in a total increase or decrease)

\$ 433,510

Candy Staring
Date: 9.30.2024

Reviewed by Department Manager: _____

Reviewed by Finance: _____

Approved by CMO: _____

Approved by City Council: _____

Processed by Finance: _____

Set ID: _____

--Print on Yellow Paper--

Date Sent to SA&I: _____

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the Controlling Laws and Regulations.

Roadway and Utility Improvements for Knoblock Street, 4th Avenue and Lincoln Street

Owner: City of Stillwater, Oklahoma / Stillwater Utilities Authority

Engineer: CEC Corporation

Project #: 25TR04 & 25WL04

AGREEMENT BETWEEN OWNER AND ENGINEER FOR PROFESSIONAL SERVICES

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE



and
Issued and Published Jointly

by



This Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (EJCDC C-700, 2007 Edition). Their provisions are interrelated, and a change in one may necessitate a change in the other. For guidance on the completion and use of this Agreement, see EJCDC User's Guide to the Owner-Engineer Agreement, EJCDC E-001, 2009 Edition.

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ENGINEERS JOINT CONTRACT
DOCUMENTS COMMITTEE

**AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of _____, 20____ (“Effective Date”) between

City of Stillwater, Oklahoma/Stillwater Utilities Authority (“Owner”) and

CEC Corporation (“Engineer”).

Owner's Project, of which Engineer's services under this Agreement are a part, is generally identified as follows:

Project #25TR04 ~~& 25WL04~~ – Roadway and Utility Improvements for Knoblock Street, 4th Avenue and Lincoln Street

Engineer's services under this Agreement are generally identified as follows:

Provide plans and specifications for pavement rehabilitation and waterline relocation along 4th Street from Orchard to Walnut streets, Garfield to Lincoln streets and Hester to Duck streets, Lincoln Street from 4th to 5th Ave., and S. Knoblock Street from 4th Ave. to W. University Ave.

Owner and Engineer further agree as follows:

ARTICLE 1 – SERVICES OF ENGINEER

1.01 *Scope*

- A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

ARTICLE 2 – OWNER'S RESPONSIBILITIES

2.01 *General*

- A. Owner shall have the responsibilities set forth herein and in Exhibit B.
- B. Owner shall pay Engineer as set forth in Exhibit C.

- C. Owner shall be responsible for, and Engineer may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by Owner to Engineer pursuant to this Agreement. Engineer may use such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement.

ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES

3.01 *Commencement*

- A. Engineer is authorized to begin rendering services as of the ~~Effective Date~~ written Notice to Proceed as provided by the Owner.

3.02 *Time for Completion*

- A. Engineer shall complete its obligations within a reasonable time. Specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided in Exhibit A, and are hereby agreed to be reasonable.
- B. If, through no fault of Engineer, such periods of time or dates are changed, or the orderly and continuous progress of Engineer's services is impaired, or Engineer's services are delayed or suspended, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, may be adjusted based on the schedules provided in Exhibit C.
- C. If Owner authorizes changes in the scope, extent, or character of the Project, then the time for completion of Engineer's services, and the rates and amounts of Engineer's compensation, may be adjusted based on the schedules provided in Exhibit C.
- D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Engineer's performance of its services.
- E. If Engineer fails, through its own fault, to complete the performance of any task required in this Agreement within the time set forth, as duly adjusted, then ~~Engineer shall credit Owner \$100.00/calendar day until said task is completed.~~ shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 *Invoices*

- A. *Preparation and Submittal of Invoices:* Engineer shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C. Engineer ~~shall~~ may submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

4.02 *Payments*

- A. *Application to Interest and Principal:* Payment will be credited first to any interest owed to Engineer and then to principal.

- B. *Failure to Pay:* If Owner fails to make any payment due Engineer for services and expenses within 30 days after receipt of Engineer's invoice, then:
- ~~1. amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and~~
 - ~~2. itted by law, if less) from said thirtieth day; and~~
 3. Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Engineer for any such suspension.
- C. *Disputed Invoices:* If Owner contests an invoice, Owner shall promptly advise Engineer of the specific basis for doing so, may withhold only that portion so contested, and must pay the undisputed portion.
- D. *Legislative Actions:* If after the Effective Date any governmental entity takes a legislative action that imposes taxes, fees, or charges on Engineer's services or compensation under this Agreement, then the Engineer may invoice such new taxes, fees, or charges as a Reimbursable Expense to which a factor of 1.0 shall be applied. Owner shall reimburse Engineer for the cost of such invoiced new taxes, fees, and charges; such reimbursement shall be in addition to the compensation to which Engineer is entitled under the terms of Exhibit C.

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost*

- A. Engineer's opinions of probable Construction Cost are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional generally familiar with the construction industry. However, because Engineer has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. If Owner requires greater assurance as to probable Construction Cost, Owner must employ an independent cost estimator as provided in Exhibit B.

5.02 *Opinions of Total Project Costs*

- A. The services, if any, of Engineer with respect to Total Project Costs shall be limited to assisting the Owner in collating the various cost categories which comprise Total Project Costs. Engineer assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

- A. *Standard of Care:* The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services.
- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. *Consultants:* Engineer may employ such Consultants as Engineer deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Engineer and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. *Compliance with Laws and Regulations, and Policies and Procedures:*
 - 1. Engineer and Owner shall comply with applicable Laws and regulations.
 - 2. Prior to the Effective Date, Owner provided to Engineer in writing any and all policies and procedures of Owner applicable to Engineer's performance of services under this Agreement provided to Engineer in writing. Engineer shall comply with such policies and procedures, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
 - 3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. Changes after the Effective Date to these Laws and Regulations, or to Owner-provided written policies and procedures, may be the basis for modifications to Owner's responsibilities or to Engineer's scope of services, times of performance, or compensation.
- F. Engineer shall not be required to sign any documents, no matter by whom requested, that would result in the Engineer having to certify, guarantee, or warrant the existence of conditions whose existence the Engineer cannot ascertain. Owner agrees not to make resolution of any dispute with the Engineer or payment of any amount due to the Engineer in any way contingent upon the Engineer signing any such documents.
- G. The general conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint

Contract Documents Committee (EJCDC C-700, 2007 Edition) unless both parties mutually agree to use other general conditions by specific reference in Exhibit J.

- H. Engineer shall not at any time supervise, direct, control, or have authority over any contractor work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a contractor to comply with Laws and Regulations applicable to such contractor's furnishing and performing of its work.
- I. Engineer neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- J. Engineer shall not provide or have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- K. Engineer shall not be responsible for the acts or omissions of any Contractor, Subcontractor, or Supplier, or of any of their agents or employees or of any other persons (except Engineer's own agents, employees, and Consultants) at the Site or otherwise furnishing or performing any Work; or for any decision made regarding the Contract Documents, or any application, interpretation, or clarification, of the Contract Documents, other than those made by Engineer.
- L. While at the Site, Engineer's employees and representatives shall comply with the specific applicable requirements of Contractor's and Owner's safety programs of which Engineer has been informed in writing.

6.02 *Design Without Construction Phase Services*

- A. Engineer shall be responsible only for those Construction Phase services expressly required of Engineer in Exhibit A, Paragraph A1.05. With the exception of such expressly required services, Engineer shall have no design, Shop Drawing review, or other obligations during construction and Owner assumes all responsibility for the application and interpretation of the Contract Documents, review and response to Contractor claims, contract administration, processing Change Orders, revisions to the Contract Documents during construction, construction surety bonding and insurance requirements, construction observation and review, review of payment applications, and all other necessary Construction Phase engineering and professional services. Owner waives all claims against the Engineer that may be connected in any way to Construction Phase engineering or professional services except for those services that are expressly required of Engineer in Exhibit A, Paragraph A1.05.

6.03 *Use of Documents*

- A. All drawings, raw data files, tracings, plans, computations, specifications, maps and other documents prepared or obtained under this contract shall become the sole property of Owner and shall be delivered to Owner without restriction on future use. Engineer shall retain in its files all original drawings, specifications and all other pertinent information for the work. Engineer shall have no liability for changes made to the drawings, specifications, and other documents by other engineers after completion of the contract. Owner shall require that any such change be sealed,

dated, and signed by the engineer making that change and shall be appropriately marked to reflect what was changed or modified. Engineer shall not release any hardcopies or electronic files, native or pdf, prepared or obtained under this contract to any third party without prior written consent of Owner

- B. Either party to this Agreement may rely that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern. If the parties agree to other electronic transmittal procedures, such are set forth in Exhibit A Appendix 3.
- C. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any transmittal errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files.
- D. When transferring documents in electronic media format, the transferring party makes no representations as to long-term compatibility, usability, or readability of such documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the documents' creator.
- E. Owner may make and retain copies of Documents for information and reference in connection with use on the Project by Owner. ~~Engineer grants Owner a limited license to~~ may use the Documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Engineer of full payment for all services relating to preparation of the Documents and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Engineer, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Engineer; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Engineer, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Engineer or to its officers, directors, members, partners, agents, employees, and Consultants; (3) for the purposes of this Agreement and limited specifically to the relationship between Owner and Engineer, Owner shall ~~indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from~~ be responsible for all claims, damages, losses, ~~and expenses, including attorneys' fees,~~ arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4) such ~~limited license to Owner use~~ shall not create any rights in third parties.
- F. If Engineer at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Engineer at rates or in an amount to be agreed upon by Owner and Engineer.

6.04 Insurance

- A. Engineer shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Engineer shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Engineer.
- B. Owner shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Owner shall cause Engineer and its Consultants to be listed as additional insureds on any general liability policies and as loss payees on any property insurance policies carried by Owner which are applicable to the Project.
- C. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, property damage (including the Work itself), motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Engineer's interests in the Project. Owner shall require Contractor to cause Engineer and its Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project.
- D. ~~Owner and~~ Engineer shall ~~each~~ deliver to the Owner ~~other~~ certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of Engineer's services and at renewals thereafter during the life of the Agreement.
- E. All policies of property insurance relating to the Project shall contain provisions to the effect that Engineer's and its Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against Engineer or its Consultants, or any insureds, additional insureds, or loss payees thereunder.
- F. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 30 days prior written notice has been given to Owner and Engineer and to each other additional insured (if any) to which a certificate of insurance has been issued.
- G. At any time, Owner may request that Engineer or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Engineer shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

6.05 Suspension and Termination

- A. Suspension:
 - 1. By Owner: Owner may suspend the Project for up to 90 days upon seven days written notice to Engineer.
 - 2. By Engineer: Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement if Engineer's performance has been substantially delayed through no fault of Engineer.

B. *Termination:* The obligation to provide further services under this Agreement may be terminated:

1. For cause,

- a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
- b. By Engineer:
 - 1) upon seven days written notice if Owner demands that Engineer furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or
 - 2) upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.
 - 3) Engineer shall have no liability to Owner on account of such termination.
- c. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.05.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. For convenience,

- a. By Owner effective upon Engineer's receipt of notice from Owner.

C. *Effective Date of Termination:* The terminating party under Paragraph 6.05.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

D. *Payments Upon Termination:*

- 1. In the event of any termination under Paragraph 6.05, Engineer will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.E.

~~2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.05.D.1, to invoice Owner and to payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C, not to exceed 5% of the remaining project cost.~~

6.06 *Controlling Law*

- A. This Agreement is to be governed by the law of the state or jurisdiction in which the Project is located, which is the State of Oklahoma for the purposes of this project. Venue for any legal action shall be in Payne County, Oklahoma.

6.07 *Successors, Assigns, and Beneficiaries*

- A. Owner and Engineer are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted by Paragraph 6.07.B the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Engineer to any Contractor, Subcontractor, Supplier, other individual or entity, or to any surety for or employee of any of them.
 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Engineer and not for the benefit of any other party.
 3. Owner agrees that the substance of the provisions of this Paragraph 6.07.C shall appear in the Contract Documents.

6.08 *Dispute Resolution*

- A. Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to exercising their rights under law.

- B. If the parties fail to resolve a dispute through negotiation under Paragraph 6.08.A, then either or both may exercise their rights under law.

6.09 *Environmental Condition of Site*

- A. Owner has disclosed to Engineer in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous substances, and other Constituents of Concern located at or near the Site, including type, quantity, and location.
- B. Owner represents to Engineer that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to Engineer, exist at the Site.
- C. If Engineer encounters or learns of an undisclosed Constituent of Concern at the Site, then Engineer shall notify (1) Owner and (2) appropriate governmental officials if Engineer reasonably concludes that doing so is required by applicable Laws or Regulations.
- D. It is acknowledged by both parties that Engineer's scope of services does not include any services related to Constituents of Concern. If Engineer or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then Engineer may, at its option, suspend performance of services on the portion of the Project affected thereby until Owner: (1) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.
- E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Engineer's services under this Agreement, then the Engineer shall have the option of (1) accepting an adjustment in its compensation or in the time of completion, or both; such adjustment shall be based on the schedules provided in Exhibit C, or (2) terminating this Agreement for cause on 30 days notice.
- F. Owner acknowledges that Engineer is performing professional services for Owner and that Engineer is not and shall not be required to become an "owner" "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Engineer's activities under this Agreement.

6.10 *Indemnification and Mutual Waiver*

- A. *Indemnification by Engineer:* To the fullest extent permitted by law, Engineer shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees from reasonable claims, costs, losses, and damages arising out of or relating to the Project and Agreement, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Engineer or Engineer's officers, directors, members, partners, agents, employees, or Consultants. ~~This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."~~

- B. ~~Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants as required by Laws and Regulations and to the extent (if any) required in Exhibit I, Limitations of Liability.~~
- C. ~~To the fullest extent permitted by law, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, and all court, arbitration, or other dispute resolution costs) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (1) any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (2) nothing in this paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.~~
- D. *Percentage Share of Negligence:* To the fullest extent permitted by law, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.

6.11 *Miscellaneous Provisions*

- A. *Notices:* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.
- B. *Survival:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability:* Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Engineer, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. *Waiver:* A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. ~~÷ To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.~~

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following provisions:
1. *Additional Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Part 2 of Exhibit A of this Agreement.
 2. *Agreement* – This written contract for professional services between Owner and Engineer, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
 3. *Asbestos* – Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
 4. *Basic Services* – The services to be performed for or furnished to Owner by Engineer in accordance with Part 1 of Exhibit A of this Agreement.
 5. *Construction Contract* – The entire and integrated written agreement between Owner and Contractor concerning the Work.
 6. *Construction Cost* – The cost to Owner of those portions of the entire Project designed or specified by Engineer. Construction Cost does not include costs of services of Engineer or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to properties; Owner's costs for legal, accounting, insurance counseling or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.
 7. *Constituent of Concern* – Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; and (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
 8. *Consultants* – Individuals or entities having a contract with Engineer to furnish services with respect to this Project as Engineer's independent professional associates and consultants; subcontractors; or vendors.

9. *Contract Documents* – Those items so designated in the Construction Contract, including the Drawings, Specifications, construction agreement, and general and supplementary conditions. Only printed or hard copies of the items listed in the Construction Contract are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
10. *Contractor* – The entity or individual with which Owner has entered into a Construction Contract.
11. *Documents* – Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Engineer to Owner pursuant to this Agreement.
12. *Drawings* – That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.
13. *Effective Date* – The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.
14. *Engineer* – The individual or entity named as such in this Agreement.
15. *Hazardous Waste* – The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
16. *Laws and Regulations; Laws or Regulations* – Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
17. *Owner* – The individual or entity with which Engineer has entered into this Agreement and for which the Engineer's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
18. *PCBs* – Polychlorinated biphenyls.
19. *Petroleum* – Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-hazardous waste and crude oils.
20. *Project* – The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
21. *Radioactive Material* – Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

22. *Record Drawings* – Drawings depicting the completed Project, prepared by Engineer as an Additional Service and based solely on Contractor's record copy of all Drawings, Specifications, addenda, change orders, work change directives, field orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.
23. *Reimbursable Expenses* – The expenses incurred directly by Engineer in connection with the performing or furnishing of Basic and Additional Services for the Project.
24. *Resident Project Representative* – The authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative agreed to by Owner. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D (Not included).
25. *Samples* – Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
26. *Shop Drawings* – All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
27. *Site* – Lands or areas to be indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.
28. *Specifications* – That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.
29. *Subcontractor* – An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.
30. *Substantial Completion* – The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.
31. *Supplier* – A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.
32. *Total Project Costs* – The sum of the Construction Cost, allowances for contingencies, and the total costs of services of Engineer or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion,

including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner's costs for legal, accounting, insurance counseling and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement.

33. *Work* – The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 Exhibits and Attachments Included:

- A. Exhibit A, Engineer's Services.

Appendix 1 to Exhibit A: General Scope of Services

Appendix 2 to Exhibit A: Landscape Architectural Scope

Appendix 3 to Exhibit A: Geotechnical Scope

Appendix 4 to Exhibit A: Survey Scope

Appendix 5 to Exhibit A: Project Schedule

Appendix 6 to Exhibit A: GIS Digital Data Submission Requirements

- B. Exhibit B, Owner's Responsibilities.

- C. Exhibit C, Payments to Engineer for Services and Reimbursable Expenses.

Appendix 1 to Exhibit C- Reimbursable Expenses

Appendix 2 to Exhibit C- Standard Hourly Rates

Appendix 3 to Exhibit C- Basis of Fee

- D. Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative. Not Included.

E.

- F. Exhibit F, Construction Cost Limit. Not Included.

- G. Exhibit G, Insurance.

H.

- I.
- J.
- K. Exhibit K, Suggested Format for Amendment to Owner-Engineer Agreement. As Issued.

8.02 *Total Agreement:*

- A. This Agreement, (together with the exhibits identified above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument based on the format of Exhibit K to this Agreement.

8.03 *Designated Representatives:*

- A. With the execution of this Agreement, Engineer and Owner shall designate specific individuals to act as Engineer's and Owner's representatives with respect to the services to be performed or furnished by Engineer and responsibilities of Owner under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of the respective party whom the individual represents.

8.04 *Engineer's Certifications:*

- A. Engineer certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the selection process or in the Agreement execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;
 - 3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner: City of Stillwater, Oklahoma Engineer: CEC Corporation

By: _____ By: 

Title: Kimberly Meek, City Manager Title: Doug Glenn, P.E. (President)

Date _____ Date 9/26/24
Signed: _____ Signed: _____

Owner: Stillwater Utilities Authority Engineer License or Firm C.A. 32
Certificate No. _____

By: _____ State of: Oklahoma

Title: Kimberly Meek, General Manager

Date _____
Signed: _____

Address for giving notices: _____ Address for giving notices: _____

PO Box 1449 1300 S. Main St.

Stillwater, OK 740760-1449 Tulsa, OK 74119

Designated Representative (Paragraph 8.03. A): _____ Designated Representative (Paragraph 8.03. A): _____

Candy Staring, P.E. Shannon Hanks, P.E., CFM, EOMDM

Title: Engineering Department Director Title: Oklahoma Municipal Department Manager

Phone Number: (405) 742-8203 Phone Number: (918) 663-9401

Facsimile Number: (405) 742-8324 Facsimile Number: (918) 663-9404

E-mail Address: Candy.Staring@Stillwaterok.gov E-mail Address: Shannon.Hanks@connectcec.com

Approved as to form and legality this _____ day of _____, 20____.

Kimberly Carnley, City Attorney

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Engineer's Services

Article 1 of the Agreement is supplemented to include the following agreement of the parties.

Engineering services are rendered for 25TR04 ~~and 25W04~~ - Knoblock Street, 4th Ave and Lincoln Street Roadway and Utility Improvements. This work includes pavement repair on Knoblock from 4th Ave to University Ave, 4th Ave from Hester St to Duck St, Lincoln St from 6th Ave to 4th Ave, 4th Ave from Garfield St to Lincoln St, and 4th Ave from Orchard St to Walnut St. Utility work for this project is included on 3rd Ave from Hester St to West St, Knoblock from 4th Ave to 3rd Ave and 4th Ave from Hester St to Duck St. Project includes sidewalk repairs, streetscaping and miscellaneous appurtenances. Reference scope maps can be found in Appendix 1 to Exhibit A.

Engineer shall provide Basic and Additional Services as set forth below.

PART 1 – BASIC SERVICES

All services shall be performed in compliance with City of Stillwater, ODEQ and ODOT standards. As a part of the following basic services the ENGINEER shall provide and coordinate as generally described the following:

- Geotechnical Services and Coordination
- Survey Services and Coordination
- Subsurface Utility Engineering Services and Coordination (Levels A through C as necessary)
- Design Services (including: Geometric, Site Grading, Drainage, Bridge & Structural (as necessary), Surfacing, Public Utility Relocation Design (as necessary) and other Miscellaneous Design)
- Private Utility Relocation Services and Coordination
- Right-of-Way Services (including: Document Research, Preparation of Legal Instruments, One-Time Staking, Acquisition, etc.) & Coordination
- Government/Regulatory Agency Coordination and Permitting
- Construction Administration Services
- Project Management/Administrative Services

Services are more specifically described as follows:

A1.01 PROJECT MANAGEMENT/ADMINISTRATIVE DUTIES: ENGINEER shall be responsible to perform the following tasks, which are considered subsidiary to the Work, throughout the course of the PROJECT:

- A. Meet with the OWNER in a Pre-Design Conference to identify design criteria, codes, requirements and other critical design features of the Project such as preferred alignment as well as project schedule and milestone dates. All designs shall meet current City of Stillwater codes, regulations and design criteria as found in the latest versions of the Design and Construction Standards, Land Development Code, City Ordinances and Comprehensive Plan.
- B. Review OWNER Design AND Construction Standards as well as Standard Details and identify which, if any, exceptions to the Standards are warranted. If necessary suggest modifications to a Standards including replacement or deletion.
- C. Coordinate, organize, schedule and conduct all necessary meetings and

conferences including preparing the agenda, creating a meeting summary and all follow-on services such as meeting summary distribution, comments incorporation, action item completion tracking or other identified needs.

- D. Document all meetings, conferences, coordination, phone conversations, etc. and send documentation to OWNER within three (3) calendar days.
- E. Provide OWNER with a list of all proposed sub-consultants and tasks sub-consultants are responsible to perform.
- F. Meet with the OWNER to discuss review comments on each phase of the Project, and incorporate appropriate comments into following phase.
- G. Prepare monthly status and Project tracking reports.
- H. Provide management services to drive continuous progress of the overall Project through all phases of the Work.
- I. Prepare all documentation required for City approval process (i.e. council reports, power point presentations, memos, correspondence, etc.). Present to City staff and Council as required (i.e. council meetings, design workshops and other miscellaneous meetings).
- J. Prepare all contract documents (for bidding, construction, design, and amendments including subconsultants as required) and facilitate execution as required.
- K. Provide archives of all correspondence and Project data (for appropriate documentation of the Project).
- L. Manage staff and any subconsultants through all phases of the Project until construction is complete and the Project is closed out.
- M. If multiple bid packages are required, group projects in a manner to minimize the number of bid packages and contracts.
- N. Evaluate cost savings approaches to meet budget requirements and achieve lowest overall project costs.
- O. Schedule work to achieve the shortest possible time frame for completion of the Project.
- P. Incorporate highest possible quality in all phases of services.
- Q. Provide quality assurance/quality control throughout the design phase to meet OWNER's requirements & expectations.

A1.02 *CONCEPTUAL DESIGN PHASE*: Upon receiving the written Notice to Proceed, the ENGINEER shall perform the following tasks in accordance with the schedule provided in Appendix 5 to Exhibit A:

- A. With OWNER input, establish Project goals and alignments for design project (including: roadways, storm sewers, sanitary sewers and water lines as required).
- B. Provide a land survey for design purposes.
 - 1. Establish horizontal and vertical control necessary for the design and construction of the Project including the establishment of reference points and benchmarks at Project termini and at interim points along the Project by setting monuments (such as PK nails), at distances no greater than 500 feet between monuments and at offset locations sufficient as to not be disturbed during construction, throughout the Project.
 - 2. Conduct all field surveys, including topographical, boundary, and aerial surveys, as necessary, to locate all features required for the design of the Project.
 - 3. Research and field-verify, to the fullest extents possible (typically S.U.E. level "C"), the horizontal and vertical locations of all public and private utilities within the Project boundary, which may be in conflict with the Project and include in base survey along with all pertinent utility easements. It is incumbent upon ENGINEER to determine if further

- investigation is necessary and advise OWNER of such need.
4. As S.U.E. Level "B" & "A" services are required, provide field survey of all uncovered utilities (include: horizontal and vertical location, description, material, size, etc.) and incorporate in topographic survey utilized for design purposes.
 5. Determine and include all existing right-of-way and easements.
 6. Prepare and submit proposed right-of-way and easement documents for said Project as defined in Paragraph A1.02.M below.
 7. Submit one (1) drawing on electronic media (AutoCAD 2018 or newer) and one (1) PDF file of the final survey.
- C. Evaluate conditions and capacities of existing systems and develop conceptual plans/alternatives for proposed improvements.
- Roadway
 - Stormwater/Drainage (as required)
 - Sanitary Sewer (as required)
 - Water (as required)
- D. Coordinate with utility companies to provide adequate relocation corridors as necessary. Provide conceptual design plans to all utility companies electronically (i.e. pdf or CADD files as required) at submittal of conceptual design plans.
- E. If necessary, identify right-of-way required to accommodate construction of Project and necessary utility relocation.
- F. Begin coordination with and provide all necessary services to obtain approvals and/or permits from various governmental and regulatory agencies (i.e. USACOE, FEMA, ODEQ, USFWS, SHPO, OCC, Tribal entities, etc.) as required.
- G. Submit six (6) bound sets of half-size prints, one (1) set of drawings on electronic media (AutoCAD 2018 or newer version), one (1) PDF file of the Conceptual design, and conceptual opinion of probable construction cost.
- H. The Conceptual Design Phase submittal shall include:
- Land Survey
 - Hydraulic Report (if required)
 - Various Studies and Reports (i.e. Threatened and Endangered Species Assessments, Jurisdictional Waters and Wetlands, Cultural Resources, etc.) began (if required)
 - Title Sheet
 - Typical Sections
 - Right-of-Way Map & Data (Existing Right-of-Way)
 - Survey Data Sheet
 - Plan and Profiles
 - General Plan and Elevation (if required)
 - Bridge Typical Section (if required)
 - Construction Sequence for Bridge (if required)
 - Proposed Public Utility Relocation Plan and Profiles (Water, Sanitary Sewer, etc., if required)
 - Cross sections
 - Conceptual opinion of probable construction cost using 20% contingency
- I. Attend a meeting with the OWNER to review the Conceptual Design Phase submittal and provide meeting minutes.
- J. After completion of Conceptual Design Phase review meeting and upon approval by OWNER, conduct all necessary geotechnical investigations and submit report of recommendations to the OWNER for:
- Existing pavement and subsurface conditions
 - Proposed pavement sub-grade treatment
 - Proposed pavement section

- Fill recommendations (if required)
- Proposed foundation design (if required)
- K. After completion of Conceptual Design Phase review meeting and upon approval by OWNER, prepare RIGHT-OF-WAY DESIGN as required.
 1. Prepare right-of-way and easement instruments, in both Microsoft Word and PDF formats along with closure reports, based upon the comments received from the conceptual design review and coordination with utility companies. Instruments shall provide sufficient room to accommodate utility relocations and other construction activities.
 2. Prepare Right-of-Way map/plan sheet(s).
 3. Procure and provide Property Reports on unplatted properties and properties which contain less than required right-of-way/easements necessary for construction of the Project.
 4. Submit, prior to completion of the Preliminary Design Phase, three (3) bound sets of half-size plan sheets and one (1) set of legal instruments, in both Microsoft Word and PDF formats, indicating right-of-way and easement documents for the Project final taking/acquisitions requirements.
 5. Provide one time only right-of-way staking services for 0 parcels (assumed for initial estimating purposes).
- L. ENGINEER'S services under the Conceptual Design Phase will be considered complete on the date when the submittals required by Paragraph A1.02.J above have been delivered to and accepted by the OWNER.

A1.03 *PRELIMINARY DESIGN PHASE*: Following approval of the Concept Design, The ENGINEER shall perform the following tasks in accordance with the Appendix 5 to Exhibit A:

- A. Address comments provided by OWNER from Conceptual Design Phase.
- B. Upon approval by OWNER, incorporate geotechnical investigation recommendations in design plans.
- C. Conduct all necessary design functions to complete the Preliminary Design plans including:
 1. Roadway geometric layout and design.
 2. Drainage analysis and design (in accordance with City of Stillwater Design and Construction Standards and Stormwater Quality and Management Ordinance Chapter 35).
 3. Perform preliminary bridge layout and design as well as miscellaneous preliminary structural design (if required)
 4. Sanitary Sewer (if required)
 5. Water (if required)
- D. Attend one (1) public meeting and provide any figures, displays, or media required for use in the public meeting.
- E. Conduct preliminary coordination with private and public utility companies.
 1. Meet with utility companies and OWNER to conduct coordination for relocation of utility facilities and services in conflict with the Project and request relocation plans/proposals from private utility companies.
 2. Review relocation plans and proposals submitted by private utilities, and provide comments and recommendations prior to OWNER approval and execution of the relocation plans. Obtain releases for non-relocated facilities.
 3. Provide preliminary design plans to all utility companies electronically (i.e. pdf or CADD files as required).
- F. Prepare preliminary special provisions.
- G. Prepare preliminary quantity estimate.
- H. Provide all necessary services for acquisition of right-of-way and easements required for construction of the Project.

- I. Complete coordination with and obtain approvals and/or permits from various governmental and regulatory agencies (i.e. USACOE, FEMA, ODEQ, USFWS, SHPO, OCC, Tribal entities, etc.) as required.
- J. Submit six (6) bound sets of half-size prints, one (1) set of drawings on electronic media (AutoCAD 2018 or newer), one (1) PDF file, and one (1) set of full-size prints (if required) of the Preliminary plans.
- K. The Preliminary Design Phase submittal shall include:
 - Geotechnical Investigation Report
 - Various Studies and Reports (i.e. Threatened and Endangered Species Assessments, Jurisdictional Waters and Wetlands, Cultural Resources, etc.)(completed if required)
 - Title Sheet
 - Pay Quantities and Pay Item/General Notes
 - Typical Sections
 - Right-of-Way Map & Data
 - Proposed Drainage Area Map and Drainage data
 - Survey Data Sheet
 - Plan and Profiles
 - General Plan and Elevation (if required)
 - Bridge Typical Section (if required)
 - Bridge Details (if required)
 - Construction Sequence for Bridge (if required)
 - Proposed Public Utility Relocation Plan and Profiles (Water, Sanitary Sewer, etc., if required)
 - Special Details
 - Cross Sections
 - Preliminary opinion of probable construction cost using 15% contingency
- L. Attend a meeting with the OWNER to review the Preliminary Design Phase submittal and provide meeting minutes.
- M. ENGINEER'S services under the Preliminary Design Phase will be considered complete on the date when the submittals required by Paragraph A.1.03.K above have been delivered to and accepted by the OWNER.

A1.04 *FINAL DESIGN PHASE*: Following approval of the Preliminary Design, the ENGINEER shall perform the following tasks in accordance with the Appendix 5 to Exhibit A:

- A. Address comments provided by OWNER from Preliminary Design Phase.
- B. Conduct all necessary design functions required to complete the Final Design plans including:
 - Roadway geometric layout and design.
 - Drainage analysis and design (in accordance with City of Stillwater Design and Construction Standards and Stormwater Quality and Management Ordinance Chapter 35).
 - Perform final bridge layout and design as well as miscellaneous final structural design (if required).
 - Sanitary Sewer (if required)
 - Water (if required)
- C. Finalize utility relocation coordination verify all affected utilities have been relocated as necessary.
- D. Finalize acquisitions of all right-of-way and easements necessary for Project construction.
- E. Finalize coordination with various governmental and regulatory agencies and verify required approvals/permits are obtained.

- F. Prepare final quantity estimates.
- G. Prepare Contract proposals in units compatible with OWNER requirements.
- H. Submit six (6) bound sets of half-size prints of final construction plans, one (1) bound set of full-size prints (if required) of final construction plans, three (3) sets of final construction contract bid documents, one (1) PDF file and three (3) sets of half-size prints of final utility relocation plans, if required, to the OWNER for distribution and review.
- I. The Final Design Phase submittal shall include:
 - Structural Design Calculations
 - Title Sheet
 - Pay Quantities and Pay Item/General Notes
 - Typical Sections
 - Quantity & Miscellaneous Summaries
 - Summary of Drainage Structures, as needed
 - Storm Water Management Plan (SWP3)
 - Project Drainage Area Map
 - Right-of-Way Map & Data
 - Survey Data Sheet
 - Plan and Profiles
 - Waterline Relocation Sheets, as necessary
 - Sanitary Sewer Relocation Sheets, as necessary
 - Intersection Details (tie-in to intersection plans by others)
 - Miscellaneous/Special Details Sheet(s), as needed
 - General Plan and Elevation (if required)
 - Bridge Typical Section (if required)
 - Bridge Details (if required)
 - Construction Sequence for Bridge (if required)
 - Riprap Details
 - Signing & Striping
 - Construction Sequencing/Traffic Control
 - Cross Sections
 - Standard Construction Drawings
 - Special Provisions and Specifications (as needed)
 - Final opinion of probable construction cost using 10% contingency
- J. Attend a meeting with the OWNER to review the Final Design Phase submittal and provide meeting minutes.
- K. Incorporate final review comments and furnish one (1) complete set of full-size drawings and contract documents, three (3) half-size sets of final drawings, one (1) set of final drawings in pdf format and electronic media (AutoCAD 2018 or newer), one (1) master set of final construction contract documents, specifications, and special provisions for bidding purposes on electronic media, in both Microsoft Word and pdf formats, and paper.
- L. Provide final design plans to all utility companies electronically (i.e. pdf or CADD files as required).
- M. ENGINEER'S services under the Final Design Phase will be considered complete on the date when the submittals required by paragraph A1.04.I above have been delivered to and accepted by the OWNER.

A1.05 BIDDING AND NEGOTIATING PHASE: After acceptance by OWNER of the most recent opinion of probable construction cost and the Final Design Phase plans, and upon written authorization by OWNER to proceed, ENGINEER shall perform the following tasks in accordance with the Appendix 5 to Exhibit A:

- A. Prepare all construction contract documents (i.e.: plans, agreement, general

conditions, supplementary conditions, special provisions, notice to bidders, instructions to bidders, bonds, technical specifications, bid proposal, other bidding documents, etc.) for advertisement on Ionwave ([City of Stillwater \(ionwave.net\)](http://City of Stillwater (ionwave.net))) and assist in obtaining bids or proposals for the Work.

- B. Plan, prepare agenda, and conduct the Pre-Bid Meeting and provide information to OWNER and Bidders as appropriate to clarify, correct or change the bidding documents. Draft and submit any required Addenda to OWNER for review and comment before issuing to eligible bidders.
- C. Provide information or assistance needed by OWNER in the course of any negotiations with prospective contractors.
- D. Consult with OWNER as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors for those portions of the Work as to which such acceptability is required by the bidding documents.
- E. If bidding documents require, the ENGINEER shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by bidders.
- F. Attend the Bid opening, review received bids, modify Ionwave itemized bid tabulation, as necessary for alternates, and in consultation with City determine which Bidders to recommend to City Council for award of Construction Contracts.
- G. Prepare agenda item, council report and power point presentation for possible award. Assist OWNER in presentation to City Council/SUA meeting.
- H. Perform or provide the following additional Bidding and Negotiating Phase tasks or deliverables: None Identified.
- I. Prepare notice of awards to selected bidders and gather all appropriate documents from awarded contractor to compile final construction contract.
- J. Incorporate all addenda issued into a final set of conformed contract documents and provide required number of copies of conformed contract documents for execution. ENGINEER will facilitate and oversee execution of the contract by the awarded Contractor and OWNER.
- K. The Bidding and Negotiating Phase will be considered complete upon commencement of the Construction Administration Phase or upon cessation of negotiations with prospective contractors (except as may be required if Exhibit F is a part of this AGREEMENT).

A1.06 CONSTRUCTION ADMINISTRATION PHASE: ENGINEER is not granted the authority to direct the Contractor's Work or approve field or contract changes on behalf of the OWNER. Upon successful completion of the Bidding and Negotiating Phase and upon written authorization from OWNER to proceed with Construction Administration Phase, ENGINEER shall provide the following:

- A. Construction administrative and management services: After execution of the Construction Contract and through completion of Work, ENGINEER shall provide services which include, but are not limited to, the following:
 - 1. Coordinate, organize, schedule and conduct all Project meetings, including the Project Pre-Work meeting, conferences including preparing the agenda, facilitating the meetings, creating a meeting summary and all follow-on services such as meeting summary distribution, comments incorporation, action item completion tracking or other identified needs.
 - 2. Provide project management services throughout the construction phase including tracking, scheduling, reporting, correspondence, documentation, coordination and other required services for project management.
 - 3. Verify Contractor and Subcontractors have all required permits before

- beginning Work.
4. Coordinate with Engineering, Water Utilities, Public Works and other City departments and conduct all Work required (in advance of or during the Project) to ensure that all Project Work for a complete, compliant and successful Project is accomplished. These items include, but are not limited to: test shutdowns; traffic, pedestrian, and business access considerations; lane closures; waste management provisions; bus stop considerations; construction sequencing; water and sewer service tie-ins and interruptions; monitoring of all Project ongoing systems (such as construction sequencing, sewer bypasses, traffic control systems, temporary and emergency entry maintenance, etc.); resident and business OWNER notifications (Work Starts Letters, Shutdown Notices, etc.); and any other Project and/or Contractor required Work items (refer to Contract Documents, OWNER Standards, OWNER SOPs, and all local, county, state and federal rules and regulations).
 5. Provide coordination with and oversee all private and franchise utility corrective actions upon discovery of any conflicts with the Project plans. Ensure all new information is updated on record drawings.
- B. Coordination and management of all Project Meetings and Conferences: Organize, coordinate, lead and document all Project meetings including the Pre-Construction Conference, regularly scheduled progress meetings, onsite meetings and others, as necessary. Create and distribute minutes from all meetings/conferences within three (3) days of said event(s). OWNER'S attendance at each meeting is required.
- C. Schedules Management: Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to ENGINEER, including but not limited to: Progress Schedules, Schedule of Submittals, and Schedule of Values.
- D. Baselines and Benchmarks: As appropriate, establish baselines and benchmarks for locating the Work which in ENGINEER's judgment are necessary to enable Contractor to proceed. ENGINEER shall also stake the proposed easements once after the 90% Submittal.
- E. Visits to Site and Observation of Construction: In connection with observations of Contractor's Work while it is in progress:
1. Make visits to the Site at intervals appropriate to the various stages of construction, as ENGINEER deems necessary, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Such visits and observations by ENGINEER, and the Resident Project Representative (not included), if any, are not intended to be exhaustive or to extend to every aspect of Contractor's Work in progress or to involve detailed inspections of Contractor's Work in progress beyond the responsibilities specifically assigned to ENGINEER in this AGREEMENT and the Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on ENGINEER's exercise of professional judgment, as assisted by the Resident Project Representative (not included), if any. Based on information obtained During such visits and observations, ENGINEER will determine in general if the Work is proceeding in accordance with the Contract Documents, and ENGINEER shall keep OWNER informed of the progress of the Work and immediately advise OWNER of any deviation from Contract Documents.
 2. The purpose of ENGINEER's visits to, and representation by the

Resident Project Representative (not included), if any, at the Site, will be to enable ENGINEER to better carry out the duties and responsibilities assigned to and undertaken by ENGINEER during the Construction Phase, and, in addition, by the exercise of ENGINEER's efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. ENGINEER shall not, during such visits or as a result of such observations of Contractor's Work in progress, supervise, direct, or have control over Contractor's Work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Contractor, for security or safety at the Site, for safety precautions and programs incident to Contractor's Work, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish or perform the Work in accordance with the Contract Documents.

- F. Defective Work: Notify the OWNER immediately if, on the basis of ENGINEER's observations, ENGINEER believes that such Work (a) is defective under the standards set forth in the Contract Documents, (b) will not produce a completed Project that conforms to the Contract Documents, or (c) will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
- G. Clarifications and Interpretations; Field Orders: Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Contractor's Work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. ENGINEER must have OWNER's approval for issuing field orders authorizing minor variations in the Work from the requirements of the Contract Documents.
- H. Claims by Contractor: ENGINEER shall review and make recommendations on all claims by Contractor including but not limited to delays, differing site conditions and requests for additional time and/or compensation. ENGINEER shall obtain approval from OWNER prior to issuance of recommendations regarding any/all claims.
- I. Change Orders and Work Change Directives: Recommend change orders and work change directives to OWNER, as appropriate. ENGINEER shall obtain approval from OWNER prior to issuance of recommendations regarding any/all claims, work change directives and change orders. Identify best solution (considering price, schedule, constructability, state statutes, etc.) for required changes to ENGINEER's plans, prepare all required documents (exhibits, attachments, figures, reports, etc.) to support the Change Order. All changes recommended by ENGINEER shall incorporate and be based upon all design factors and Project decisions made including modeling, sizing, locations, survey data, all utility locations, land acquisitions, geotechnical data, standards, regulations and any other factors. Prepare Draft and Final Reports and PowerPoint slides to support OWNER's Project Manager for presentations to City Council/SUA. Attend City Council and/or SUA Meetings, as necessary, to support the Project, and be prepared to defend Project decisions and progress during the CC or SUA Meetings.
- J. Shop Drawings, Samples, Submittals and other Data: Review and approve or take other appropriate action in respect to

Shop Drawings, Samples, Submittals and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. ENGINEER shall meet any Contractor's submittal schedule that ENGINEER has accepted.

- K. Tests and Inspections: ENGINEER shall review all plans for testing and test results for conformance with the Contract Documents. ENGINEER shall notify the OWNER and Contractor if any test results do not conform with the Contract Documents and, with the OWNER's approval, shall advise the Contractor if any rework is necessary to meet the Contract Documents.
- K. Substitutes and "or-equal": Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of the OWNER/ENGINEER AGREEMENT.
- L. Applications for Payment: Based on ENGINEER's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation.
 - 1. Determine the amounts that ENGINEER recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute ENGINEER's representation to OWNER, based on such observations and review, that, to the best of ENGINEER's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe Contractor's Work. In the case of unit price work, ENGINEER's recommendations of payment will include final determinations of quantities and classifications of Contractor's Work (subject to any subsequent adjustments).
 - 2. By recommending any payment, ENGINEER shall not thereby be deemed to have represented that observations made by ENGINEER to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to ENGINEER in this AGREEMENT and the Contract Documents. Neither ENGINEER's review of Contractor's Work for the purposes of recommending payments nor ENGINEER's recommendation of any payment including final payment will impose on ENGINEER responsibility to supervise, direct, or control Contractor's Work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on ENGINEER to make any examination to ascertain how or for what

purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the Work in progress, material, or equipment has passed to OWNER free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between OWNER and Contractor that might affect the amount that should be paid.

3. Provide assistance and support with documentation and preparation of OWNER's response to Contractor regarding its application for payment.

- M. Contractor's Completion Documents: Receive, review, and transmit to OWNER maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Contract Documents, certificates of inspection, tests and approvals, Shop Drawings, Samples and other data approved as provided in OWNER/ENGINEER AGREEMENT, and transmit the annotated record documents which are to be assembled by Contractor in accordance with Contract Documents to obtain final payment. The extent of such review by ENGINEER will be limited as provided in the OWNER/ENGINEER AGREEMENT.
- N. Substantial Completion: Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with OWNER and Contractor, visit the Project to determine if the Work is substantially complete. After obtaining OWNER's approval and if ENGINEER considers the Work substantially complete, ENGINEER shall deliver a certificate of Substantial Completion to OWNER and Contractor.
- O. Final Acceptability of the Work: Conduct a final visit to the Project to determine, in conjunction with the OWNER, if the completed Work of Contractor is acceptable. If deficiencies in the Work are found, ENGINEER shall create and distribute a final punch-list, which has been reviewed and approved by the OWNER in advance, to the Contractor.
- P. Duration of Construction Administration Phase: The Construction Administration Phase will commence with the execution of the first Construction Contract for The Project or any part thereof and will terminate upon final payment to Contractors. Subject to the provisions of Article 3, ENGINEER may be entitled to an increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract. Such adjustment shall be based on the schedules provided in Exhibit C.
- Q. Limitation of Responsibilities: ENGINEER shall not be responsible for the acts or omissions of any Contractor, Subcontractor or Supplier, or other individuals or entities performing or furnishing any of the Work, for safety or security at the Site, or for safety precautions and programs incident to Contractor's Work, during the Construction Phase or otherwise. ENGINEER shall not be responsible for the failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.

A1.07 *POST CONSTRUCTION PHASE*: Upon successful completion of the Construction Phase and upon written authorization from OWNER to proceed, ENGINEER shall provide the following:

- A. Together with OWNER, visit the Project to observe any apparent defects in the Work, assist OWNER in consultations and discussions with Contractor concerning correction of any such defects, and make recommendations as to replacement or correction of defective Work, if any.

- B. Provide record drawings reflecting all field changes and final quantities. Submittals shall include two full sized reproducible prints, one AutoCAD format file, one full sized PDF file and one true half sized PDF file. Submittal should also include electronic files conforming to the OWNER's requirements listed in Appendix C to Exhibit A.
 - 1. Record drawings shall reflect the Project as installed, according to information provided by observation by the ENGINEER, markups by the contractor, markups by the inspector, field orders, change orders, and other sources of information made available to the ENGINEER.
 - 2. Record drawings shall generally be similar in appearance to design drawings. Drawing elements that do not reflect the Project as constructed shall be deleted, not struck through, and replaced with updated elements. Differences between bid docs and record drawings shall be colored red and clouded and annotated for review, but the final record drawings shall not include clouds and be fully understandable in black and white.
- C. Provide to OWNER all Project documentation in electronic format organized into folders as specified by OWNER.
- D. Provide OWNER with a Contractor evaluation report using the OWNER's template.
- E. Approximately sixty (60) days prior to the expiration of the warranty period, perform a warranty inspection to observe any apparent defect in the work and facilitate, with the contractor, correction of the defective work.

PART 2 – ADDITIONAL SERVICES

A2.01 ADDITIONAL SERVICES (REQUIRING OWNER'S WRITTEN AUTHORIZATION):

If authorized in writing by OWNER, ENGINEER shall furnish, or obtain from others, Additional Services of the types listed below:

- A. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by ENGINEER or its design requirements including, but not limited to, changes in size, complexity, OWNER's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond ENGINEER's control.
- B. Services resulting from OWNER's request to evaluate alternative solutions beyond those identified in this exhibit.
- C. Providing construction surveys and staking to enable Contractor to perform its Work other than as required in this exhibit, and any type of property surveys or related Engineering services needed for the transfer of interests in real property; and providing other special field surveys.
- D. Other services performed or furnished by Engineer not otherwise provided for in this Agreement.

This is **APPENDIX 1 TO EXHIBIT A**, consisting of 4 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, 20_____.

General Scope of Services

The City of Stillwater intends to rehabilitate pavement and replace utilities on multiple street sections. CEC Corporation proposes to provide engineering services; the following is our understanding of the project scope.



Figure 1

4th Avenue – Orchard Street to Walnut Street, Walnut Street, 4th Avenue to 6th Avenue

- Pavement (Red Hatch)
 - Full Depth reconstruction (Bus Route)
- Sidewalk/Ramps (White Hatch)
 - Sidewalk/ramps on south side of 4th
 - Sidewalk on west side of Walnut
- Utilities
 - Waterline - none
 - Storm Sewer– review drainage, replace grates/hoods



Figure 2

4th Avenue – Garfield Street to Lincoln Street

- Pavement
 - Full Depth reconstruction, north half, from Garfield St. to approximately 85' west of Lincoln.
 - Drives as needed
- Sidewalk/Ramps
 - Ramps on west side of 4th Ave./Lincoln St.
- Utilities
 - Waterline – none
 - Storm Sewer - none

Lincoln Street - 4th Avenue to 5th Avenue

- Pavement
 - Full Depth reconstruction
- Sidewalk/Ramps
 - Keep existing sidewalk/curb & gutter if possible
 - One section of new sidewalk on west side, jog over to curb
- Utilities - none



Figure 3

South Knoblock Street – W. University Avenue to 4th Avenue

- Pavement
 - Full Depth reconstruction
 - exclude 3rd Ave./Knoblock St. intersection, include 4th Ave./Knoblock St. intersection
 - Replace parking areas between University St. and 3rd Ave.
- Sidewalk/Ramps
 - ADA ramps at 3rd Ave. and 4th Ave.
 - Streetscape between University Ave. and 3rd Ave.
 - Electrical services to support streetscape improvement
- Utilities
 - Waterline:
 - Install 8” along Knoblock St., 3rd Ave. to 4th Ave., to replace existing
 - Install 6” along 3rd Ave., Hester St. to West St., to replace existing
 - Storm Sewer - Ensure future flow through intersections and streets
 - Sanitary Sewer – none

4th Avenue – Hester Street to Duck Street

- Pavement
 - Full Depth reconstruction from Hester St. to Knoblock St.
 - Rehabilitation and patching from Knoblock St. to Duck St.
 - Driveways as needed
- Sidewalk/Ramps
 - ADA ramps as needed
 - Connect sidewalk gap (Add Alternate)
- Utilities
 - Waterline - Install 8” along 4th Ave., Hester St. to Duck St., to replace existing
 - Storm Sewer – Ensure future flow through intersections and streets
 - Sanitary Sewer -existing crosses perpendicular to 4th Ave., replace 2 manholes between Knoblock Street and Duck Street

Roadway, Sidewalks, and Utility design services listed above shall be provided by CEC.
CEC will provide Electrical services for Lighting Design to support the Streetscape Services.

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Landscape Architectural Scope

Alaback Design Associates (AD) will work as a Subcontractor for CEC to develop streetscape improvements for Knoblock Street between University Avenue and W. 3rd Avenue. Project submittals will include the project definition phase (35%), preliminary plans (60%), final plans (90%), and final construction documents (100%). Our work will include complete construction documents and written specifications for streetscape elements of the project. AD will assist with conceptual design and construction document preparation for streetscape elements, including pedestrian pavement, landscaping / street trees, irrigation, site furnishings, and lighting coordination. Throughout the project duration, our proposed services include coordination with other design disciplines and participation in meetings with the consultant team and City of Stillwater.

Alaback Design Associates will assist with the streetscape enhancements, working in coordination with CEC, the City of Stillwater staff, and other design disciplines for the following:

- Site layout and material selection for pedestrian paving
- Site Furnishings layout and specification
- Landscape Materials (Trees, shrubs, groundcover, perennials, ornamental grasses)
- Site Irrigation System design for all landscaped areas
- Site Lighting layout for pedestrian areas (with electrical engineering by others).

The following tasks are understood to be provided by other firms:

- Detailed Electrical Engineering & Lighting Design
- Site Grading (including pavement and curb elevations)

Base Services (Lump Sum Fee)

As described below, the following general tasks will be completed for the identified block of Knoblock Street. These tasks will be completed over the course of the project's submittals at 35%, 65% 90%, and final bid documents.

Task 1: Conceptual Streetscape Design / Budgeting

(Task 1 work will be completed during the Conceptual Design and in conjunction with the 35% submittal.)

- Perform a comprehensive visual assessment of the existing conditions for the block that will be part of the streetscape improvements. This analysis will include existing paving types and conditions, site furnishings, trees, lighting, adjacent buildings, etc.
- Meet with Campus Corner representatives to discuss the project and gain an understanding of the goals for the merchants within this block.
- Develop a conceptual site plan for proposed streetscape improvements. As appropriate, our conceptual plan may include optional levels of enhancements.
- Prepare a cost estimate for proposed streetscape improvements.

Task 2: Hardscape Design and Construction Documents

- Preparation of site base plan from survey and civil plans provided by CEC. (Our understanding is that the current layout of street curbs and parking will generally be maintained with the proposed plans.)
- Preparation of conceptual streetscape plan for the project area.
- Refinement of conceptual plans based upon City of Stillwater review comments.
- Preparation of final design documents (including written specifications) for streetscape elements, paving, etc. Our drawings will include construction details for pavement, site furnishings, and other improvements in between the curblines and building facades.
- Preparation of detailed layout plans for pedestrian paving.
- Design / selection of site furnishings and amenities, including benches, litter receptacles, etc.
- Coordination of lighting selections and layout with electrical engineer and design team.

Task 3: Landscape Design & Construction Documents

- Prepare a preliminary landscape plan for review, identifying tree locations, planting bed areas, and other landscape elements. The preliminary plan will include proposed varieties of trees, shrubs, groundcover, and other plant material.
- Modify planting design based upon City staff review comments.
- Prepare construction documents for landscape plantings including a plant material schedule, spacing chart, bed preparation notes and general notes. Construction documents will include planting plans which indicate location, size and species of trees, shrubs and ground cover. Plans will include planting details.
- Prepare specifications and warranty for landscaping which will be utilized by landscape contractor to include maintenance, quality criteria and guarantee information.

Task 4: Irrigation Design & Construction Documents

- Complete design of an automatic, underground irrigation system for the desired areas of the project.
- CEC shall provide assistance with the water service lines for irrigation meters.
- Provide complete design layout showing heads, valves, piping, sizing of valves and pipe, controller(s), meter, backflow preventer, sleeves and all other components. Irrigation plans will include a detailed legend with complete specifications of all equipment.
- Coordination of irrigation system connection to site water lines including meter and backflow. Coordination of electrical supply to controller with electrical engineer.
- Prepare detailed irrigation specifications.

Task 5: Budgeting / Cost Estimating

- Preparation of quantity take-offs for estimating for each City submittal.
- Provide an opinion of probable construction costs at each of the City submittals and at the conclusion the final design for the streetscape elements that are part of our scope.

Task 6: Team Meetings / General Project Coordination

- Meet with CEC and design team throughout the design process to coordinate the design effort.
- Participate in conference calls as needed between City of Stillwater, CEC and the design team throughout the design process.

Task 7: Bidding Coordination

- Attend pre-bid meeting.
- Prepare and issue addendums or clarifications during the bidding period as needed. Respond to questions from bidders during the advertisement period.

Construction Phase Services (Hourly, NTE)

Task 8: Construction Administration / Site Observation

- Phone conferences with City of Stillwater and design team during installation of hardscape, irrigation and planting.
- Provide up to 5 site visits during installation of the hardscape, planting and irrigation installation process.
- Review and respond to shop drawing submittals for hardscape, planting and irrigation.
- Provide final inspections for hardscape, planting and irrigation.

Additional Services

As requested, Alaback Design Associates will provide additional services that are not part of the basic services that have been described. As requested, AD will provide a lump sum quotation for identified work or provide work on an hourly basis in accordance with the rates that are provided in this proposal.

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Geotechnical Scope

The following scope of services is proposed to provide recommendations for pavements:

- Core existing pavements and measure, type, photograph to evaluate existing conditions.
- Twelve (12) soil test borings will be advanced to 3 feet below existing pavement section.
- Dynamic Cone Penetrometer (DCP) to 36" for correlation to in-situ California Bearing Ratio (CBR) for pavement subgrade evaluation.
- The moisture content of each sample will be evaluated. Selected soil samples will be classified in the laboratory.
- Evaluate soils below pavement for stabilization agent.
- Classify and sulfate test on one (1) sample from each boring.
- Provide recommendations for pavement rehabilitation if investigation allows; if not full depth removal to include option for subgrade stabilization or remediation if determined feasible with grades provided.

After the completion of subsurface exploration, an engineer will prepare a report summarizing the coring/drilling methods and test results and will provide recommendations for the design of pavements with minimum thicknesses.

Consultant's findings, opinions and recommendations are based solely upon the data and information obtained by and furnished to the Consultant at the time of services. It is recognized by the CLIENT that the Consultant obtains samples at discreet locations in an effort to provide a general characterization of the entire site. Variations may occur between boring locations. Additionally, CLIENT understands Consultant's layout of boring and test locations is approximate and may deviate a reasonable distance based on the layout methods used or site conditions encountered. Borings may alter or damage a site. The equipment used during drilling, including the drilling rig itself and other trucks may cause rutting onsite. Site restoration is not a part of this Scope. Dozer services, if required, are not included in this fee estimate.

PROJECT SCHEDULE

The site investigation is expected to take at least 2 weeks and will be scheduled within 4 weeks of receiving Notice to Proceed. We expect to submit our report four weeks after completion of field work. Verbal recommendations can be provided as results are obtained. Traffic coordination will need to be provided by the Owner if site is deemed unsafe for access during work hours.

SITE ACCESS & UTILITIES

This proposal assumes that the site is accessible to a trailer-mounted drill and that potential obstructions have been removed. CLIENT shall secure all necessary site related approvals, permits, licenses, and consents necessary to commence and complete the Services and will execute any necessary site access agreement. Consultant shall take reasonable precautions to avoid damage to subterranean structures and utilities including initiating an Oklahoma One-Call and utilizing CEC SUE services; however, Consultant will not be responsible for damage to structures or utilities that are not called to Consultant's attention, are not correctly marked, or are incorrectly shown on plans furnished to the Consultant. The drill trailer and

truck used for sampling weighs approximately 6 tons. Consultant will not be responsible for damage to landscaping or sidewalks.

ADDITIONAL SERVICES

If there should be a change in project scope that leads to additional work or additional services are requested by CLIENT we will negotiate a fee to provide the changes or additional services prior to commencing the work.

After the completion of the design CEC Materials Testing Services can be provided and an estimated number of unit tests can be determined and a proposal for Construction Materials Testing Services can be provided upon request.

Survey Scope

LIMITS OF TOPOGRAPHIC SURVEY (Green Limits, shown on page 4)

- Verify control information from previously conducted survey
- Set a minimum of two (2) control points for horizontal and vertical purposes tied to OSU control network
- Establish at least two (2) benchmarks in each project vicinity and run differential level loop
- Provide topographic survey services to include the following existing surface features: roads, curbs, drives, sidewalks, buildings, finished floor at thresholds, signs, fences, walls, decorative trees, flowerbeds, all visible drainage structures, and visible and/or marked utilities
- Utilities: "OKIE811" will be contacted at least two (2) weeks prior to survey and the locations as marked will be obtained.
 - CEC will contact members listed on the OKIE ticket, request utility atlas maps, and plot atlas maps as "per atlas map" if said maps are provided to CEC by the Utility Owner.
 - CEC is NOT responsible for unmarked or mismarked utilities
 - Utility information will be placed in the Civil 3d and/or AutoCAD drawing.
- Storm sewer manholes, sanitary sewer manholes, water valves, and inverts will be measured for depth (to the connection outside of survey limits)
- Cross sections at 50' density including applicable break lines.
- Contours at 1.0' minimum density
- Provide Halo information
- Submit a C3D CAD file containing all above described items

PROPERTY PLOTTING (for properties within the Green survey limits)

- Document Research
 - Research deeds, plats, and other documents from County Clerk's and Assessor office / websites or through an abstractor/title company
- Boundary Control Research
 - Research section lines and/or platted monuments to be able to sufficiently plot plats and any unplatted deeded properties
- Plot properties, right-of-way, and easements (if applicable) throughout the following survey limits:
 - Lincoln St. from 6th Ave. to 4th Ave. throughout the survey limits
 - 4th Ave. from Lincoln Ave. to Garfield St. throughout the survey limits
 - 4th Ave. from Walnut St. to Orchard St. throughout the survey limits
 - 4th Ave. from Duck St. to West St. throughout the survey limits
 - Walnut St. from 6th Ave. to 4th Ave. throughout the survey limits

LIMITS OF TOPOGRAPHIC SURVEY (Yellow Limits, shown on page 4)

- Establish six (6) benchmarks in each project vicinity and run differential level loop
- Provide topographic survey services to include the following existing surface features: roads, curbs, drives, sidewalks, buildings, finished floor at thresholds, signs, fences, walls, decorative trees, flowerbeds, all visible drainage structures, and visible and/or marked utilities
- Utilities: "OKIE811" will be contacted at least two (2) weeks prior to survey and the locations as marked will be obtained.
 - CEC will contact members listed on the OKIE ticket, request utility atlas maps, and plot atlas maps as "per atlas map" if said maps are provided to CEC by the Utility Owner.
 - CEC is NOT responsible for unmarked or mismarked utilities
 - Utility information will be placed in the Civil 3d and/or AutoCAD drawing.
- Storm sewer manholes, sanitary sewer manholes, water valves, and inverts will be measured for depth (to the connection outside of survey limits)
- Cross sections at 50' density including applicable break lines.
- Contours at 1.0' minimum density
- Provide Halo information
- Submit a C3D CAD file containing all above described items

PROPERTY PLOTTING (for properties within the Yellow survey limits)

- Document Research
 - Research deeds, plats, and other documents from County Clerk's and Assessor office / websites or through an abstractor/title company
- Boundary Control Research
 - Research section lines and/or platted monuments to be able to sufficiently plot plats and any unplatted deeded properties
- Plot properties, right-of-way, and easements (if applicable) throughout the following survey limits:
 - 4th Ave. from West St. to Hester St. throughout the survey limits
 - 3rd Ave. from West St. to Duck St. throughout the survey limits
 - Knoblock St. from University Ave. to 4th Ave. throughout the survey limits

Items **EXCLUDED** from the Scope of Work

- Survey Data Sheets
- ALTA/NSPS Survey
- Property/Boundary Survey(s) / Lot splits / Subdivision platting
- Preparation of exhibits, easements, or legal descriptions
- Plat of Survey
- FEMA Flood Plain Determination
- Flood Plain Management
- Elevation Certificate(s)
- Construction staking
- Coordination of locating private utility lines
- Underground/subsurface utility engineering (SUE) services

- Utility Potholing or 4-way sweep locating

PROJECT SCHEDULE

Following receipt of our Notice to Proceed, CEC Survey will coordinate a submittal timeline with the CEC design project manager.

ADDITIONAL SERVICES

If there should be a change in project scope that leads to additional work or additional services are requested by CLIENT, we will negotiate a fee to provide the changes or additional services prior to commencing work.

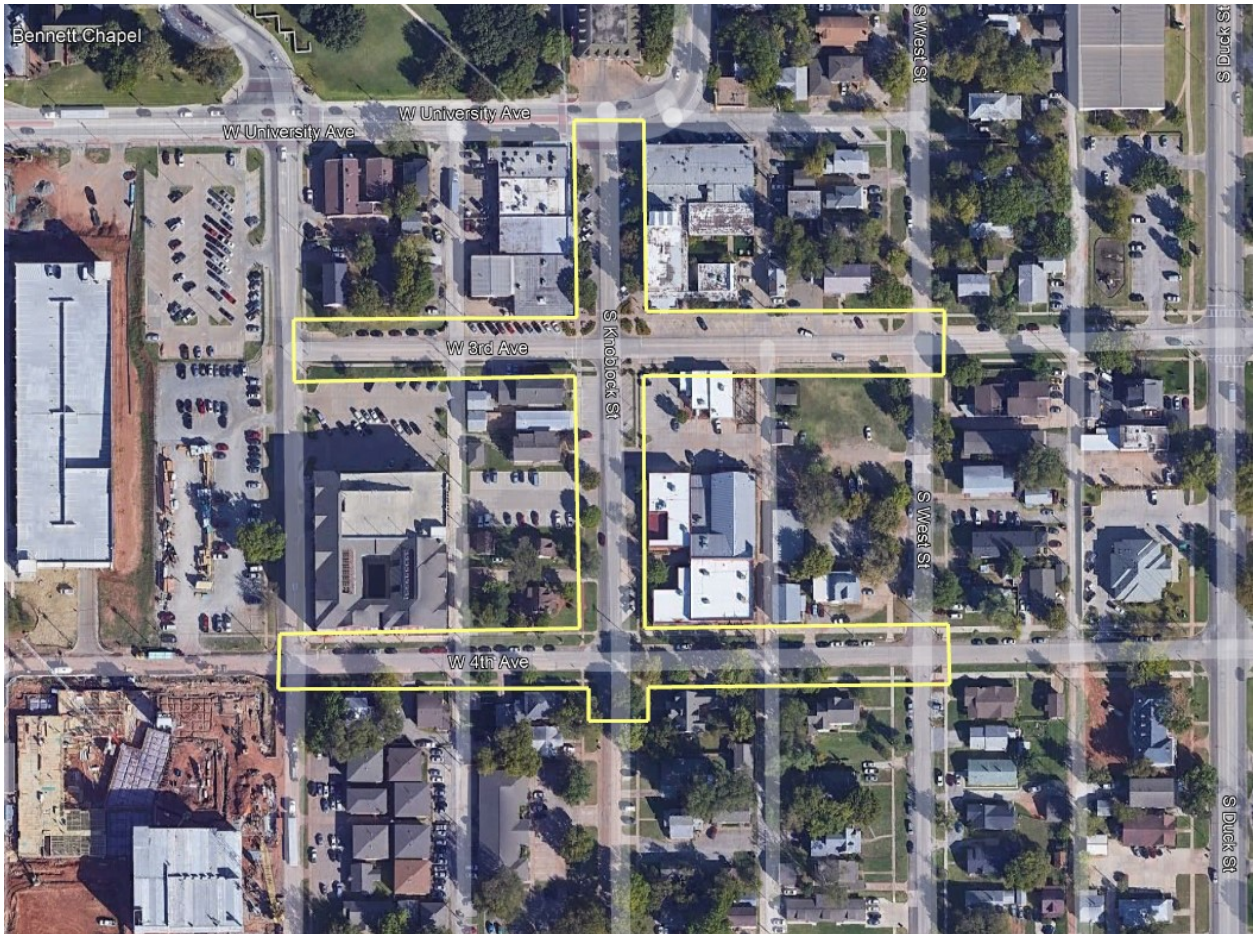
NOTES

- Any services not included in the scope will be an additional charge utilizing the most current approved hourly rates.
- The CEC Geospatial team may use LiDAR technology to supplement conventional topographic survey methods when deemed appropriate and/or necessary.
- On occasion, the CEC survey schedule may be affected by inclement weather, equipment malfunction(s), and/or unforeseen events. If a submittal delay is expected, CEC Survey will contact the design project manager and coordinate a new submittal timeline.

LIMITS OF GREEN AREAS

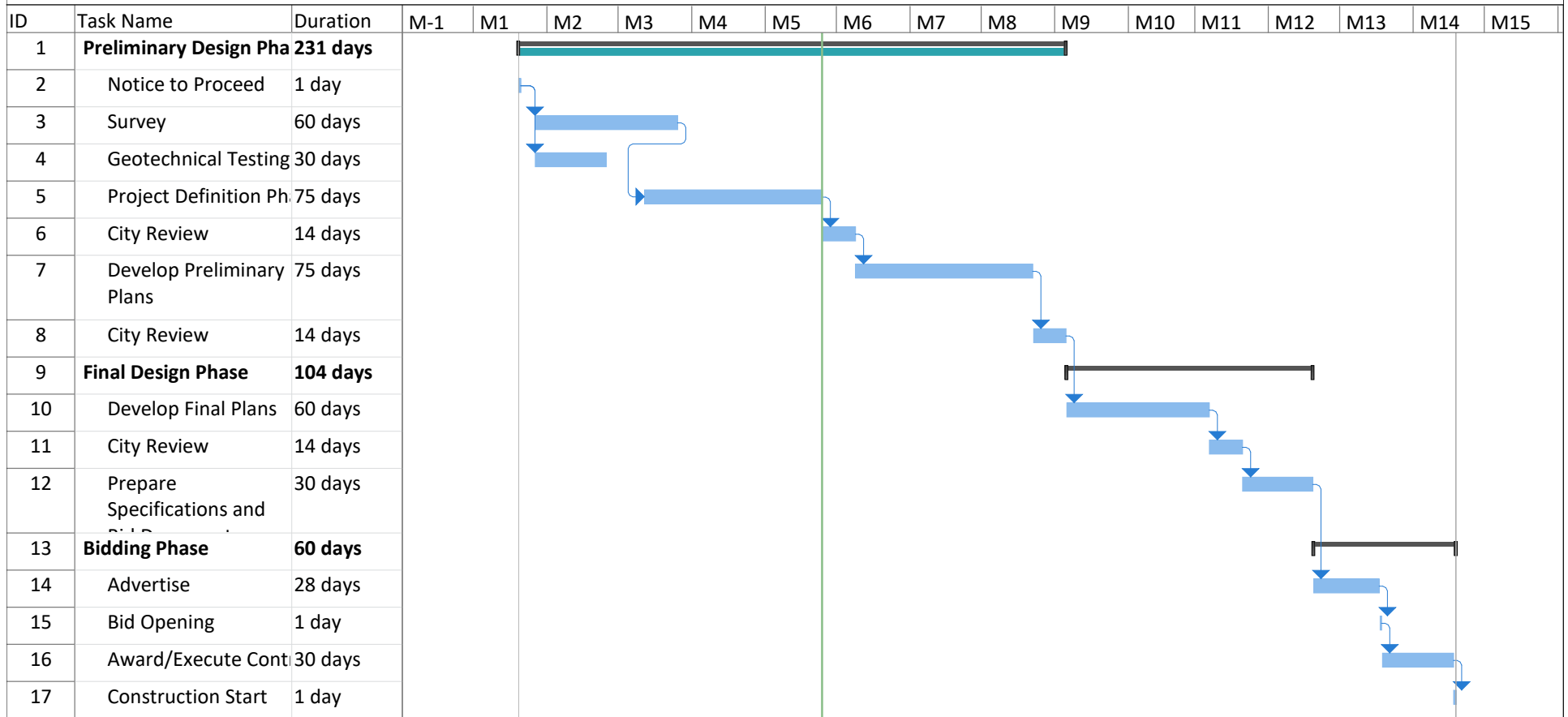


LIMITS OF YELLOW AREAS



Green areas represent areas for full topo survey areas the roadway and utility lump sum design.
Yellow areas represent areas for additional topo survey, as needed.

Appendix 5 to Exhibit A
PROJECT SCHEDULE - 25TR04-~~25W104~~
PAVEMENT REHABILITATION AND UTILITY RELOCATIONS
STILLWATER, OK



Task		Inactive Task		Start-only	
Split		Inactive Milestone		Finish-only	
Milestone		Inactive Summary		Deadline	
Summary		Manual Task		Progress	
Project Summary		Duration-only		Manual Progress	
External Tasks		Manual Summary Rollup			
External Milestone		Manual Summary			

GIS Digital Data Submission Requirements

The Engineer shall produce GIS and CAD files in such a way that allows the Owner to incorporate new or revised field data and information electronically into Owner's geographical record system. The submission requirements by the Engineer to the Owner for all files include the following criteria.

1. Digital Data Submission for GIS and CAD applies to all plan sheets submitted to the Owner including but not limited to site plans, design drawings, alignments, facilities drawings, easements, rights-of-way, as-builts and final plats.
2. Acceptable data formats in order of preference include:
 - a) ESRI Geodatabase (Personal or File)
 - b) ArcView Shapefiles
 - c) DXF (AutoCAD Drawing Exchange Format)
 - d) DWG (CAD drawing file)
3. Standard transfer media will be accepted on flash drives or through upload to cloud.
4. All drawing elements shall be submitted referencing the Oklahoma State Plane Coordinate System and will utilize the North American Datum of 1983 (NAD83) for horizontal control and be measured in US Feet (not meters).
 - a) Projection Name:
"NAD_1983_StatePlane_Oklahoma_North_FIPS_3501_Feet"
5. To expedite the conversion of CAD data, if so provided, into the Owner's GIS, the following requirements shall be met:
 - a) Closure is critical in converting CAD elements to GIS features, all polygon features (i.e. parcel boundaries) shall be 'snapped' closed.
 - b) Submitted files shall contain only complete point, polyline or polygon features.
 - c) The segregation of layering shall allow for each component to be individually isolated in its entirety.
 - d) Proposed and existing entities shall be on separate layers.
 - e) The submittal with its required layers shall not maintain any external references, attachments, or third party layers.
 - f) Drawing features and layers shall include descriptive attributes in a feature linked attribute table. See Table 1.

6. Digital submissions to the Owner shall only include the base and utility system layers listed in Table 1. At the Engineer's request, Owner will provide digital data schema conforming to and expanding Table 1.

Table 1: Digital Data Schema⁽¹⁾

Layer Name	Data Type	Layer Description	Attribute ⁽²⁾
Base			
Street	Polyline	Street Centerline	Streetname
Road_EOP	Polyline	edge of pavement	
Easement	Polyline	Easement	Type, Width
Lot	Polyline	Lot	Lot, Block number
Block	Polyline	Block	
Subdivision	Polyline	Subdivision	Subdivision name
Building	Polyline	Building Footprints	
Driveway	Polyline	Driveway	
Water			
wMain	Polyline	Water main	Size, Material
wSystemValve	Point	Water valve	Size, Type
wHydrant	Point	Fire hydrant	Manufacture
wFitting	Point	Water Fitting	Type, Size
wServiceConnection	Point	Water Meter	
Wastewater			
Sewerline	Polyline	Wastewater Mains	Size, Material
Manhole	Point	Wastewater Manholes	Type, Depth, Size
Stormwater			
swClosedChannels	Polyline	Stormwater Closed Channel	Type, Material ⁽²⁾
swOpenChannel	Polyline	Stormwater Open Channel	Type
swNetworkStructure	Point	Stormwater Structure	Type
swManhole	Point	Stormwater Manhole	Type, Size
swInlet	Point	Stormwater Inlet	Type, Dimension
swOutlet	Point	Stormwater Outlet	Type, Dimension
Electric			
PrimaryConductor	Polyline	Electric Main Line	
SecondaryConductor	Polyline	Electric Secondary Line	
TransformerBank	Point	Electric Transformer	
PowerPole	Point	Power Pole	
LightPole	Point	Light Pole	
(1) At the Engineer's request, Owner will provide digital data schema conforming to and expanding Table 1.			
(2) Additional attributes are available in Owner's digital data schema.			

Owner's Responsibilities

Article 2 of the Agreement is supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of Owner as set forth in this Agreement, Owner shall at its expense:

- A. Provide Engineer with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the Drawings and Specifications; and furnish copies of Owner's standard forms, conditions, and related documents for Engineer to include in the Bidding Documents, when applicable.
- B. Furnish to Engineer any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.
- C. Following Engineer's assessment of initially-available Project information and data and upon Engineer's request, furnish or otherwise make available such additional Project related information and data as is reasonably required to enable Engineer to complete its Basic and Additional Services. Such additional information or data would generally include the following:
 - 1. Property descriptions.
 - 2. Zoning, deed, and other land use restrictions.
 - 3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 - 4. Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions relating to existing surface or subsurface structures at the Site, or hydrographic surveys, with appropriate professional interpretation thereof.
 - 5. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental or cultural studies as to the Project, the Site, and adjacent areas.
 - 6. Data or consultations as required for the Project but not otherwise identified in the Agreement or the Exhibits thereto.

- D. Give prompt written notice to Engineer whenever Owner observes or otherwise becomes aware of the presence at the Site of any Constituent of Concern, or of any other development that affects the scope or time of performance of Engineer's services, or any defect or nonconformance in Engineer's services, the Work, or in the performance of any Contractor.
- E. Authorize Engineer to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement as required.
- F. Arrange for safe access to and make all provisions for Engineer to enter upon public and private property as required for Engineer to perform services under the Agreement.
- G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Engineer (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Engineer and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.
- I. Recognizing and acknowledging that Engineer's services and expertise do not include the following services, provide, as required for the Project:
 - 1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
 - 2. Legal services with regard to issues pertaining to the Project as Owner requires. ~~Contractor raises, or Engineer reasonably requests.~~
 - 3. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the moneys paid.
- J. Place and pay for advertisement for Bids in appropriate publications.
- K. Advise Engineer of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, facilitating/partnering, value engineering, and constructability review.
- L. Furnish to Engineer data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Engineer may assist Owner in collating the various cost categories which comprise Total Project Costs.
- M. If Owner designates a construction manager or an individual or entity other than, or in addition to, Engineer to represent Owner at the Site, define and set forth as an attachment

to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Engineer.

- N. If more than one prime contract is to be awarded for the Work designed or specified by Engineer, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Engineer as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.
- O. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment visits to the Project.
- P. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof.
- Q. Provide Engineer with the findings and reports generated by the entities providing services to Owner pursuant to this paragraph.
- R. Inform Engineer in writing of any specific requirements of safety or security programs that are applicable to Engineer, as a visitor to the Site.
- S. Perform or provide the following additional services: *None identified*.

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Payments to Engineer for Services and Reimbursable Expenses

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

ARTICLE 2 – OWNER’S RESPONSIBILITIES

C2.01 *Compensation For Basic Services And Additional Services (other than Resident Project Representative) – Standard Hourly Rates Method of Payment*

A. Owner shall pay Engineer for Basic Services and Additional Services set forth in Exhibit A, except for services of Engineer’s Resident Project Representative, if any, as follows:

1. An amount equal to the cumulative hours charged to the Project by each class of Engineer’s personnel times Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Reimbursable Expenses and Engineer’s Consultants' charges, if any.
2. Engineer’s Reimbursable Expenses Schedule and Standard Hourly Rates are attached to this Exhibit C as Appendices 1 and 2.
3. The total compensation for services under Paragraph C2.01 is estimated to be \$630,000 for Basic Services and \$27,000 for Additional Services based on the following estimated distribution of compensation:

a. Conceptual Design Phase	<u>\$144,300</u>
1) Roadway (Lump Sum)	\$83,600
2) Street Scape (Lump Sum)	\$11,500
3) Electrical (Lump Sum)	\$4,000
4) Survey Services (Lump Sum)	\$37,500
5) Geotechnical Services (Lump Sum)	\$7,700
b. Preliminary Design Phase	<u>\$133,500</u>
1) Roadway (Lump Sum)	\$118,000
2) Street Scape (Lump Sum)*	\$9,500
3) Electrical (Lump Sum)*	\$6,000
c. Final Design Phase	<u>\$72,800</u>
1) Roadway (Lump Sum)	\$51,000
2) Street Scape (Lump Sum)*	\$15,800
3) Electrical (Lump Sum)*	\$6,000

d. Bidding or Negotiating Phase	<u>\$64,000</u>
1) Roadway (Lump Sum)	\$64,000
e. Water Utility Design	<u>\$52,900</u>
1) Knoblock (Lump Sum)	\$9,600
2) 3 rd Avenue (Lump Sum)	\$13,200
3) 4 th Avenue (Lump Sum)	\$30,100
f. Construction Phase	<u>\$154,000</u>
1) Roadway Construction Administration (Hourly, Not-to-Exceed)	\$14,000
2) Streetscape Construction Administration (Hourly, Not-to-Exceed)	\$6,000
3) Electrical Construction Administration (Hourly, Not-to-Exceed)	\$4,000
4) Resident Engineering (Hourly, Not-to-Exceed)	\$130,000
g. Post-Construction Phase	<u>\$8,500</u>
1) Roadway (Hourly, Not-to-Exceed)	\$8,500
h. Additional Services (Hourly, Not-to-Exceed Amount)	<u>\$27,000</u>
1) Survey Services (as needed, previously surveyed)	\$27,000

Items marked with a * indicate a fee whose phase is contingent on approval from the Owner to proceed with scoped services at the completion of the previous phase.

4. Engineer may, upon written approval by the Owner, alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total estimated compensation amount unless approved in writing by Owner. See also C2.03.C.2 below.
5. The total estimated compensation for Engineer's services included in the breakdown by phases as noted in Paragraph C2.01.A.3 incorporates all labor, overhead, profit, Reimbursable Expenses and Engineer's Consultants' charges.
6. The amounts billed for Engineer's services under Paragraph C2.01 will be based on the cumulative hours charged to the Project during the billing period by each class of Engineer's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and Engineer's Consultants' charges.
- ~~7. The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually (as of _____) to reflect equitable changes in the compensation payable to Engineer.~~

C2.02 *Compensation For Reimbursable Expenses*

- A. Owner shall pay Engineer for all Reimbursable Expenses at the rates set forth in Appendix 1 to this Exhibit C.
- B. Reimbursable Expenses include the following categories: transportation and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls and mobile phone charges; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items in addition to those required under Exhibit A. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
- C. The amounts payable to Engineer for Reimbursable Expenses will be the Project-related internal expenses actually incurred or allocated by Engineer, plus all invoiced external Reimbursable Expenses allocable to the Project, the latter multiplied by a factor of 1.0.

C2.03 *Other Provisions Concerning Payment*

- A. Whenever Engineer is entitled to compensation for the charges of Engineer's Consultants, those charges shall be the amounts billed by Engineer's Consultants to Engineer times a factor of 1.0.
- B. Factors. The external Reimbursable Expenses and Engineer's Consultants' factors include Engineer's overhead and profit associated with Engineer's responsibility for the administration of such services and costs.
- C. Estimated Compensation Amounts:
 - 1. Engineer's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Engineer under the Agreement.
 - 2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Engineer that the total compensation amount thus estimated will be exceeded, Engineer shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Engineer's services for Owner's convenience. Upon notice, Owner and Engineer promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Engineer's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Engineer, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend the Engineer's services during the negotiations and Engineer exceeds the estimated amount before Owner and Engineer have agreed to an increase in the compensation due Engineer or a reduction in the remaining services, then Engineer shall be paid for all services rendered hereunder.
- D. To the extent necessary to verify Engineer's charges and upon Owner's timely request, Engineer shall make copies of such records available to Owner at cost.

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This is **Appendix 1 to EXHIBIT C**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, 20____.

Reimbursable Expenses Schedule

Current agreements for engineering services stipulate that the Reimbursable Expenses are subject to review and adjustment per Exhibit C. Reimbursable expenses for services performed on the date of the Agreement are:

No reimbursable expenses are anticipated.

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Standard Hourly Rates Schedule

A. Standard Hourly Rates:

1. Standard Hourly Rates are set forth in this Appendix 2 to this Exhibit C and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. The Standard Hourly Rates apply only as specified in Article C2.

B. Schedule:

Hourly rates for services performed on or after the date of the Agreement are:

Roadway/Utility Design and Construction Administration

- applicable to Exhibit C, Article C2.01.A.3, items f.1, f.3, g, h.2, and h.3
- based on 2024 CEC Municipal Rate Schedule

Practice Leader	\$248.00/hr
Department Manager	\$245.00/hr
Senior Engineer (PE)	\$245.00/hr
Project Engineer (PE)	\$169.00/hr
Engineer Intern (EI)	\$126.00/hr
Senior Design Technician	\$142.00/hr
Design Technician	\$104.00/hr
Senior Assistant	\$113.00/hr
Administrative Assistant	\$ 96.00/hr

Resident Engineering During Construction

- applicable to Exhibit C, Article C2.01.A.3, item f.4
- based on 2024 CEC Construction Engineering and Inspection Rate Schedule

Practice Leader	\$322.00/hr
Lead Engineer	\$308.00/hr
Resident Engineer	\$270.00/hr
Department Manager	\$225.00/hr
Engineer Intern (EI)	\$136.00/hr
Senior Inspector	\$130.00/hr
Inspector	\$108.00/hr
Auditor	\$157.00/hr
Site Manager	\$189.00/hr

Team Leader	\$176.00/hr
Lab Manager	\$129.00/hr
Testing Specialist	\$116.00/hr
Testing Technical Team Leader	\$211.00/hr
Testing Field Technician	\$ 90.00/hr
Testing Lab Technician	\$ 92.00/hr
Construction Material Testing	Available on Request

Streetscape Design and Construction Administration (Alaback Design Associates)

- applicable to Exhibit C, Article C2.01.A.3, item f.2

Principal	\$160.00/hr
Landscape Architect	\$130.00/hr
Landscape Designer	\$100.00/hr
Administrative	\$ 55.00/hr

This is **Appendix 3** to **EXHIBIT C**, consisting of
2 page(s), referred to in and part of the
Agreement between Owner and Engineer for
Professional Services dated
_____, 20____.

Basis of Fee

Task	Practice Leader	Department Manager	Senior Engineer (PE)	Project Engineer (PE)	Engineer Intern (EI)	Senior Design Tech	Design Tech	Senior Assistant	Admin. Assistant	Total Hours	Cost	Contract Cost "Lump Sum + Hourly (NTE)"
	\$248.00	\$245.00	\$245.00	\$169.00	\$126.00	\$142.00	\$104.00	\$113.00	\$96.00			\$ 83,612.00 *
CONCEPTUAL DESIGN PHASE												
Scope/Design Workshop		4		8	12	12		2		38	\$ 5,774.00	
Coordinate Survey/Geotech		2		8	12	12				34	\$ 5,058.00	
Client Coordination		20		22						42	\$ 8,618.00	
Review Utilities		2		8	16					42	\$ 6,130.00	
Drainage Analysis		4		24	20	20				68	\$ 10,396.00	
Concept Plans		8		60	48	48				164	\$ 24,964.00	
Concept Quantities/Estimate				16	20	20				56	\$ 8,064.00	
Concept - Streetscape/Walnut SW				8	8					16	\$ 2,360.00	
Concept - Stakeholder Meetings		15		15						30	\$ 6,210.00	
Concept Review Meeting		6		8	12	12				38	\$ 6,038.00	
PRELIMINARY DESIGN PHASE												
Preliminary Plans		40		160	240	260		2		702	\$ 104,226.00	
Preliminary Quantities				12	20	20				52	\$ 7,388.00	
Preliminary Review Meeting		6		8	12	12				38	\$ 6,038.00	
FINAL DESIGN PHASE												
Final Plans		18		60	100	100		1		279	\$ 41,463.00	
Final Quantities				6	8	8				22	\$ 3,158.00	
Final Review Meeting		6		8	12	12				38	\$ 6,038.00	
UTILITY RELOCATIONS												
Waterline - Knoblock		2		24	40					66	\$ 9,596.00	\$ 9,600.00 *
Waterline - 3rd Ave		2		30	60					92	\$ 13,120.00	\$ 13,200.00 *
Waterline - 4th Ave		4		60	60	80				204	\$ 30,040.00	\$ 30,100.00 *
BID PHASE												
Bid PS&E		16		48	48	48		4		164	\$ 25,348.00	
Bidding Services		16		80	96					192	\$ 29,536.00	
Attend Bid Opening		16			16					32	\$ 5,936.00	
Bid Tabulation				8	8					16	\$ 2,360.00	
CONSTRUCTION PHASE												
Construction Administration		8						2		10	\$ 2,186.00	
Submittals				10	20					30	\$ 4,210.00	
Project Meetings (4)		10		20	10					40	\$ 7,090.00	
Inspection Services										0	\$ -	
POST CONSTRUCTION PHASE												
Record Drawings					40					40	\$ 8,274.00	\$ 8,500.00 *
Project Close-out		4		12				2		18	\$ 5,040.00	
TOTAL HOURS	0	209	0	723	938	680	0	13	0	2,563	\$ 389,609.00	

Page 1

Exhibit C – Appendix 3: Basis of Fee

EJCDC E-500 Agreement Between Owner and Engineer for Professional Services.

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Insurance

Paragraph 6.04 of the Agreement is supplemented to include the following agreement of the parties.

G6.04 Insurance

A. The limits of liability for the insurance required by Paragraph 6.04.A and 6.04.B of the Agreement are as follows:

1. By Engineer:

- | | |
|-------------------------------------|-------------------------------------|
| a. Workers' Compensation: | Statutory |
| b. Employer's Liability: | \$1,000,000 Aggregate Comprehensive |
| c. General Liability | |
| 1) Bodily Injury; each occurrence | \$500,000 |
| 2) Property Damage; each occurrence | \$500,000 |
| 3) General Aggregate: | \$1,000,000 |
| d. Professional Liability- | |
| 1) Annual Aggregate | \$1,000,000 |
| e. Automobile liability | |
| 1) Bodily Injury; each person | \$300,000 |
| 2) Property Damage; each occurrence | \$1,000,000 |

The City of Stillwater/Stillwater Utilities Authority shall be named an additional insured on the Comprehensive General Liability policy in amounts equal to the liability limits for political subdivisions set forth in the Oklahoma Governmental Tort Claims Act, 51 O.S. §151, et seq. Provided, however, this shall not preclude the Insured from carrying insurance in amounts exceeding said liability limits so long as the City/SUA is not named as an additional insured in any amount in excess of said statutory liability limits.

B. *Additional Insureds:*

1. The Owner shall be listed on Engineer's general liability policy as provided in Paragraph 6.04.A.

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This is **EXHIBIT K**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Engineer for Professional Services** dated _____, 20__.

AMENDMENT TO OWNER-ENGINEER AGREEMENT
Amendment No. {Draft Format}

1. *Background Data:*

- (original agreement date)
- a. Effective Date of Owner-Engineer Agreement: _____
- b. Owner: City of Stillwater, Oklahoma / Stillwater Utilities Athority
- c. Engineer: CEC Corporation
- d. Project: (25TR04 & ~~25WL04~~) Roadway and Utility Improvements for Knoblock Street, 4th Avenue and Lincoln Street

2. *Description of Modifications:*

[NOTE TO USER: Include the following paragraphs that are appropriate and delete those not applicable to this amendment. Refer to paragraph numbers used in the Agreement or a previous amendment for clarity with respect to the modifications to be made. Use paragraph numbers in this document for ease of reference herein and in future correspondence or amendments.]

- a. Engineer shall perform or furnish the following Additional Services:
- b. The Scope of Services currently authorized to be performed by Engineer in accordance with the Agreement and previous amendments, if any, is modified as follows:
- c. The responsibilities of Owner are modified as follows:
- d. For the Additional Services or the modifications to services set forth above, Owner shall pay Engineer the following additional or modified compensation:
- e. The schedule for rendering services is modified as follows:
- f. Other portions of the Agreement (including previous amendments, if any) are modified as follows:

[List other Attachments, if any]

5. Agreement Summary (Reference only)

a. Original Agreement amount:	\$	_____
b. Net change for prior amendments:	\$	_____
c. This amendment amount:	\$	_____
d. Adjusted Agreement amount:	\$	_____

The foregoing Agreement Summary is for reference only and does not alter the terms of the Agreement, including those set forth in Exhibit C.

Owner and Engineer hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is _____.

OWNER:

City of Stillwater, Oklahoma

ENGINEER:

CEC Corporation

By: _____

Title: Kimberly Meek, City Manager

Date Signed: _____

By: _____

Title: Shannon Hanks, P.E. CFM, EOMDM

Date Signed: _____

REPORT TO: CITY COUNCIL

MEETING DATE: OCTOBER 7, 2024



Agenda Item:	8.c. CC-24-123
Previous/Related Action:	• CC-24-19, March 4, 2024: Decision Model for Animal Welfare Site Selection • CC-24-59, May 8, 2024: Update on Animal Welfare Facility Project • CC-24-77, June 3, 2024: Update on Animal Welfare Facility Project • Community Meetings, March 26 & 28, 2024, presentation and other information: https://stillwaterok.gov/animalwelfare.
Background/Issue:	• In 2020, staff worked with community members to identify needs in Stillwater, and created T.I.M.E. (Together, investing in municipal excellence) projects. A new Stillwater Animal Welfare (SAW) facility was identified as a need due to health and safety concerns with the existing inadequate facility. • Staff have worked toward a new SAW facility, and within the past year, went through a new site selection process and financial overview. • T.I.M.E. projects are brought before Stillwater voters, for funding. This project is planned to be a General Obligation Bond, with election on April 1, 2025. • A site selection process resulted in a new location for SAW along Hargis Road, southwest of Sanborn Lake, south of the Airport Terminal and northeast of the Waste Management Facility. • Due to the site's proximity to the airport, FAA clearances for aeronautical and non-aeronautical use are required. Both requests have been filed. We received the aeronautical release in June and are waiting for release of the land for non-aeronautical use. • During the site selection and concept phase, 505 Architects provided staff a cost estimate for a new SAW facility of \$7.2 million based on a Spring 2025 bid. • Based on past input from City Council, with safety and health as priorities, SAW is a critical, community need.

	Staff have continued to research, collect feedback, develop and design, in preparation for a GO Bond proposition.
Proposal/Solution:	• In July 2024, a Request for Proposals for architect design services was issued to 12 firms. • Five proposals were received; three were short-listed for interviews. • Through staff ranking and scoring, Barrett L. Williamson Architects, Inc. (BLW), with Animal Arts (AA) as its subconsultant, was selected. • Staff have negotiated a scope and fee with BLW for Schematic Design and budget development.
Financial Source/Impact:	Preliminary design, a rendering and a cost estimate is funded through the City's Capital Fund with a resolution on the agenda to approve reimbursement of these fees from General Obligation bond proceeds if the proposition is approved by the voters. Once the General Obligation Bond vote occurs, the remaining design, bidding, construction administration and construction costs will be funded through the proceeds of the bond sale and its interest earnings.
Related Strategic Priority:	#2 MOTIVATED MANAGEMENT #3 SAFE COMMUNITY #4 CONNECTED SPACES
Recommended Action/Motion:	Staff recommends a motion to: • Approve the Professional Services Agreement with Barrett L. Williamson Architects, Inc. for a fee of \$93,958 related to Phase 1 Work for planning, schematic design, 3D rendering and budget development for GO Bond support; • authorize the City Manager to execute the PSA; and • approve the associated budget amendment for \$103,354 which includes PSA Phase 1 Work and contingency.
Prepared By:	Candy Staring, Engineering Dir.
Reviewed By:	Candy Staring Brady Moore Teresa Kadavy
Submitted By:	Kimberly Meek, City Manager

Attachments

1. BA SAWF

2. PSA for Stillwater Animal Welfare Facility

Budget Amendment Request

For Budget Year 2025

Department of Finance
723 S. Lewis Street/P.O. Box 1449
Stillwater, OK 74076-1449

Office: 405.372.0025
Web: stillwater.org

Date: 09/27/2024

Department: Special Projects

Requested by: Candy Staring

Explanation:

Expenditures:
Appropriate funds for design contract for new animal welfare facility. Project funded from the City Capital Fund.

	Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:	Animal Welfare	1056027 - 54010	25GO01105	\$ 0	\$ 103,354	\$ 103,354
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0
Decrease:		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0
		-				\$ 0

Net Change: (will usually result in a total increase or decrease)

\$ 103,354

Reviewed by Department Manager: _____

Date: _____

Reviewed by Finance: _____

Date: _____

Approved by CMO: _____

Date: _____

Approved by City Council: ☐ Yes ☐ No

Date: _____

Processed by Finance: _____

Date: _____

Set ID: _____

Date Sent to SA&I: _____

--Print on Yellow Paper--

[Click Here to Clear Form](#)

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This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the Controlling Laws and Regulations.

Stillwater Animal Welfare Facility

Owner: City of Stillwater, Oklahoma
Architect: Barrett L. Williamson Architects, Inc.
Project #: 25GO01

AGREEMENT BETWEEN OWNER AND ARCHITECT FOR PROFESSIONAL SERVICES

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE



and
Issued and Published Jointly

by



This Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (EJCDC C-700, 2007 Edition). Their provisions are interrelated, and a change in one may necessitate a change in the other. For guidance on the completion and use of this Agreement, see EJCDC User's Guide to the Owner-Engineer Agreement, EJCDC E-001, 2009 Edition.

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(703) 684-2882
www.nspe.org

American Council of Engineering Companies
1015 15th Street N.W., Washington, DC 20005
(202) 347-7474
www.acec.org

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4400
(800) 548-2723
www.asce.org

Associated General Contractors of America
2300 Wilson Boulevard, Suite 400, Arlington, VA 22201-3308
(703) 548-3118
www.agc.org

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ENGINEERS JOINT CONTRACT
DOCUMENTS COMMITTEE

AGREEMENT BETWEEN OWNER AND ARCHITECT FOR PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of _____, 20____ (“Effective Date”) between

City of Stillwater, Oklahoma (“Owner”) and

Barrett L. Williamson Architects, Inc. (“Architect”).

Owner's Project, of which Architect's services under this Agreement are a part, is generally identified as follows:

Stillwater Animal Welfare Facility, Project No. 25GO01

Architect's services under this Agreement are generally identified as follows:

Provide Program Verification and Concept, Schematic Design, Design Development, Construction Document Development, Bid phase and Construction Administration Services for the Animal Welfare Facility. The first phase of the Project will advance through the Program Verification, Concept and Schematic Design which will include a Cost Estimate and Renderings illustrating the character of the major spaces. The second phase requires Owner's authorization to proceed pending the GO Bond election results.

Owner and Architect further agree as follows:

ARTICLE 1 – SERVICES OF ARCHITECT

1.01 *Scope*

- A. Architect shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

ARTICLE 2 – OWNER'S RESPONSIBILITIES

2.01 *General*

- A. Owner shall have the responsibilities set forth herein and in Exhibit B.

- B. Owner shall pay Architect as set forth in Exhibit C.
- C. Owner shall be responsible for, and Architect may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by Owner to Architect pursuant to this Agreement. Architect may use such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement.

ARTICLE 3 – SCHEDULE FOR RENDERING SERVICES

3.01 *Commencement*

- A. Architect is authorized to begin rendering services as of the ~~Effective Date~~ written Notice to Proceed as provided by the Owner.

3.02 *Time for Completion*

- A. Architect shall complete its obligations within a reasonable time. Specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided in Exhibit A, and are hereby agreed to be reasonable.
- B. If, through no fault of Architect, such periods of time or dates are changed, or the orderly and continuous progress of Architect's services is impaired, or Architect's services are delayed or suspended, then the time for completion of Architect's services, and the rates and amounts of Architect's compensation, may be adjusted based on the schedules provided in Exhibit C.
- C. If Owner authorizes changes in the scope, extent, or character of the Project, then the time for completion of Architect's services, and the rates and amounts of Architect's compensation, may be adjusted based on the schedules provided in Exhibit C.
- D. Owner shall make decisions and carry out its other responsibilities in a timely manner so as not to delay the Architect's performance of its services.
- E. If Architect fails, through its own fault, to complete the performance of any task required in this Agreement within the time set forth, as duly adjusted, then Architect shall credit Owner \$100.00/calendar day until said task is completed. ~~shall be entitled, as its sole remedy, to the recovery of direct damages, if any, resulting from such failure.~~

ARTICLE 4 – INVOICES AND PAYMENTS

4.01 *Invoices*

- A. *Preparation and Submittal of Invoices:* Architect shall prepare invoices in accordance with its standard invoicing practices and the terms of Exhibit C. Architect ~~shall~~ may submit its invoices to Owner on a monthly basis. Invoices are due and payable within 30 days of receipt.

4.02 *Payments*

- A. *Application to Interest and Principal:* Payment will be credited first to any interest owed to Architect and then to principal.

- B. *Failure to Pay:* If Owner fails to make any payment due Architect for services and expenses within 30 days after receipt of Architect's invoice, then:
1. ~~amounts due Architect will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day; and~~
 2. Architect may, after giving seven days written notice to Owner, suspend services under this Agreement until Owner has paid in full all amounts due for services, expenses, and other related charges. Owner waives any and all claims against Architect for any such suspension.
- C. *Disputed Invoices:* If Owner contests an invoice, Owner shall promptly advise Architect of the specific basis for doing so, may withhold only that portion so contested, and must pay the undisputed portion.
- D. *Legislative Actions:* ~~If after the Effective Date any governmental entity takes a legislative action that imposes taxes, fees, or charges on Architect's services or compensation under this Agreement, then the Architect may invoice such new taxes, fees, or charges as a Reimbursable Expense to which a factor of 1.0 shall be applied. Owner shall reimburse Architect for the cost of such invoiced new taxes, fees, and charges; such reimbursement shall be in addition to the compensation to which Architect is entitled under the terms of Exhibit C.~~

ARTICLE 5 – OPINIONS OF COST

5.01 *Opinions of Probable Construction Cost- Not Included.*

- A. ~~Architect's opinions of probable Construction Cost are to be made on the basis of Architect's experience and qualifications and represent Architect's best judgment as an experienced and qualified professional generally familiar with the construction industry. However, because Architect has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, Architect cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Architect. If Owner requires greater assurance as to probable Construction Cost, Owner must employ an independent cost estimator as provided in Exhibit B.~~

5.02 *Designing to Construction Cost Limit -Not Included.*

- A. ~~If a Construction Cost limit is established between Owner and Architect, such Construction Cost limit and a statement of Architect's rights and responsibilities with respect thereto will be specifically set forth in Exhibit F, "Construction Cost Limit," to this Agreement.~~

5.03 *Opinions of Total Project Costs*

- A. The services, if any, of Architect with respect to Total Project Costs shall be limited to assisting the Owner in collating the various cost categories which comprise Total Project Costs. Architect assumes no responsibility for the accuracy of any opinions of Total Project Costs.

ARTICLE 6 – GENERAL CONSIDERATIONS

6.01 *Standards of Performance*

- A. *Standard of Care:* The standard of care for all professional services and engineering and related services performed or furnished by Architect or Architect's Engineers under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Architect makes no warranties, express or implied, under this Agreement or otherwise, in connection with Architect's services.
- B. *Technical Accuracy:* Owner shall not be responsible for discovering deficiencies in the technical accuracy of Architect's services. Architect shall correct deficiencies in technical accuracy without additional compensation, unless such corrective action is directly attributable to deficiencies in Owner-furnished information.
- C. *Consultants:* Architect may employ such Consultants as Architect deems necessary to assist in the performance or furnishing of the services, subject to reasonable, timely, and substantive objections by Owner.
- D. *Reliance on Others:* Subject to the standard of care set forth in Paragraph 6.01.A, Architect and its Consultants may use or rely upon design elements and information ordinarily or customarily furnished by others, including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.
- E. *Compliance with Laws and Regulations, and Policies and Procedures:*
 - 1. Architect and Owner shall comply with applicable Laws and regulations.
 - 2. Prior to the Effective Date, Owner provided to Architect in writing any and all policies and procedures of Owner applicable to Architect's performance of services under this Agreement provided to Architect in writing. Architect shall comply with such policies and procedures, subject to the standard of care set forth in Paragraph 6.01.A, and to the extent compliance is not inconsistent with professional practice requirements.
 - 3. This Agreement is based on Laws and Regulations and Owner-provided written policies and procedures as of the Effective Date. Changes after the Effective Date to these Laws and Regulations, or to Owner-provided written policies and procedures, may be the basis for modifications to Owner's responsibilities or to Architect's scope of services, times of performance, or compensation.
- F. Architect shall not be required to sign any documents, no matter by whom requested, that would result in the Architect having to certify, guarantee, or warrant the existence of conditions whose existence the Architect cannot ascertain. Owner agrees not to make resolution of any dispute with the Architect or payment of any amount due to the Architect in any way contingent upon the Architect signing any such documents.
- G. The general conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint

Contract Documents Committee (EJCDC C-700, 2002 Edition) unless both parties mutually agree to use other general conditions by specific reference in Exhibit J.

- H. Architect shall not at any time supervise, direct, control, or have authority over any contractor work, nor shall Architect have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a contractor to comply with Laws and Regulations applicable to such contractor's furnishing and performing of its work.
- I. Architect neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- J. Architect shall not provide or have any responsibility for surety bonding or insurance-related advice, recommendations, counseling, or research, or enforcement of construction insurance or surety bonding requirements.
- K. Architect shall not be responsible for the acts or omissions of any Contractor, Subcontractor, or Supplier, or of any of their agents or employees or of any other persons (except Architect's own agents, employees, and Consultants) at the Site or otherwise furnishing or performing any Work; or for any decision made regarding the Contract Documents, or any application, interpretation, or clarification, of the Contract Documents, other than those made by Architect.
- L. While at the Site, Architect's employees and representatives shall comply with the specific applicable requirements of Contractor's and Owner's safety programs of which Architect has been informed in writing.

6.02 *Design Without Construction Phase Services*

- A. Architect shall be responsible only for those Construction Phase services expressly required of Architect in Exhibit A, Paragraph A1.05. With the exception of such expressly required services, Architect shall have no design, Shop Drawing review, or other obligations during construction and Owner assumes all responsibility for the application and interpretation of the Contract Documents, review and response to Contractor claims, contract administration, processing Change Orders, revisions to the Contract Documents during construction, construction surety bonding and insurance requirements, construction observation and review, review of payment applications, and all other necessary Construction Phase engineering and professional services. Owner waives all claims against the Architect that may be connected in any way to Construction Phase engineering or professional services except for those services that are expressly required of Architect in Exhibit A, Paragraph A1.05.

6.03 *Use of Documents*

- A. All drawings, raw data files, tracings, plans, computations, specifications, maps and other documents prepared or obtained under this contract shall become the sole property of Owner and shall be delivered to Owner without restriction on future use. Architect shall retain in its files all original drawings, specifications and all other pertinent information for the work. Architect shall have no liability for changes made to the drawings, specifications, and other documents by other architects or engineers after completion of the contract. Owner shall require that any such change

be sealed, dated, and signed by the architect or engineer making that change and shall be appropriately marked to reflect what was changed or modified. Architect shall not release any hardcopies or electronic files, native or pdf, prepared or obtained under this contract to any third party without prior written consent of Owner. All Documents are instruments of service in respect to a Specific Project, and Engineer shall retain an ownership and property interest therein (including the copyright and the right of reuse at the discretion of the Engineer) whether or not the Specific Project is completed. Owner shall not rely in any way on any Document unless it is in printed form, signed or sealed by the Engineer or one of its Consultants.

- B. Either party to this Agreement may rely that data or information set forth on paper (also known as hard copies) that the party receives from the other party by mail, hand delivery, or facsimile, are the items that the other party intended to send. Files in electronic media format of text, data, graphics, or other types that are furnished by one party to the other are furnished only for convenience, not reliance by the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern. If the parties agree to other electronic transmittal procedures, such are set forth in Exhibit J.
- C. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any transmittal errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files.
- D. When transferring documents in electronic media format, the transferring party makes no representations as to long-term compatibility, usability, or readability of such documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the documents' creator.
- E. Owner may make and retain copies of Documents for information and reference in connection with use on the Project by Owner. ~~Engineer grants Owner a limited license to~~ may use the Documents on the Project, extensions of the Project, and for related uses of the Owner, subject to receipt by Architect of full payment for all services relating to preparation of the Documents and subject to the following limitations: (1) Owner acknowledges that such Documents are not intended or represented to be suitable for use on the Project unless completed by Architect, or for use or reuse by Owner or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by Architect; (2) any such use or reuse, or any modification of the Documents, without written verification, completion, or adaptation by Architect, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Architect or to its officers, directors, members, partners, agents, employees, and Consultants; ~~(3) for the purposes of this Agreement and limited specifically to the relationship between Owner and Engineer, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from be responsible for all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the Documents without written verification, completion, or adaptation by Engineer; and (4)(3) such limited license to Owner use~~ shall not create any rights in third parties.

- F. If Architect at Owner's request verifies the suitability of the Documents, completes them, or adapts them for extensions of the Project or for any other purpose, then Owner shall compensate Architect at rates or in an amount to be agreed upon by Owner and Architect.

6.04 *Insurance*

- A. Architect shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Architect shall cause Owner to be listed as an additional insured on any applicable general liability insurance policy carried by Architect.
- B. ~~Owner shall procure and maintain insurance as set forth in Exhibit G, "Insurance." Owner shall cause Engineer and its Consultants to be listed as additional insureds on any general liability policies and as loss payees on any property insurance policies carried by Owner which are applicable to the Project.~~
- C. Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, property damage (other than to the Work itself), motor vehicle damage and injuries, and other insurance necessary to protect Owner's and Architect's interests in the Project. Owner shall require Contractor to cause Architect and its Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project.
- D. ~~Owner and Architect shall each~~ deliver to the Owner ~~other~~ certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of Architect's services and at renewals thereafter during completion and after termination ~~the life of the Agreement as provided herein.~~
- E. All policies of property insurance relating to the Project shall contain provisions to the effect that Architect's and its Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against Architect or its Consultants, or any insureds, additional insureds, or loss payees thereunder.
- F. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement, and that renewal will not be refused, until at least 30 days prior written notice has been given to Owner and Architect and to each other additional insured (if any) to which a certificate of insurance has been issued.
- G. At any time, Owner may request that Architect or its Consultants, at Owner's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by Owner, and if commercially available, Architect shall obtain and shall require its Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by Owner, and Exhibit G will be supplemented to incorporate these requirements.

6.05 *Suspension and Termination*

- A. *Suspension:*

1. By Owner: Owner may suspend the Project for up to 90 days upon seven days written notice to Architect.
 2. By Architect: Architect may, after giving seven days written notice to Owner, suspend services under this Agreement if Architect's performance has been substantially delayed through no fault of Architect.
- B. *Termination*: The obligation to provide further services under this Agreement may be terminated:
1. For cause,
 - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
 - b. By Architect:
 - 1) upon seven days written notice if Owner demands that Architect furnish or perform services contrary to Architect's responsibilities as a licensed professional; or
 - 2) upon seven days written notice if the Architect's services for the Project are delayed or suspended for more than 90 days for reasons beyond Architect's control.
 - 3) Architect shall have no liability to Owner on account of such termination.
 - c. Notwithstanding the foregoing, this Agreement will not terminate under Paragraph 6.05.B.1.a if the party receiving such notice begins, within seven days of receipt of such notice, to correct its substantial failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.
 2. For convenience,
 - a. By Owner effective upon Architect's receipt of notice from Owner.
- C. *Effective Date of Termination*: The terminating party under Paragraph 6.05.B may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Architect to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

D. *Payments Upon Termination:*

1. In the event of any termination under Paragraph 6.05, Architect will be entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all Reimbursable Expenses incurred through the effective date of termination. Upon making such payment, Owner shall have the limited right to the use of Documents, at Owner's sole risk, subject to the provisions of Paragraph 6.03.E.
- ~~2. In the event of termination by Owner for convenience or by Engineer for cause, Engineer shall be entitled, in addition to invoicing for those items identified in Paragraph 6.05.D.1, to invoice Owner and to payment of a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with Engineer's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C, not to exceed 5% of the remaining project cost.~~

6.06 *Controlling Law*

- A. This Agreement is to be governed by the law of the state or jurisdiction in which the Project is located, which is the State of Oklahoma for the purposes of this project.

6.07 *Successors, Assigns, and Beneficiaries*

- A. Owner and Architect are hereby bound and the successors, executors, administrators, and legal representatives of Owner and Architect (and to the extent permitted by Paragraph 6.07.B the assigns of Owner and Architect) are hereby bound to the other party to this Agreement and to the successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement.
- B. Neither Owner nor Architect may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.
- C. Unless expressly provided otherwise in this Agreement:
 1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by Owner or Architect to any Contractor, Subcontractor, Supplier, other individual or entity, or to any surety for or employee of any of them.
 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Owner and Architect and not for the benefit of any other party.
 3. Owner agrees that the substance of the provisions of this Paragraph 6.07.C shall appear in the Contract Documents.

6.08 *Dispute Resolution*

- A. Owner and Architect agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to invoking the procedures of Exhibit H (Not Included) or other provisions of this Agreement, or exercising their rights under law.
- B. If the parties fail to resolve a dispute through negotiation under Paragraph 6.08.A, then either or both may invoke the procedures of Exhibit H. If Exhibit H is not included, or if no dispute resolution method is specified in Exhibit H, then the parties may exercise their rights under law.

6.09 *Environmental Condition of Site*

- A. Owner has disclosed to Architect in writing the existence of all known and suspected Asbestos, PCBs, Petroleum, Hazardous Waste, Radioactive Material, hazardous substances, and other Constituents of Concern located at or near the Site, including type, quantity, and location.
- B. Owner represents to Architect that to the best of its knowledge no Constituents of Concern, other than those disclosed in writing to Architect, exist at the Site.
- C. If Architect encounters or learns of an undisclosed Constituent of Concern at the Site, then Architect shall notify (1) Owner and (2) appropriate governmental officials if Architect reasonably concludes that doing so is required by applicable Laws or Regulations.
- D. It is acknowledged by both parties that Architect's scope of services does not include any services related to Constituents of Concern. If Architect or any other party encounters an undisclosed Constituent of Concern, or if investigative or remedial action, or other professional services, are necessary with respect to disclosed or undisclosed Constituents of Concern, then Architect may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (1) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Constituents of Concern; and (2) warrants that the Site is in full compliance with applicable Laws and Regulations.
- E. If the presence at the Site of undisclosed Constituents of Concern adversely affects the performance of Architect's services under this Agreement, then the Architect shall have the option of (1) accepting an adjustment in its compensation or in the time of completion, or both; such adjustment shall be based on the schedules provided in Exhibit C, or (2) terminating this Agreement for cause on 30 days notice.
- F. Owner acknowledges that Architect is performing professional services for Owner and that Architect is not and shall not be required to become an "owner" "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, which are or may be encountered at or near the Site in connection with Architect's activities under this Agreement.

6.10 *Indemnification and Mutual Waiver*

- A. *Indemnification by Architect:* To the fullest extent permitted by law, Architect shall indemnify and hold harmless Owner, and Owner's officers, directors, members, partners, agents, consultants, and employees, the "Indemnitees", from reasonable third party claims, for costs, losses, and damages arising out of or relating to the Project, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Architect or Architect's officers, directors, members, partners, agents, employees, or Consultants. ~~This indemnification provision is subject to and limited by the provisions, if any, agreed to by Owner and Engineer in Exhibit I, "Limitations of Liability."~~
- B. *Indemnification by Owner:* ~~See Exhibit I, Limitations of Liability.~~ Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants as required by Laws and Regulations and to the extent (if any) required in Exhibit I, *Limitations of Liability*.
- C. *Environmental Indemnification:* ~~To the fullest extent permitted by law, Owner shall indemnify and hold harmless Engineer and its officers, directors, members, partners, agents, employees, and Consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals, and all court, arbitration, or other dispute resolution costs) caused by, arising out of, relating to, or resulting from a Constituent of Concern at, on, or under the Site, provided that (1) any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (2) nothing in this paragraph shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.~~
- D. *Percentage Share of Negligence:* ~~To the fullest extent permitted by law, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of Owner, Engineer, and all other negligent entities and individuals.~~
- E. *Mutual Waiver:* ~~To the fullest extent permitted by law, Owner and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.~~

6.11 *Miscellaneous Provisions*

- A. *Notices:* Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by facsimile, by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

- B. *Survival*: All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- C. *Severability*: Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Architect, which agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- D. *Waiver*: A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.
- E. ~~*Accrual of Claims*: To the fullest extent permitted by law, all causes of action arising under this Agreement shall be deemed to have accrued, and all statutory periods of limitation shall commence, no later than the date of Substantial Completion.~~

ARTICLE 7 – DEFINITIONS

7.01 *Defined Terms*

- A. Wherever used in this Agreement (including the Exhibits hereto) terms (including the singular and plural forms) printed with initial capital letters have the meanings indicated in the text above, in the exhibits, or in the following provisions:
 - 1. *Additional Services* – The services to be performed for or furnished to Owner by Architect in accordance with Part 2 of Exhibit A of this Agreement.
 - 2. *Agreement* – This written contract for professional services between Owner and Architect, including all exhibits identified in Paragraph 8.01 and any duly executed amendments.
 - 3. *Asbestos* – Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
 - 4. *Basic Services* – The services to be performed for or furnished to Owner by Architect in accordance with Part 1 of Exhibit A of this Agreement.
 - 5. *Construction Contract* – The entire and integrated written agreement between Owner and Contractor concerning the Work.
 - 6. *Construction Cost* – The cost to Owner of those portions of the entire Project designed or specified by Architect. Construction Cost does not include costs of services of Architect or other design professionals and consultants; cost of land or rights-of-way, or compensation for damages to properties; Owner's costs for legal, accounting, insurance counseling or auditing services; interest or financing charges incurred in connection with the Project; or the cost of other services to be provided by others to Owner pursuant to

Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.

7. *Constituent of Concern* – Any substance, product, waste, or other material of any nature whatsoever (including, but not limited to, Asbestos, Petroleum, Radioactive Material, and PCBs) which is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§1801 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; and (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
8. *Consultants* – Individuals or entities having a contract with Architect to furnish services with respect to this Project as Architect’s independent professional associates and consultants; subcontractors; or vendors.
9. *Contract Documents* – Those items so designated in the Construction Contract, including the Drawings, Specifications, construction agreement, and general and supplementary conditions. Only printed or hard copies of the items listed in the Construction Contract are Contract Documents. Approved Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
10. *Contractor* – The entity or individual with which Owner has entered into a Construction Contract.
11. *Documents* – Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by Architect to Owner pursuant to this Agreement.
12. *Drawings* – That part of the Contract Documents prepared or approved by Architect which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.
13. *Effective Date* – The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, the date on which this Agreement is signed and delivered by the last of the parties to sign and deliver.
14. *Architect* – The individual or entity named as such in this Agreement.
15. *Hazardous Waste* – The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
16. *Laws and Regulations; Laws or Regulations* – Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

17. *Owner* – The individual or entity with which Architect has entered into this Agreement and for which the Architect's services are to be performed. Unless indicated otherwise, this is the same individual or entity that will enter into any Construction Contracts concerning the Project.
18. *PCBs* – Polychlorinated biphenyls.
19. *Petroleum* – Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-hazardous waste and crude oils.
20. *Project* – The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
21. *Radioactive Material* – Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
22. *Record Drawings* – Drawings depicting the completed Project, prepared by Architect as an Additional Service and based solely on Contractor's record copy of all Drawings, Specifications, addenda, change orders, work change directives, field orders, and written interpretations and clarifications, as delivered to Architect and annotated by Contractor to show changes made during construction.
23. *Reimbursable Expenses* – The expenses incurred directly by Architect in connection with the performing or furnishing of Basic and Additional Services for the Project.
24. *Resident Project Representative* – The authorized representative of Architect assigned to assist Architect at the Site during the Construction Phase. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative agreed to by Owner. The duties and responsibilities of the Resident Project Representative, if any, are as set forth in Exhibit D (Not included).
25. *Samples* – Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
26. *Shop Drawings* – All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work.
27. *Site* – Lands or areas to be indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by Owner which are designated for the use of Contractor.

28. *Specifications* – That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.
29. *Subcontractor* – An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work at the Site.
30. *Substantial Completion* – The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Architect, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
31. *Supplier* – A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or Subcontractor.
32. *Total Project Costs* – The sum of the Construction Cost, allowances for contingencies, and the total costs of services of Architect or other design professionals and consultants, together with such other Project-related costs that Owner furnishes for inclusion, including but not limited to cost of land, rights-of-way, compensation for damages to properties, Owner’s costs for legal, accounting, insurance counseling and auditing services, interest and financing charges incurred in connection with the Project, and the cost of other services to be provided by others to Owner pursuant to Exhibit B of this Agreement.
33. *Work* – The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS

8.01 *Exhibits Included:*

- A. Exhibit A, Architect’s Services.

Appendix 1 to Exhibit A: Project Schedule

Appendix 2 to Exhibit A: Project Area Map

- B. Exhibit B, Owner’s Responsibilities.

- C. Exhibit C, Payments to Architect for Services and Reimbursable Expenses.

Appendix 1 to Exhibit C- Reimbursable Expenses

Appendix 2 to Exhibit C- Standard Hourly Rates

Appendix 3 to Exhibit C- Basis of Fee

- D. ~~Exhibit D, Duties, Responsibilities and Limitations of Authority of Resident Project Representative.~~ Not Included.
- E. ~~Exhibit E, Notice of Acceptability of Work.~~ Not Included.
- F. ~~Exhibit F, Construction Cost Limit.~~ Not Included.
- G. Exhibit G, Insurance.
- H. ~~Exhibit H, Dispute Resolution.~~ Not Included.
- I. ~~Exhibit I, Limitations of Liability.~~ Not Included.
- J. ~~Exhibit J, Special Provisions.~~ Not Included
- K. Exhibit K, Amendment to Owner-Architect Agreement. As Issued.

8.02 *Total Agreement:*

- A. This Agreement, (together with the exhibits identified above) constitutes the entire agreement between Owner and Architect and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument based on the format of Exhibit K to this Agreement.

8.03 *Designated Representatives:*

- A. With the execution of this Agreement, Architect and Owner shall designate specific individuals to act as Architect's and Owner's representatives with respect to the services to be performed or furnished by Architect and responsibilities of Owner under this Agreement. Such an individual shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of the respective party whom the individual represents.

8.04 *Architect's Certifications:*

- A. Architect certifies that it has not engaged in corrupt, fraudulent, or coercive practices in competing for or in executing the Agreement. For the purposes of this Paragraph 8.04:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the selection process or in the Agreement execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the selection process or the execution of the Agreement to the detriment of Owner, or (b) to deprive Owner of the benefits of free and open competition;

3. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the selection process or affect the execution of the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

Owner:
City of Stillwater, Oklahoma

By: _____

Name, Title: Kimberly Meek, City Manager

Date Signed: _____

Architect:
Barrett L. Williamson Architects, Inc.

By: 

Name, Title: Barrett Williamson, President

Date Signed: _____

Architect License or Firm's
Certificate No. 01771
State of: Oklahoma

Address for giving notices:

PO Box 1449

Stillwater, OK 74076-1449

Designated Representative (Paragraph 8.03.A):

Candy Staring

Title: Director of Engineering

Phone Number: (405) 742-8203

E-Mail
Address: candy.staring@stillwaterok.gov

Address for giving notices:

102 W. Apache St

Norman, OK 73069

Designated Representative (Paragraph 8.03.A):

Barrett Williamson

Title: President

Phone
Number: (405) 360-1566 Office
(405) 249-4686 Cell

E-Mail
Address: blw@blwarchitects.com

Approved as to form and legality this _____ day of _____, 20__.

Kimberly Carnley, City Attorney

This is **EXHIBIT A**, consisting of ____ pages, referred to in and part of the **Agreement between Owner and Architect's for Professional Services** dated _____, 20_____.

Architect's Services

Article 1 of the Agreement is supplemented to include the following agreement of the parties.

Architect's services are rendered for Stillwater Fire Station #2.

Architect shall provide Basic and Additional Services as set forth below.

PART 1 – BASIC SERVICES

As a part of the following basic services the Architect shall provide minutes of all scheduled meetings associated with the project.

ARCHITECT's services include those necessary for the design and preparation of documents for the referenced Project. The process as collaborative and as such, the scope may change slightly as the design is developed.

The following services are included in Basic Services:

1. Architectural Design
 - a. Includes the coordination with Owner's access control and building management system vendors.
2. Structural Engineering
3. Civil Engineering
 - a. Provide engineered site plan.
 - b. Provide grading and drainage plan
 - c. Provide erosion control plan
 - d. Provide water line design
 - e. Provide on-site sanitary sewer design
 - f. Provide stormwater analysis and report.
4. Geotechnical Investigation
 - a. Provide report based on three bores under the building and three bores under paving.
5. Mechanical Engineering
 - a. Provide design of heating, ventilation and air conditioning (HVAC) systems.
 - b. Engineer will work with Owner's vendor to include specification for building management system.
6. Electrical Engineering
 - a. Design to include normal and emergency power distribution, lighting, exterior lighting for building elements, lightning protection system if required, fire detection and alarm system.
7. Plumbing Engineering
 - a. Provide design of plumbing system including major equipment quantities such as water heaters, pumps, backflow preventers, etc.

- b. Provide fire protection plan showing extent of coverage with sprinkler valve assembly along with a three-part specification.
- 8. Low-voltage Design
 - a. Access control design
 - i. Locate and specify all door hardware and the correct hollow metal frames required for all security system devices. (Location provided by Owner).
 - ii. Selection of access control system to match City standards.
 - iii. Create a CSI format 28 1300 Access Control Systems specification section.
 - b. Teledata Systems
 - i. Locate all data outlets as required through coordination with the Owner.
 - ii. Provide wall blocking and/or structural support as required at these device locations.
 - iii. Specify the backboxes, structured cabling, racks, and associated components.
 - iv. Confirm the number and size(s) of the server racks needed by the Owner, and provide adequately sized support spaces, with the necessary power and HVAC systems to accommodate the teledata system equipment.
 - c. Audio/video
 - i. Locate and size all wall & ceiling mounted flat screen HDTVs & audio system speakers on plans and elevations.
 - ii. Specify the backboxes for the data, coax, and electrical power required for these AV devices, as well as the structured cabling required for them.
 - iii. Aid in selection of televisions, smart boards, or other AV equipment and the associated controls. These items may be procured directly by the Owner.
 - iv. Provide wall blocking and/or structural support as required at all AV device locations.
 - d. Camera
 - i. Locate all CCTV security cameras and provide wall blocking and/or structural support as required at these device locations.
 - ii. Specify the backboxes for the data and electrical power required for these security devices, as well as the structured cabling.
 - iii. Specify cameras and associated components. Selection of camera to match City standards.
- 9. Services in the Bidding and Negotiation Phase
- 10. Services in the Contract Administration Phase

A1.01 *Schematic Design Phase*

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

- B. Programming – Architect will meet with all appropriate parties to verify the previously developed program. Architect shall:
1. Review the program, and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services
 2. Prepare a preliminary evaluation of the Owner's program, schedule, and budget for the Cost of the Work, Project site, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project
- C. Pre-design conference/design Architect shall conduct a pre-design conference with Owner. Architect shall:
1. Consult with Owner regarding goals, objectives, scope, schedule and budget to define and clarify Owner's requirements for the Project and available data.
 2. Advise Owner of any need for Owner to provide data or services of the types described in Exhibit B which are not part of Architect's Basic Services.
 3. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project designed or specified by Architect, including but not limited to mitigating measures identified in the environmental assessment.
 4. After reviewing the Owner's project goals and requirements, the program will be refined and a preliminary floor plan will be produced.
- D. Schematic Design – Architect will refine the building's plan and elevations to meet the Owner's requirements. Plans and perspectives will be provided for the Owner's review and approval. After approval from the Owner, Design Development Phase will commence.
1. The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.
 2. Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, to the Owner, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.
 3. Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's review and approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

4. The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work.
5. The Architect shall consider with the Owner the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.
6. The Architect shall submit the Schematic Design Documents to the Owner..
7. The Architect shall request the Owner's approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.
8. Owner Reviews –The Owner will also have a chance for formal reviews after the Design Meeting and after the production of the Schematic Design Package.
9. Meetings – There is not a limit of meetings with Architect in this phase, but the meetings with consultants are limited as follows:

MEP Engineer – 1 (Virtual)

Civil Engineer – 2 (Virtual)

10. Development Review Committee Submission – Architect will submit to the City a site plan, floor plan, and questions to the City. These plans and questions will be reviewed by the City in advance of the Pre-Application Conference. In addition to building code, drainage and other engineering requirements are reviewed.

11. Schematic Design Package:

- a. Construction Cost Estimate
- b. Floor Plan
- c. Site Plan
- d. One Exterior Rendering
- e. Exported from Revit or SketchUp
- f. Elevations
- g. Building Section
- h. Narratives

- 1) MEP Systems
- 2) Structural System

12. Furnish 4 review copies of any deliverables to Owner according to Appendix 1 and review it with Owner. Owner shall submit to Architect any comments regarding the Report and any other deliverables.
13. Architect's services under the Schematic Design Phase will be considered complete on the date when the revised Report and any other deliverables have been accepted by the Owner.

***** Phase 2 Work is described below. Phase 2 is not yet authorized or funded by the Owner. *****
***** Phase 2 work requires an amendment to Agreement. *****

A1.02 Review and Coordination with Construction Manager's Interim Guaranteed Maximum Price (IGMP) (if approach is utilized).

- A. Schedule - As soon as practicable after the date of this Agreement, the Architect shall submit, for the Construction Manager's review and the Owner's approval, a schedule for the performance of the Architect's services. The schedule shall include design phase milestone dates, as well as the anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the Construction Manager's review, for the performance of the Construction Manager's Preconstruction Phase services, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.
 1. The Architect shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect's services. The Architect shall review and approve, or take other appropriate action upon, the portion of the Project schedule relating to the performance of the Architect's services.
- B. Prior to the Owner's acceptance of the Construction Manager's IGMP proposal, or the Owner's approval of the Construction Manager's Control Estimate, as applicable, the Architect shall consider the Construction Manager's requests for substitutions and, upon written request of the Construction Manager, provide clarification or interpretations pertaining to the Drawings, Specifications, and other documents submitted by the Architect. The Architect and Construction Manager shall include the Owner in communications related to substitution requests, clarifications, and interpretations.

- C. At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare, for review by the Owner and Architect, and for the Owner's acceptance or approval, an IGMP proposal or Control Estimate. The Architect shall assist the Owner in reviewing the Construction Manager's proposal or estimate. The Architect's review is not for the purpose of discovering errors, omissions, or inconsistencies; for the assumption of any responsibility for the Construction Manager's proposed means, methods, sequences, techniques, or procedures; or for the verification of any estimates of cost or estimated cost proposals. In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner and Construction Manager.
- D. Upon authorization by the Owner, the Architect shall update the Drawings, Specifications, and other documents to incorporate the agreed upon assumptions and clarifications contained in the IGMP Amendment or Control Estimate.

A1.03 *Design Development Documents Phase*

- A. Design Development Phase - After acceptance by Owner of the Schematic Design deliverables, selection by Owner of a recommended solution and indication of any specific modifications or changes in the scope, extent, character, or design requirements of the Project desired by Owner, and upon authorization from Owner, Architect shall:
 - 1. Prepare Design Development Documents for the Construction Manager's review and Owners acceptance. The Design Development Documents shall be based upon information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels. Design Development drawings including cover sheet, construction notes, details, and a dimensional control plan; architectural details for items such as doors and windows, and bid documents utilizing Owner's standard Bid Documents as provided by the Owner.
 - 2. Advise Owner if additional reports, data, information, or services of the types described in Exhibit B are necessary and assist Owner in obtaining such reports, data, information, or services.
 - 3. Meetings – There is not a limit of meetings with Architect in this phase, but the meetings with consultants are limited as follows:

MEP Engineer – 2

Civil Engineer – 1

Structural Engineer – 1

4. Furnish 5 review copies (half sized 11x17's) and one electronic PDF file of the Design Development Phase documents, a cost estimate and any other deliverables to Owner and Construction Manager, according to Appendix 1 and review them with Owner. Owner shall submit to Architect any comments regarding the Design Development Phase documents and any other deliverables according to Appendix 1.
5. The Architect shall meet with the Construction Manager to review the Design Development Documents.
6. Upon receipt of the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall take action as required below:
 - a. If the Construction Manager's estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall:
 - 1) give written approval of an increase in the budget for the Cost of the Work;
 - 2) terminate in accordance with Section 9.5;
 - 3) in consultation with the Architect and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
 - 4) implement any other mutually acceptable alternative.
7. If the Owner chooses to proceed under A.1.03.A.6.a.3, the Architect, without additional compensation, shall incorporate the revisions in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted.
8. Architect and Owner will collaborate on multiple alternate bid items to be included in Architect's final design documents and bid package(s) in order to provide adequate flexibility within the Owner's available budget.
9. Architect's services under the Design Development Phase will be considered complete on the date when the revised Design Development Phase Documents, revised opinion of probable Construction Cost, and any other deliverables have been accepted by the Owner.

A1.04 *Construction Documents Phase*

- A. After acceptance by Owner of the Design Development Phase documents, and any other deliverables subject to any Owner-directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, and upon authorization from Owner, Architect shall:
 1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Construction Manager for the Construction Manager and Owner review.
 2. Provide technical criteria, written descriptions, and design data for Architect's use in completing and filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design of the Project; assist

Owner in consultations with such authorities; and revise the Drawings and Specifications in response to directives from such authorities. Provide a permit set(s) of documents as required.

3. Using the City's templates, prepare contract's front-ends documents including the SWPPP and the Submittal Register for the Construction Manager's use during construction.
4. Meetings – There is not a limit of meetings with Architect in this phase, but the meetings with consultants are limited as follows:

MEP Engineer – 2

Civil Engineer – 1

Structural Engineer – 1

5. Prepare and furnish Five (5) copies of the drawings and 2 copies of the project manual/bidding documents for review by Owner, its legal counsel, and other advisors, and assist Owner in the preparation of other related documents. Owner shall promptly submit to Architect any comments and, subject to the provisions of Paragraph 6.01.G, instructions for revisions.
6. Upon receipt of the Construction Manager's information and estimate at the conclusion of the Construction Development Phase, the Architect shall take action as required below:
 - a. If the Construction Manager's estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall
 - 1) give written approval of an increase in the budget for the Cost of the Work;
 - 2) terminate in accordance with Section 9.5;
 - 3) in consultation with the Architect and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
 - 4) implement any other mutually acceptable alternative.
7. If the Owner chooses to proceed under A.1.04.A.6.a.3, the Architect, without additional compensation, shall incorporate the revisions in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted. Providing work without additional compensation shall be dependent on the Construction Manager providing complete, line item estimates, consistent with American Society of Professional Estimators standards at the conclusion of the Design Development Phase and during the Construction Document Phase .
8. Revise the bidding documents in accordance with comments and instructions from the Owner, as appropriate, and submit 5 final copies of the bidding documents, including PDF files of both, a revised opinion of probable Construction Cost, and any other deliverables to Owner within 14 calendar days after receipt of Owner's comments and instructions.

- B. Architect's services under the Construction Documents Phase will be considered complete on the date when the submittals required have been accepted by the Owner.

A1.05 Bidding or Negotiating Phase

- A. After acceptance by Owner of the bidding documents and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon authorization by Owner to proceed, Architect shall:
1. Assist Construction Manager and Owner in advertising for and obtaining bids or proposals for the Work.
 2. Issue addenda as appropriate to clarify, correct, or change the bidding documents.
 3. Provide information or assistance needed by Owner in the course of any negotiations with prospective contractors.
 4. Consult with Owner and Construction Manager as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors for those portions of the Work as to which such acceptability is required by the bidding documents.
 5. If bidding documents require, the Architect shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by bidders, but subject to the provisions of paragraph A2.02.A.2 of this Exhibit A.
 6. Attend the Bid opening, and assist Owner in evaluating Bids or proposals and in assembling and awarding contracts for the Work.
- B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors (except as may be required if Exhibit F is a part of this Agreement).

A1.06 Construction Phase

- A. The Architect's responsibility to provide Construction Phase Services commences upon the Owner's 1) bid award for a design-bid-build project or 2) acceptance of the Construction Manager's Interim Guaranteed Maximum Price proposal, the Owner's approval of the Construction Manager's Control Estimate, or by a written agreement between the Owner and Construction Manager which sets forth a description of the Work to be performed by the Construction Manager prior to such acceptance or approval and upon successful completion of the Bidding and Negotiating Phase, and upon written authorization from Owner.
- B. Architect shall:
1. *Pre-Construction Conference:* Participate in a Pre-Construction Conference prior to commencement of Work at the Site.

2. *Schedules:* Receive, review, and determine the acceptability of any and all schedules that Construction Manager is required to submit to Architect, including the Progress Schedule, Schedule of Submittals, and Schedule of Values.
3. *Evaluations of the Work:* In connection with observations of Construction Manager's Work while it is in progress:
 - a. Make visits to the Site at intervals appropriate to the various stages of construction, as Architect deems necessary, to observe as an experienced and qualified design professional the progress of Construction Manager's executed Work. Such visits and observations by Architect, and the Resident Project Representative (not included), if any, are not intended to be exhaustive or to extend to every aspect of Construction Manager's Work in progress or to involve detailed inspections of Construction Manager's Work in progress beyond the responsibilities specifically assigned to Architect in this Agreement and the Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Architect's exercise of professional judgment, as assisted by the Resident Project Representative (not included), if any. Based on information obtained during such visits and observations, Architect will determine in general if the Work is proceeding in accordance with the Contract Documents, and Architect shall keep Owner informed of the progress of the Work.
 - b. The purpose of Architect's visits to, and representation by the Resident Project Representative (not included), if any, at the Site, will be to enable Architect to better carry out the duties and responsibilities assigned to and undertaken by Architect during the Construction Phase, and, in addition, by the exercise of Architect's efforts as an experienced and qualified design professional, to provide for Owner a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that Construction Manager has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Architect shall not, during such visits or as a result of such observations of Construction Manager's Work in progress, supervise, direct, or have control over Construction Manager's Work, nor shall Architect have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by Construction Manager, for security or safety at the Site, for safety precautions and programs incident to Construction Manager's Work, nor for any failure of Construction Manager to comply with Laws and Regulations applicable to Construction Manager's furnishing and performing the Work. Accordingly, Architect neither guarantees the performance of any Construction Manager nor assumes responsibility for any Construction Manager's failure to furnish or perform the Work in accordance with the Contract Documents.
 - c. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Construction Manager, and (3) defects and deficiencies observed in the Work.

4. *Defective Work:*

- a. Notify the Owner if, on the basis of Architect's observations, Architect believes that such Work (a) is defective under the standards set forth in the Contract Documents, (b) will not produce a completed Project that conforms to the Contract Documents, or (c) will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
 - b. The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.
5. *Clarifications and Interpretations; Field Orders:* Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Construction Manager's work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. Subject to any limitations in the Contract Documents, Architect may assist Owner in issuing field orders authorizing minor variations in the Work from the requirements of the Contract Documents.
6. *Change Orders and Work Change Directives:* Recommend change orders, allowance authorizations and work change directives to Owner, as appropriate, and assist Owner in preparing change orders and work change directives as required.
7. *Shop Drawings and Samples:* Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Construction Manager is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Architect shall meet any Construction Manager's submittal schedule that Architect has accepted.
- a. If the Contract Documents specifically require the Construction Manager to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Construction Manager's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

8. *Substitutes and “or-equal”*: Evaluate and determine the acceptability of substitute or “or-equal” materials and equipment proposed by Construction Manager, but subject to the provisions of Paragraph A2.02.A.2 of this Exhibit A.
9. *Certification for Payments to Construction Manager*: The Architect shall review and certify the amounts due the Construction Manager and shall issue certificates in such amounts. The Architect’s certification for payment shall constitute a representation to the Owner, based on the Architect’s evaluation of the Work as provided as part of the Evaluations of Work and on the data comprising the Construction Manager’s Application for Payment, that, to the best of the Architect’s knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Construction Manager is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.
 - a. The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Construction Manager’s right to payment, or (4) ascertained how or for what purpose the Construction Manager has used money previously paid on account of the Contract Sum.
 - b. The Architect shall maintain a record of the Applications and Certificates for Payment.
10. *Inspections and Tests*: Require such special inspections or tests of Construction Manager’s work as deemed reasonably necessary, and receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Contract Documents. Architect’s review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. Architect shall be entitled to rely on the results of such tests.
11. *Project Completion*:
 - a. The Architect shall:
 - 1) conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
 - 2) issue Certificates of Substantial Completion;
 - 3) forward to the Owner, for the Owner’s review and records, written warranties and related documents required by the Contract Documents and received from the Construction Manager; and

- 4) issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.
 - b. The Architect's inspections shall be conducted with the Owner to (1) check conformance of the Work with the requirements of the Contract Documents and (2) verify the accuracy and completeness of the list submitted by the Construction Manager of Work to be completed or corrected.
 - c. When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Construction Manager, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.
 - d. The Architect shall forward to the Owner the following information received from the Construction Manager: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Construction Manager under the Contract Documents.
 - e. Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.
- C. *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon final payment to Construction Managers. Subject to the provisions of Article 3, Architect ~~shall~~ may be entitled to an increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Construction Manager as set forth in the Construction Contract. Such adjustment shall be based on the schedules provided in Exhibit C.
- D. *Limitation of Responsibilities:* Architect shall not be responsible for the acts or omissions of any Construction Manager, Subcontractor or Supplier, or other individuals or entities performing or furnishing any of the Work, for safety or security at the Site, or for safety precautions and programs incident to Construction Manager's Work, during the Construction Phase or otherwise. Architect shall not be responsible for the failure of any Construction Manager to perform or furnish the Work in accordance with the Contract Documents.

A1.07 *Post-Construction Phase*

1. Perform or provide the following additional Post-Construction Phase tasks or deliverables:
 - a. Record Drawings.
 - 1) Provide record drawings reflecting all field changes and final quantities. Submittals shall include two full sized reproducible prints, one AutoCAD format file, one full sized PDF file and one true half sized PDF file.

- 2) Record drawings shall reflect the project as installed, according to information provided by observation by the Architect, markups by the Construction Manager, markups by the inspector, field orders, change orders, and other sources of information made available to the Architect.
- 3) Record drawings shall generally be similar in appearance to design drawings. Drawing elements that do not reflect the project as constructed shall be deleted, not struck through, and replaced with updated elements. Differences between bid docs and record drawings shall be colored red and clouded and annotated for review, but the final record drawings shall not include clouds and be fully understandable in black and white.

B. The Post Construction Phase will be considered complete upon Owner's acceptance of the record drawing submittals.

A1.08 *Warranty Inspection Phase*

- A. Together with the Owner, visit the Project to observe any apparent defects in the work on the 11 month of the warranty period, assist the Owner in consultations and discussions with the Contract Manager concerning correction of any such defects, and make recommendations as to the replacement or correct of defective work.

PART 2 – ADDITIONAL SERVICES

A2.01 *Additional Services Requiring Owner's Written Authorization*

- A. If authorized in writing by Owner, Architect shall furnish or obtain from others Additional Services of the types listed below.
1. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Architect or its design requirements including, but not limited to, changes in size, complexity, Owner's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Architect's control.
 2. Services resulting from Owner's request to evaluate additional Study and Report Phase alternative solutions beyond those identified in Paragraph A1.01.A.4.
 3. Construction Observation and Materials Testing as required by IBC 2018.
 4. Submission of ICC-500 compliant shelter for review by authority having jurisdiction.
 5. Easements by separate instrument.
 6. Storm drainage system other than connecting area drain to adjacent storm water inlet
 7. Non-gravity storm sewer or sanitary sewer systems (systems requiring pump design, i.e. lift stations)

8. Public water or sewer system improvements beyond service connections and any off-site work
9. Acoustical engineering
10. Site features and amenities outside of building footprint and not directly attached to the building that are not required by zoning or code or related to the building's mechanical, electrical, or plumbing systems
11. Design of franchise utilities (gas, electric, telephone, and cable television)
12. Providing construction surveys and staking to enable Construction Manager to perform its work other than as required under Paragraph A1.05.A.3, and any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
13. Preparation of design and documentation for more than three alternate bids and/or alternate bid items that cost more than 20% of base bid.
14. Making revisions to the Drawings, Specifications, and other documents resulting from substitutions included in the Interim Guaranteed Maximum Price after the end of the Construction Documents Phase.

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This is **APPENDIX 1 TO EXHIBIT A**, consisting of ____ pages, referred to in and part of the **Agreement between Owner and Architect for Professional Services** dated _____, 20__.

Project Schedule

*Below schedule based on Council Authorization on October 7, 2024.
Below days are in calendar days.*

Phase 1

- | | |
|---|-------------------------|
| 1. Program Verification and Concept: | 28 Days (Oct. 28, 2024) |
| 2. Owner Presentation and Review: | 1 Day (Oct. 29, 2024) |
| 3. Schematic Design Package | 40 Days (Dec. 8, 2024) |
| 4. Owner Review | 10 Days (Dec. 18, 2024) |
| 5. Comments Incorporated, Resubmitted | 16 Days (Jan. 2, 2025) |
| a. Includes Cost Estimate and 3D Renderings for GO Bond Planning. | |

Phase 2 (not yet authorized)

- | | |
|----------------------------------|-----------|
| 6. Design Development Package | 4 Months |
| 7. Owner Review | 14 Days |
| 8. Permit Set | 5 Months |
| 9. Owner Review | 21 Days |
| 10. Incorporate Owner comments | 14 Days |
| 11. Issue Permit Set | |
| 12. Permit Review (City) | 21 Days |
| 13. Bidding and Council Approval | 10 weeks |
| 14. Construction | 15 months |

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This is **APPENDIX 2 TO EXHIBIT A**, consisting of ____ pages, referred to in and part of the **Agreement between Owner and Architect for Professional Services** dated _____, 20__.

Project Map

A .KMZ file has been provided by Owner.

UTILITY MAP FOR PROPOSED SAW FACILITY SITE (Sewer, Water, Electric)



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Owner's Responsibilities

Article 2 of the Agreement is supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of Owner as set forth in this Agreement, Owner shall at its expense:

- A. Provide Architect with all criteria and full information as to Owner's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which Owner will require to be included in the Drawings and Specifications; and furnish copies of Owner's standard forms, conditions, and related documents for Architect to include in the Bidding Documents, when applicable.
- B. Furnish to Architect any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.
- C. Following Architect's assessment of initially-available Project information and data and upon Architect's request, furnish or otherwise make available such additional Project related information and data as is reasonably required to enable Architect to complete its Basic and Additional Services. Such additional information or data would generally include the following:
 - 1. Property descriptions.
 - 2. Zoning, deed, and other land use restrictions.
 - 3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
 - 4. Environmental assessments, audits, investigations, and impact statements, and other relevant environmental or cultural studies as to the Project, the Site, and adjacent areas.
 - 5. Data or consultations as required for the Project but not otherwise identified in the Agreement or the Exhibits thereto.
- D. Give prompt written notice to Architect whenever Owner observes or otherwise becomes aware of the presence at the Site of any Constituent of Concern, or of any other development that affects the scope or time of performance of Architect's services, or any defect or nonconformance in Architect's services, the Work, or in the performance of any Contractor.

- E. Authorize Architect to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement as required.
- F. Arrange for safe access to and make all provisions for Architect to enter upon public and private property as required for Architect to perform services under the Agreement.
- G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by Architect (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as Owner deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by Architect and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.
- I. Recognizing and acknowledging that Architect's services and expertise do not include the following services, provide, as required for the Project:
 - 1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
 - 2. Legal services with regard to issues pertaining to the Project as Owner requires. ~~Contractor raises, or Engineer reasonably requests.~~
 - 3. Such auditing services as Owner requires to ascertain how or for what purpose Contractor has used the moneys paid.
- J. Place and pay for advertisement for Bids in appropriate publications.
- K. Advise Architect of the identity and scope of services of any independent consultants employed by Owner to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, facilitating/partnering, value engineering, and constructability review.
- L. Furnish to Architect data as to Owner's anticipated costs for services to be provided by others (including, but not limited to, accounting, bond and financial, independent cost estimating, insurance counseling, and legal advice) for Owner so that Architect may assist Owner in collating the various cost categories which comprise Total Project Costs.
- M. If Owner designates a construction manager or an individual or entity other than, or in addition to, Architect to represent Owner at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of Architect.
- N. If more than one prime contract is to be awarded for the Work designed or specified by Architect, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties,

responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of Architect as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.

- O. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment visits to the Project.
- P. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of Owner, prior to their incorporation into the Work with appropriate professional interpretation thereof.
- Q. Provide Architect with the findings and reports generated by the entities providing services to Owner pursuant to this paragraph.
- R. Inform Architect in writing of any specific requirements of safety or security programs that are applicable to Architect, as a visitor to the Site.
- S. Arrange and pay for all easements and rights of way (as applicable).
- T. Arrange and pay directly all Building and Fire department review fees (for civil, building, and fire plan reviews) not specifically included in CMAR guaranteed maximum price.
- U. Furnish authorization for ARCHITECT to discuss project details with and obtain information from utilities, including Chickasaw Telecommunications Services, OG&E, ONG, Sudden Link Communications, AT&T, Oklahoma State University, and other applicable utilities and agencies. Authorization will not include decision-making by ARCHITECT.
- V. Perform or provide the following additional services: *None identified*.

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Payments to Architect for Services and Reimbursable Expenses

Article 2 of the Agreement is supplemented to include the following agreement of the parties:

ARTICLE 2 – OWNER’S RESPONSIBILITIES

C2.01 *Compensation For Basic Services And Additional Services (other than Resident Project Representative) – Standard Hourly Rates Method of Payment*

- A. Owner shall pay Architect for Basic Services and Additional Services set forth in Exhibit A, except for services of Architect’s Resident Project Representative, if any, as follows:
1. An amount equal to the cumulative hours charged to the Project by each class of Architect’s personnel times Standard Hourly Rates for each applicable billing class for all services performed on the Project, plus Reimbursable Expenses and Architect’s Consultants’ charges, if any.
 2. Architect’s Reimbursable Expenses Schedule and Standard Hourly Rates are attached to this Exhibit C as Appendices 1 and 2.
 3. The total compensation for services under Paragraph C2.01 is estimated to be \$609,700 for Basic Services and \$0 for Additional Services. Phase 1 only is authorized by the Owner through initial execution of the Agreement. Phase 2 may be authorized by the Owner through a future amendment. Phase 1 and Phase 2 compensation is based on the following estimated distribution of compensation:

PHASE 1

- | | |
|--|----------|
| a. Program Verification, Concepts, and Schematic Design Phase | \$83,958 |
| b. Reimbursable Expenses (includes Geotechnical Investigation) | \$10,000 |

PHASE 2 – NOT YET AUTHORIZED; REQUIRES FUTURE AMENDMENT

- | | |
|---|----------------------------------|
| c. Design Development (DD) Phase | \$149,925 |
| d. Construction Documents (CD) Phase (65%, 95%, 100%) | \$239,880 |
| e. Bidding or Negotiating Phase | <i>Included in Const. Admin.</i> |
| f. Construction Phase | \$118,940 |
| g. Post-Construction Phase (Record Drawings) | \$5,997 |
| h. Warranty Inspection Phase | \$1,000 |

4. Architect may, upon written approval by the Owner, alter the distribution of compensation between individual phases of the work noted herein to be consistent with services actually rendered, but shall not exceed the total estimated compensation amount unless approved in writing by Owner. See also C2.03.C.2 below.
5. The total estimated compensation for Architect's services included in the breakdown by phases as noted in Paragraph C2.01.A.3 incorporates all labor, overhead, profit, Reimbursable Expenses and Architect's Consultants' charges.
6. The amounts billed for Architect's services under Paragraph C2.01 will be based on the cumulative hours charged to the Project during the billing period by each class of Architect's employees times Standard Hourly Rates for each applicable billing class, plus Reimbursable Expenses and Architect's Consultants' charges.
7. ~~The Standard Hourly Rates and Reimbursable Expenses Schedule will be adjusted annually (as of _____) to reflect equitable changes in the compensation payable to Engineer.~~

C2.02 *Compensation For Reimbursable Expenses*

- A. Owner shall pay Architect for all Reimbursable Expenses at the rates set forth in Appendix 1 to this Exhibit C.
- B. Reimbursable Expenses include the following categories: transportation and subsistence incidental thereto; providing and maintaining field office facilities including furnishings and utilities; toll telephone calls and mobile phone charges; reproduction of reports, Drawings, Specifications, Bidding Documents, and similar Project-related items in addition to those required under Exhibit A. In addition, if authorized in advance by Owner, Reimbursable Expenses will also include expenses incurred for the use of highly specialized equipment.
- C. The amounts payable to Architect for Reimbursable Expenses will be the Project-related internal expenses actually incurred or allocated by Architect, plus all invoiced external Reimbursable Expenses allocable to the Project, the latter multiplied by a factor of 1.0.

C2.03 *Other Provisions Concerning Payment*

- A. Whenever Architect is entitled to compensation for the charges of Architect's Consultants, those charges shall be the amounts billed by Architect's Consultants to Architect times a factor of 1.0.
- B. Factors. The external Reimbursable Expenses and Architect's Consultants' factors include Architect's overhead and profit associated with Architect's responsibility for the administration of such services and costs.
- C. Estimated Compensation Amounts:
 1. Architect's estimate of the amounts that will become payable for specified services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to Architect under the Agreement.

2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to Architect that the total compensation amount thus estimated will be exceeded, Architect shall give Owner written notice thereof, allowing Owner to consider its options, including suspension or termination of Architect's services for Owner's convenience. Upon notice, Owner and Architect promptly shall review the matter of services remaining to be performed and compensation for such services. Owner shall either exercise its right to suspend or terminate Architect's services for Owner's convenience, agree to such compensation exceeding said estimated amount, or agree to a reduction in the remaining services to be rendered by Architect, so that total compensation for such services will not exceed said estimated amount when such services are completed. If Owner decides not to suspend the Architect's services during the negotiations and Architect exceeds the estimated amount before Owner and Architect have agreed to an increase in the compensation due Architect or a reduction in the remaining services, then Architect shall be paid for all services rendered hereunder.
- D. To the extent necessary to verify Architect's charges and upon Owner's timely request, Architect shall make copies of such records available to Owner at cost.

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This is **Appendix 1 to EXHIBIT C**, consisting of _____ pages, referred to in and part of the **Agreement between Owner and Architect for Professional Services** dated _____, 20____.

Reimbursable Expenses Schedule

Current agreements for Architectural services stipulate that the Reimbursable Expenses are subject to review and adjustment per Exhibit C. Reimbursable expenses for services performed during the duration of the Agreement are:

Fax	NA
8"x11" Copies/Impressions	at cost
Reproducible Copies (Paper)	at cost.
Mileage (auto)	federal rate/mile
Field Truck Daily Charge	NA
Mileage (Field Truck)	NA
Field Survey Equipment	NA
Confined Space Equipment	NA
Resident Project Representative Equipment	NA
Specialized Software	N/A
CAE Terminal Charge	NA
Video Equipment Charge	NA
Electrical Meters Charge	NA
Flow Meter Charge	NA
Rain Gauge	NA
Sampler Charge	NA
Dissolved Oxygen Tester Charge	NA
Fluorometer	NA
Laboratory Pilot Testing Charge	NA
Soil Gas Kit	NA
Submersible Pump	NA
Water Level Meter	NA
Soil Sampling	NA
Groundwater Sampling	NA
Health and Safety Level D	NA
Health and Safety Level C	NA
Electronic Media Charge	NA
Long Distance Phone Calls	NA
Mobile Phone	NA
Meals and Lodging	at cost
	-To be charged only on Owner-required travel outside of central Oklahoma.

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This is **Appendix 2 to EXHIBIT C**, consisting of _____ page(s), referred to in and part of the **Agreement between Owner and Architect for Professional Services** dated _____, 20____.

Standard Hourly Rates Schedule

A. Standard Hourly Rates:

1. Standard Hourly Rates are set forth in this Appendix 2 to this Exhibit C and include salaries and wages paid to personnel in each billing class plus the cost of customary and statutory benefits, general and administrative overhead, non-project operating costs, and operating margin or profit.
2. The Standard Hourly Rates apply only as specified in Article C2.

B. Schedule:

Hourly rates for services performed on or after the date of the Agreement are:

Barrett L. Williamson Architects, Inc.

Principal Architect	\$175.00
Senior Architect, Director of Production	\$150.00
Bim Manager / Project Manager 2	\$140.00
Project Manager 1	\$130.00
Project Architect 2	\$115.00
Project Architect 1	\$100.00
Project Coordinator	\$90.00
Intern Architect / Draftsman	\$80.00
Clerical	\$70.00

Animal Arts

Principal II	\$260.00
Principal I	\$220.00
Project Manager II	\$170.00
Project Manager I	\$135.00
Job Captain	\$110.00
Drafting and production	\$90.00

Subconsulting Engineers

20/20 Engineering (SD Mechanical and Plumbing Engineer)

Principal In Charge	\$190.00
Project Manager / Mechanical Engineer:	\$170.00
Designer / Draftsperson	\$130.00
Administrative Support	\$100.00

AE Design, Inc. (SD Electrical Design Engineer)

Principal	\$265.00
Director	\$245.00
Senior Project Manager	\$235.00
Studio Lead	\$235.00
Project Manager	\$225.00
Senior Engineer	\$225.00
Engineer	\$205.00
Senior Designer	\$190.00
BIM Manager	\$190.00
Designer	\$165.00
Intern Designer	\$105.00
CAD/Revit Technician	\$105.00
Administrative	\$125.00

Wallace Design Collective

Civil and Structural Engineering:

Principal	\$230
Associate	\$210
Professional Engineer II	\$175
Professional Engineer I	\$160
Intern Engineer	\$150
BIM Technician III	\$145
BIM Technician II	\$135
BIM Technician I	\$125
Technical Designer II	\$160
Technical Designer I	\$150
Administrative	\$110

Salas O'Brien (MEP)

Principal	\$240.00
Senior Vice President	\$220.00
Vice President	\$200.00
Associate Vice President	\$190.00
Project Manager	\$180.00
Department Head	\$180.00
Professional Engineer	\$160.00
Construction Management	\$160.00
Graduate Engineer	\$145.00
Designer	\$110.00
CADD/Revit Technician	\$90.00
Office Staff	\$75.00

Laud Studio

Director	\$200.00
Principal	\$175.00
Senior Design Associate	\$150.00
Design Associate	\$125.00
Studio Coordinator	\$35.00
Business Manager	\$35.00

Pre Construction Services, Inc.

Estimator	\$132.00
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This is **Appendix 3 to EXHIBIT C**, consisting of
____ page(s), referred to in and part of the
Agreement between Owner and Architect for
Professional Services dated
_____, 20____.

Basis of Fee

1. The basis of fee according to Project Phase is:

Phase 1

Program Verification-Schematic Design (SD)	\$83,958
Reimbursable Expenses for SD	\$10,000
Phase 1 Total	\$93,958

Phase 2 – NOT YET AUTHORIZED; REQUIRES FUTURE AMENDMENT

Design Development (DD)	\$149,925
65% Construction Documents (CD)	\$143,928
95% CD	\$83,958
100% CD	\$11,994
Bidding/Negotiating & Const. Admin.	\$118,940
Record Drawings	\$5,997
Warranty Inspection	\$1,000
Phase 2 Total	\$515,742
Total Fee	\$609,700

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2. The basis of fee according to Lead & Subconsultant Roles is:

BLW & Animal Arts	Phase 1	Phase 2 ⁽¹⁾
Program Verification, Concepts and Schematic Design Phase	\$7,980	\$49,020
Design Development Phase	\$15,960	\$98,040
	\$15,960	\$98,040
Bidding and Negotiation Phase	\$2,660	\$16,340
Construction Administration Phase	\$10,640	\$65,360
Subtotal	\$53,200	\$326,800
Subconsultants and Supplemental Services		
20/20 Engineering	\$1,162	\$7,138
AE Design	\$945	\$5,805
Civil	\$5,656	\$34,744
Landscape Architect	\$1,680	\$10,320
Structural	\$4,480	\$27,520
Mechanical, Plumbing, and Electrical	\$11,340	\$69,660
Cost Estimating	\$1,330	\$8,170
Interior Design: FF&E, Kennel Equipment, Procurement Assistance	\$3,465	\$21,285
Visualization	\$700	\$4,300
Subtotal	\$30,758	\$188,942
Reimbursable Expenses (includes Geotechnical Investigation)	\$10,000	\$0
Phase Total	\$93,958	\$515,742
TOTAL FEE	\$609,700	
Note 1: Phase 2 is not authorized by the Owner. Phase 2 may be authorized by a future amendment.		

This is **EXHIBIT G**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Architect for Professional Services** dated _____, 20____.

Insurance

Paragraph 6.04 of the Agreement is supplemented to include the following agreement of the parties.

G6.04 Insurance

A. The limits of liability for the insurance required by Paragraph 6.04.A and 6.04.B of the Agreement are as follows:

1. By Architect:

- | | |
|-------------------------------------|-------------------------------------|
| a. Workers' Compensation: | Statutory |
| b. Employer's Liability: | \$1,000,000 Aggregate Comprehensive |
| c. General Liability | |
| 1) Bodily Injury; each occurrence | \$500,000 |
| 2) Property Damage; each occurrence | \$500,000 |
| 3) General Aggregate: | \$1,000,000 |
| d. Professional Liability- | |
| 1) Annual Aggregate | \$1,000,000 |
| e. Automobile liability | |
| 1) Bodily Injury; each person | \$300,000 |
| 2) Property Damage; each occurrence | \$1,000,000 |

The City of Stillwater/Stillwater Utilities Authority shall be named an additional insured on the Comprehensive General Liability policy in amounts equal to the liability limits for political subdivisions set forth in the Oklahoma Governmental Tort Claims Act, 51 O.S. §151, et seq. Provided, however, this shall not preclude the Insured from carrying insurance in amounts exceeding said liability limits so long as the City/SUA is not named as an additional insured in any amount in excess of said statutory liability limits.

B. *Additional Insureds:*

1. The Owner shall be listed on Architect's general liability policy as provided in Paragraph 6.04.A.

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This is **EXHIBIT K**, consisting of 2 pages, referred to in and part of the **Agreement between Owner and Architect for Professional Services** dated _____, 20__.

AMENDMENT TO OWNER-Architect AGREEMENT
Amendment No. {Draft Format}

1. *Background Data:*

- a. Effective Date of Owner-Architect Agreement: <DATE>
- b. Owner: City of Stillwater, Oklahoma
- c. Architect: Barrett L. Williamson Architects, Inc.
- d. Project: Stillwater Animal Welfare Facility

2. *Description of Modifications:*

[NOTE TO USER: Include the following paragraphs that are appropriate and delete those not applicable to this amendment. Refer to paragraph numbers used in the Agreement or a previous amendment for clarity with respect to the modifications to be made. Use paragraph numbers in this document for ease of reference herein and in future correspondence or amendments.]

- a. Architect shall perform or furnish the following Additional Services:
- b. The Scope of Services currently authorized to be performed by Architect in accordance with the Agreement and previous amendments, if any, is modified as follows:
- c. The responsibilities of Owner are modified as follows:
- d. For the Additional Services or the modifications to services set forth above, Owner shall pay Architect the following additional or modified compensation:
- e. The schedule for rendering services is modified as follows:
- f. Other portions of the Agreement (including previous amendments, if any) are modified as follows:

[List other Attachments, if any]

5. Agreement Summary (Reference only)

a. Original Agreement amount:	\$	_____
b. Net change for prior amendments:	\$	_____
c. This amendment amount:	\$	_____
d. Adjusted Agreement amount:	\$	_____

The foregoing Agreement Summary is for reference only and does not alter the terms of the Agreement, including those set forth in Exhibit C.

Owner and Architect hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is _____.

OWNER:

ARCHITECT:

City of Stillwater, Oklahoma

Barrett L. Williamson Architects, Inc.

By: _____

By: _____

Name, Title: Kimberly Meek, City Manager

Name, Title: Barrett Williamson, President

Date Signed: _____

Date Signed: _____

RESOLUTION NO. CC-2024-30

A RESOLUTION OF THE STILLWATER CITY COUNCIL ADOPTING THE STILLWATER REGIONAL AIRPORT COMMUNITY PARTICIPATION PLAN AS REQUIRED BY THE FEDERAL AVIATION ADMINISTRATION (FAA) FOR RECIPIENTS OF FEDERAL FINANCIAL ASSISTANCE

WHEREAS, the City of Stillwater accepts awards of federal grants from the Federal Aviation Administration (FAA) for eligible projects at Stillwater Regional Airport; and

WHEREAS, recipients of federal financial assistance from the FAA must take affirmative action to ensure nondiscrimination in all Stillwater Regional Airport operations; and

WHEREAS, the FAA requires the submission of a Community Participation Plan for Stillwater Regional Airport to ensure compliance with this requirement; and

WHEREAS, the purpose of the Community Participation Plan is to ensure that stakeholders or communities affected by Stillwater Regional Airport projects or operations can be informed and participate and have their input thoughtfully considered in the key stages during airport planning efforts, regardless of their race, color, national origin, sex, sexual orientation, gender identity, creed, age, or disability.

NOW THEREFORE BE IT RESOLVED, the Stillwater City Council hereby adopts the Stillwater Regional Airport Community Participation Plan attached hereto as Exhibit A.

PASSED AND APPROVED by the City Council of Stillwater, Oklahoma, and signed this 7th day of October, 2024.

CITY OF STILLWATER, OKLAHOMA
a Municipal Corporation

WILLIAM H. JOYCE, MAYOR

(SEAL)
ATTEST:

TERESA KADAVY, CITY CLERK

APPROVED AS TO FORM AND LEGALITY THIS 7TH DAY OF OCTOBER, 2024.

KIMBERLY CARNLEY, CITY ATTORNEY

Airport Sponsor Community Participation Plan (CPP)¹

1. Administration

The purpose of this CPP is to ensure that stakeholders or communities affected² by Stillwater Regional Airport projects or operations can be informed and participate and have their input thoughtfully considered in the key stages during airport planning efforts, regardless of their race, color, national origin, sex, sexual orientation, gender identity, creed, age, or disability (hereafter, the “protected bases”). This plan is provided in accordance with Title VI of the Civil Rights Act of 1964 (Title VI) and related authorities.³ This plan and associated reports regarding our CPP efforts will be communicated to the public in formats accessible to persons with disabilities and to limited English proficient (LEP) individuals.

The individuals primarily responsible for implementing the Stillwater Regional Airport CPP are:

Responsible Official	Title, Office, and Responsibilities
Shelly Crynes	City Grants Manager
Kellie Reed	Airport Director
Serge Walczak	Airport Operations Manager

Responsible officials’ contact information is shared with the public through the following methods:

Website⁴, In-person, and Other Communication Methods
1 Website (https://stillwaterok.gov/659/Contact-Us)
2 In Person during posted hours (Airport Administrative Offices 3304 N. Airport Industrial Access Rd. Stillwater, OK 74075)

In addition, Stillwater Regional Airport will ensure that members of the public are advised of our nondiscrimination obligations. This includes how to file discrimination complaints with Stillwater Regional Airport and the FAA. We will also conspicuously display the FAA-provided Unlawful Discrimination Posters at airport facilities. See Notice section of Stillwater Regional Airport’s Title VI Plan.

Stillwater Regional Airport also makes this CPP available through the following methods when engaging members of the public concerning planning efforts:

¹ See DOT Order 1000.12C, “The U.S. Department of Transportation (DOT) Title VI Program,” Ch. 2, Sec. 4. (Jun. 11, 2021). <https://www.transportation.gov/sites/dot.gov/files/2021-08/Final-for-OST-C-210312-002-signed.pdf>

² Within this CPP, the term “affected” also means *served*, in addition to *positively or negatively impacted*.

³ Related authorities include the Age Discrimination Act of 1975; Sec. 520 of the Airport and Airway Improvement Act of 1982; and the Civil Rights Restoration Act of 1987.

Website⁵, In-person, and Other Distribution Methods

1 Website (<https://stillwaterok.gov/157/Airport>)

2 In-person at Airport Administrative office, during posted hours

2. Goals and Objectives

This CPP applies to all airport planning and decision-making efforts, whether or not directly supported by Federal assistance. This includes surveys, public meetings (e.g., airport advisory board meetings), and hearings, not only meetings for a project requiring an environmental impact statement (EIS) or environmental assessment (EA).

Stillwater Regional Airport's planning processes that lead to decisions for projects or operations or those of any sub-recipients are:

Planning Processes

1. Airport Masterplan Updates

2. Design and Construction Project Solicitations

3. Land Use Coordination

Stillwater Regional Airport seeks public input for the above processes through the following methods:

Public Input Methods	Planning Process(es) that use each Method
A. Public Meetings	# 1,2,3
B. Airport Feedback forms	# 1,2,3
C. Phone calls/ Emails/ Physical Mail	# 1,2,3
D. Social Media	# 1,2,3
E. In-person during regular business hours	# 1,2,3

3. Identification of and Focused Outreach to Affected Communities

See Community Statistics section of Stillwater Regional Airport's Title VI Plan, for detailed discussion of Affected Communities.

The specific steps Stillwater Regional Airport will take to communicate with, inform, educate, consult or solicit input from, and expand opportunities for engagement with each Affected Community,⁶ are provided below.

Affected Community		Key Community Reps. (CBOs, unions, leaders, etc.)⁷	Focused Outreach Steps
i.	City of Stillwater	City Manager	a. Limited English Proficiency: Periodic Social Media Posts in Spanish. b. Low Income: Periodic social media posts about airport jobs. c. Periodic free and low cost airport events.

4. Effective Communication

Stillwater Regional Airport will ensure that public engagement is effective, meaningful, and free of linguistic, economic, historical, and cultural barriers to participation. Every effort will be taken to ensure clear, plain, and effective communication with Affected Communities, including ensuring materials are in accessible formats for persons with disabilities and in languages other than English. See Limited English Proficiency (LEP) section of Stillwater Regional Airport's Title VI Plan.

⁶ "Affected communities" means any readily identifiable group impacted or potentially impacted by an airport project or operation, such as the community immediately surrounding a project or a community in the flight path.

⁷ Potential representatives include chamber of commerce, environmental advocacy groups, business leaders, and labor groups. These representatives should have a close association with the community, with particular emphasis on connection to racial and ethnic minority groups within the communities, including limited English proficient populations, as well as other constituencies historically underserved by transportation programs, such as low income populations, and others.

5. Communication Platforms

Diverse communication platforms will be utilized to effectively reach the broadest audience. We will use the following platforms to communicate project details, our nondiscrimination obligations, and points of contact for the public to share project or operational feedback with our office and the FAA.

Social Media, Monitors, and Other Communication Platforms

1 Website (flystillwaterok.com)

2 Facebook (<https://www.facebook.com/FlyStillwaterOK/>)

3 Instagram (https://www.instagram.com/stillwater_regional_airport/)

4 X (Formerly Twitter) (<https://twitter.com/FlyStillwaterOK>)

5 The Comms (Airport Monthly Newsletter) Available by email contact airport via phone or email to sign up.

6. Records

This section includes the procedures Stillwater Regional Airport will follow to document outreach efforts. Records for steps taken to provide outreach to Affected Communities will be maintained in the following locations:

Website, In-person, and Other Storage Methods

1 In-person at Airport Administration Office

Records will be kept for community input. The records will document how Stillwater Regional Airport considered, weighed, and incorporated input received. The records will include justifications for any decisions contrary to community feedback. The records will be stored in the following locations:

Website, In-person, and Other Storage Methods

1 In-person at Airport Administration Office

Records for demographics of participants will also be kept. Requested demographic information will include race, national origin, sexual orientation, gender identity, creed, age, disability, languages spoken, and community membership.⁸ Demographic information will be requested by the following methods:

⁸ This information is solicited to demonstrate compliance with Title VI and related requirements. See 49 CFR § 21.9(b); 49 U.S.C. § 47123; 28 CFR § 42.406; and FAA Order 1400.11.

Demographic Information Collection Methods

1 Airport feedback survey (<https://stillwaterok.gov/662/Customer-Feedback>)

2 Participants at small business workshops, pre-bid meetings, and other public meetings are asked to complete an anonymous survey that includes demographic information.

3 Businesses that submit bids or offers are asked to complete an anonymous survey that includes demographic information, submitted through a data collection website.

CPP records will be made available to the public using the same methods for other information outlined within this plan.

7. Reporting Outcomes

Within 30 days of the end of each fiscal year (FY),⁹ Stillwater Regional Airport will create a CPP Report for the completed FY. The report will summarize efforts taken under this CPP in a narrative statement describing:

1. The specific steps taken to produce meaningful engagement with Affected Communities the completed FY,
2. The results of those efforts for the completed-FY, and
3. How the Affected Communities' comments and views are or will be incorporated into the decision-making process.

The CPP Reports will be included with Stillwater Regional Airport's Title VI Plan.

⁹ The first report is required after the first complete fiscal year, after this plan is adopted. Information for activities during a partial year immediately following adoption of the plan will be included with the first full year's report.

Appendix 1

Complete only if required by Section 3¹⁰

Title VI regulation require Federal grant recipients to know their community demographics. See 49 CFR § 21.9(b). By knowing this information, the Stillwater Regional Airport will be able to identify, understand, and engage with communities. In doing so, the Stillwater Regional Airport needs to know about communities eligible to be served, actually or potentially affected, benefited or burdened by the City of Stillwater's airport program.

Affected Communities ¹¹	Population
<i>City of Stillwater</i>	40,047

(Hereafter, the above communities will be referred to collectively as “the Affected Communities”).

We have identified the following facts about the Affected Communities:

Low Income Communities¹².

A low-income area is an identifiable group of persons living in geographic proximity, whose median household income is at or below the Department of Health and Human Services poverty guidelines. Pursuant to Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,” Stillwater Regional Airport is collecting information about affected and potentially affected low-income communities. According to U.S. Census Report, S1701: Poverty Status in the Past 12 Months the overall poverty level for the *City of Stillwater* is approximately 31.52%. The poverty rate remains high compared with the rest of the State.

Racial and Ethnic Communities.

Demographic data for race, color, and national origin was evaluated to identify racial and ethnic communities and populations in each Affected Community. The demographic composition by race, color, or national origin for the specific Affected Communities are as follows¹³:

¹⁰ [In general, this appendix should only be completed if the airport does not have a current Title VI Plan that has been accepted by the FAA. Information does not need to be copied and pasted from the Title VI Plan].

¹¹ “Affected communities” means any readily identifiable group potentially impacted by an airport project or operation, such as the community immediately surrounding a project or a community in the flight path.

¹² Low-income data must be collected to assist in our compliance with Environmental Justice requirements (not Title VI requirements). For example, this data will be utilized in our Community Participation Plan (CPP) to help ensure the meaningful involvement of low income communities in airport programs and activities.

¹³ Recommend using demographic groups from the U.S. Census.

Affected Community: City of Stillwater
Total Affected Community Population: 40,047

Demographic Group within Affected Community	Number of People in Minority Group	Percent of Total Affected Community Population
<i>White</i>	30,665	76.6%
<i>Black or African American</i>	1,704	4.3%
<i>American Indian or Alaska Native</i>	1,126	2.8%
<i>Asian</i>	2,730	6.8%
<i>Native Hawaiian or Other Pacific Islander</i>	40	0.1%
<i>Hispanic or Latino</i>	1,751	4.4%
<i>More than one</i>	3,373	8.4%
<i>Some other race alone</i>	409	1.0%

Limited English Proficiency (LEP).

The goal of all language access planning and implementation is to ensure that Stillwater Regional Airport communicates effectively with limited English proficient (LEP) individuals. Effective language access requires self-assessment and planning. The next table lists non-English languages¹⁴ that are spoken in LEP households in the Affected Communities. The data source is U.S Census 2020 (census.gov).

The threshold we have used for identifying the languages with significant LEP populations is the DOT safe harbor threshold, which is 5% or 1,000, whichever is less.¹⁵ The safe harbor for our community is 1,000. Please refer to the end of this document to find data for all languages in our community.

Languages Spoken by LEP Population that Meet the Safe Harbor Threshold	Number	Margin of Error
<i>Spanish</i>	1,067	+/- 366

Frequency of contact with LEP individuals at the airport and airport-related activities (all languages):

Languages Spoken by LEP Persons	A few times a year (12 or less days a year)	Several times a month (13 to 51 days a year)	At least once a week (52 to 364 days a year)	Every day (365 days a year)
<i>Spanish</i>				X

¹⁴ Recommend using language groups from the U.S. Census, and using data for the "Speak English less than 'very well'" category for each language over the threshold.

¹⁵ See the DOT LEP Policy Guidance at <https://www.federalregister.gov/d/05-23972/p-133>. The safe harbor provisions apply to the translation of written documents only; however, it provides a consistent starting point for identifying significant LEP populations.

Additional languages spoken by significant numbers of LEP persons in the Affected Communities, local schools, emergency service providers, and others, include: **none**

This information is updated annually¹⁶ through checking the following resources:

Data Sources for Languages Spoken in Affected Community	Website link to Data Source
<i>U.S. Census Bureau</i>	<i>https://data.census.gov/cedsci/table?q=B16001&tid=ACSDT1Y2019.B16001</i>

Beneficiary Diversity.

Demographic information is collected from airport customers, attendees at community meetings, and businesses seeking opportunities at the airport, through voluntary disclosures.

Description of Beneficiary Demographic Information Collection Methods

- *Stillwater Regional Airport continuously collects surveys on the Airport website (<https://stillwaterok.gov/662/Customer-Feedback>) of airport guests for customer satisfaction. The survey includes a voluntary request for demographic information*
- *Participants at small business workshops, pre-bid meetings, and other public meetings are asked to complete an anonymous survey that includes demographic information.*
- *Businesses that submit bids or offers are asked to complete an anonymous survey that includes demographic information, submitted through a data collection website.*

Staff and Advisory Board Diversity.

Demographic information is collected from airport program employees and members of planning and advisory boards, through voluntary disclosures.

Description of Employee and Advisory Board Demographic Information Collection Methods

- *Job applicants for Stillwater Regional Airport are asked to submit voluntary confidential demographic information when submitting their job application through the City of Stillwater website.*
- *Every 3 years, the Stillwater Regional Airport administration sends an email to all board members asking them to voluntarily and anonymously enter demographic information through an online survey.*

¹⁶ Data should be kept up-to-date, but this plan does not need to be updated for incremental data changes during the Plan's 3-year period.

Appendix 2

Complete only if required by Section 4¹⁷

In creating a Language Assistance Plan, the Stillwater Regional Airport will consider the volume, proportion, or frequency of contact with LEP persons in determining the appropriate language assistance to provide.

In Community Statistics section, we identified the following languages spoken by LEP persons in Affected Communities

Language

Spanish

Stillwater Regional Airport also collects data for languages spoken by airport guests.¹⁸ Data sources include:

Data Sources for Languages Spoken by Airport Guests	Website link to Data Source
<i>Assumption from U.S. Census Data</i>	https://data.census.gov/cedsci/table?q=B16001&tid=ACSDT1Y2019.B16001

Based on the above data, the following additional languages have been identified as likely to be spoken by LEP airport guests: **none**

The Title VI Coordinator will also actively engage with community educators, community groups, places of work, business groups, social groups, and the like to confirm that translation and interpretation services are accurate and effective. Additionally, the Title VI Coordinator will inform leadership and staff of the Stillwater Regional Airport of the responsibility to provide language access. We have made the following plans to provide translation services free of charge to ensure that individuals with LEP have access to the benefits of the airport:

Translation Services:

- All written notices contain a statement in the identified languages, when appropriate, of how to receive translated written materials.

¹⁷ [In general, this appendix should only be completed if the airport does not have a current Title VI Plan that has been accepted by the FAA. Information does not need to be copied and pasted from the Title VI Plan].

¹⁸ We aim to provide appropriate language assistance services to every LEP person encountered. This includes instances when LEP statistical data for a particular language was not available beforehand, or the safe harbor threshold for written translation was not met.

- The following vendors have been identified for written translations:

Translation Vendors	Languages
<i>As coordinated by Stillwater Regional Airport</i>	<i>All above languages</i>

- Information regarding translation services can be obtained at:

Location for Translation Assistance	Languages
<i>Airport website language assistance page</i>	<i>All above languages</i>
<i>City of Stillwater website, Policy and Notice of Nondiscrimination</i>	<i>All above languages</i>
<i>Airport terminal upon request</i>	<i>All above languages</i>

Interpretation Services:

- The following vendors have been identified for interpretation services:

Interpretation Vendors	Languages
<i>As coordinated by Stillwater Regional Airport</i>	<i>All above languages</i>

- Information regarding interpretation services can be obtained at:

Location for Interpretation Assistance	Languages
<i>Airport Language Assistance page</i>	<i>All above languages</i>
<i>City of Stillwater website, Policy and Notice of Nondiscrimination</i>	<i>All above languages</i>
<i>Airport terminal upon request</i>	<i>All above languages</i>

Description of Interpretation Assistance Processes

- *Interpretation services for aircraft passengers are arranged by the operating airline or company.*

A RESOLUTION STATING THE CITY OF STILLWATER'S INTENT TO REIMBURSE PROJECT EXPENSES AS REQUIRED BY SECTION 1.150-2 OF THE TREASURY REGULATIONS.

WHEREAS, the City Council of the City of Stillwater has determined a need currently exists for the construction of a new animal welfare facility due to health and safety concerns with the existing, inadequate facility and the project is planned to be financed by a general obligation bond; and

WHEREAS, the purpose of this resolution is to satisfy the requirements of Section 1.150-2 of the Treasury Regulations promulgated pursuant to Sections 103 and 141-150 of the Internal Revenue Code of 1986, as amended, which provisions relate to the proceeds of bonds being used for reimbursement for expenditures (the “Reimbursement Regulations”).

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

The City of Stillwater hereby expresses its intent to finance costs of acquiring a site and constructing, furnishing and equipping thereon an animal welfare facility and reimburse all or a portion of Project expenses incurred prior to the issuance of bonds (“Bonds”). To the extent the City utilizes its own funds or borrowed funds for the payment of Project costs, it is intended that the City will issue Bonds and apply proceeds thereof not in excess of \$4,000,000.00 to reimburse the City and/or repay funds borrowed for Project costs, including costs of issuance of the Bonds. This Resolution constitutes a declaration of official intent as required by the reimbursement regulations set forth in section 1.150-2 of the Treasury Regulations.

PASSED, APPROVED, AND ADOPTED this 7th day of October, 2024.

CITY OF STILLWATER, OKLAHOMA
A Municipal Corporation

WILLIAM H. JOYCE
MAYOR

(SEAL)

ATTEST:

TERESA KADAVY
CITY CLERK

APPROVED AS TO FORM AND LEGALITY this 7th day of October, 2024.

KIMBERLY CARNLEY
CITY ATTORNEY

[illegible]

I, the undersigned, City Clerk of the City of Stillwater, Oklahoma, do hereby certify that the above and foregoing is a true, full and correct copy of an excerpt from the minutes of a meeting of the City Council, held on the date above stated, all as recorded in the official minutes of such meeting. I further certify that the "Open Meeting Law" was complied with for such meeting.

GIVEN UNDER MY HAND THIS _____ DAY OF OCTOBER, 2024.

(SEAL)

TERESA KADAVY, CITY CLERK

PURSUANT TO THE LEGAL NOTICE AS IS REQUIRED BY THE OKLAHOMA OPEN MEETING ACT INCLUDING THE POSTING OF NOTICE AND AGENDA AS IS REQUIRED BY THE TERMS THEREOF, THE MAYOR AND CITY COUNCIL OF THE CITY OF STILLWATER, OKLAHOMA (THE “CITY”) MET IN REGULAR SESSION IN SAID CITY ON THE 7TH DAY OF OCTOBER, 2024, AT 5:30 O’CLOCK P.M.

PRESENT:

ABSENT:

(OTHER PROCEEDINGS)

Thereupon, the following resolution was introduced and caused to be read by title by the City Clerk. Councilmember _____ moved passage of the Resolution and Councilmember _____ seconded the motion. The motion carrying with it the approval of said Resolution was approved by the following vote:

AYE:

NAY:

The Resolution so approved is as follows:

RESOLUTION NO.CC-2024-32

A RESOLUTION ACCEPTING BENEFICIAL INTEREST IN AN AMENDED TRUST INDENTURE CREATING AND RECREATING THE STILLWATER UTILITIES AUTHORITY; AND CONTAINING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Stillwater Utilities Authority (the “Authority”) was organized under Title 60, Oklahoma Statutes 2021, Sections 176-180.4, as amended, for the purpose of furthering the public functions of the City of Stillwater, Oklahoma (the “City”); and

WHEREAS, the City and the Authority desire to amend and restate the provisions governing the Authority for the benefit of the City.

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

Section 1. Amended Trust Indenture. The City hereby approves an Amended Trust Indenture to be dated as of October 7, 2024 (the “Amended Trust Indenture”) which replaces and

supersedes in all respects that certain Trust Indenture dated as of April 1, 1979, as amended by that certain Amendment to Trust Indenture dated as of November 1, 1980, and as further amended by a Second Amendment to Trust Indenture dated as of March 24, 2014 (collectively, the “Prior Trust Indenture”), which previously created the Authority; provided however, said Amended Trust Indenture shall only become effective upon (i) consent of the Oklahoma Water Resources Board, as a lender secured by a portion of the Trust Estate established under the Prior Trust Indenture, and (ii) the refunding of the Authority’s Utility System and Sales Tax Revenue Bonds, Series 2014A dated August 12, 2014, and issued in the aggregate principal amount of \$61,830,000; and provided further, the Prior Trust Indenture shall remain in effect until the Amended Trust Indenture becomes effective. The City is hereby declared to be beneficiary of the trust as created and recreated by the Amended Trust Indenture creating and recreating the Authority and the City accepts said trust as beneficiary thereof and authorizes the Mayor or Vice Mayor and City Clerk or Deputy City Clerk of the City to execute any and all documents necessary to evidence acceptance of said beneficial interest in the Amended Trust Indenture.

[Remainder of Page Left Blank Intentionally]

PASSED AND APPROVED THIS 7TH DAY OF OCTOBER, 2024.

CITY OF STILLWATER, OKLAHOMA

(SEAL)

By: _____
Mayor

ATTEST:

By: _____
City Clerk

STATE OF OKLAHOMA)
)SS
COUNTY OF PAYNE)

I, the undersigned, City Clerk of the City of Stillwater, Oklahoma, do hereby certify that the above and foregoing is a true, full and correct copy of an excerpt from the minutes of a meeting of the City Council of said City held on the date above stated, all as recorded in the official minutes of such meeting. I further certify that the “Open Meeting Law” was complied with for such meeting.

GIVEN UNDER MY HAND THIS 7TH DAY OF OCTOBER, 2024.

(SEAL)

City Clerk

**AMENDED TRUST INDENTURE
CREATING AND RECREATING THE
STILLWATER UTILITIES AUTHORITY**

KNOW ALL MEN BY THESE PRESENTS:

This Amended Trust Indenture dated as of the 7th day of October, 2024, by William H. Joyce, hereinafter referred to as the Trustor, and William H. Joyce, Amy M. Dzialowski, Christie Hawkins, Kevin Clark, and Tim Hardin, and their respective successors as provided herein, to be known as the Trustees of the Stillwater Utilities Authority, who shall be and are hereinafter referred to as Trustees of the said Authority, hereinafter referred to as “Authority” or “Trust”, replaces and supersedes that certain Trust Indenture dated as of April 1, 1979, duly recorded in the office of the Payne County Clerk at Book 541, Page 795, as amended by that certain Amendment to Trust Indenture dated as of November 1, 1980, duly recorded in the office of the Payne County Clerk at Book 541, Page 815, and as further amended by a Second Amendment to Trust Indenture dated as of March 24, 2014, duly recorded in the office of the Payne County Clerk at Book 2172, Page 297 (collectively, the “Original Trust Indenture”), which Original Trust Indenture initially created the Authority.

NOW, THEREFORE, in consideration of the payment by the Trustor to the Trustees of the sum of Ten Dollars (\$10.00), receipt of which is hereby acknowledged, the mutual covenants herein set forth, and other valuable considerations, the said Trustees agree to hold, manage, invest, assign, convey and distribute as herein provided, authorized and directed, such property as Trustor, or others may heretofore or from time to time hereafter assign, transfer, lease, convey, give, bequeath, devise or deliver unto this Trust or the Trustees hereof.

TO HAVE AND HOLD such property and the proceeds, rents, profits, and increases thereon unto said Trustees and said Trustees’ successors and assigns, but nevertheless in trust, for the use and benefit of the City of Stillwater, State of Oklahoma, such City being hereby designated and hereinafter referred to as “Beneficiary” and upon the trusts, terms and conditions hereinafter stated.

**ARTICLE I
Creation of Trust**

The undersigned Trustor recreates, creates and establishes a Trust for the use and benefit of the Beneficiary for the public purposes hereinafter set forth, under the provisions of Title 60, Oklahoma Statutes 2021, Sections 176 to 180.4, inclusive, as amended and supplemented, the Oklahoma Trust Act and other applicable statutes and laws of the State of Oklahoma.

The undersigned Trustor hereby forever irrevocably conveys, relinquishes and assigns to the Trustees of the Authority any and all right, title and interest he may have in and under this Amended Trust Indenture and the trust created hereunder, including, without limitation, the right to consent to and approve any further changes, amendments or supplements to this Amended Trust Indenture.

ARTICLE II
Name and Effective Date of Trust

The Trustees of this Trust shall continue to conduct all business and execute or authorize the execution of all instruments in the name of this Trust, which shall be the “Stillwater Utilities Authority” and otherwise perform the duties and functions required in the execution of this Trust, and hereby authorize the Chairman or Vice Chairman and the Secretary or Assistant Secretary of the Trust to execute instruments on behalf of the Trust as directed by duly enacted resolutions of the Trust. This Amended Trust Indenture shall be in full force and effect from and after the date of execution by the Trustees of the Trust and acceptance of the beneficial interest herein by the Beneficiary.

ARTICLE III
Definitions

“Act” shall mean the Oklahoma Public Trust Act, being Title 60, Oklahoma Statutes 2021, Sections 176 to 180.4, as amended and supplemented.

“Amended Trust Indenture” shall mean this Amended Trust Indenture dated as of October 7, 2024.

“Authority” shall mean the Stillwater Utilities Authority created and recreated pursuant to this Amended Trust Indenture, and the Trustees thereof, acting on behalf of and in the name of said Authority.

“Beneficiary” shall mean the City of Stillwater, State of Oklahoma, acting by and through its Board of Trustees.

“Bonds” or “Notes” shall mean respectively the bonds and notes of the Authority that are contemplated under this Amended Trust Indenture.

“By-Laws” shall mean the By-Laws, if any, duly adopted by the Authority as the same may be amended from time to time.

“Governmental Agency” shall mean the United States of America and the State or any department, division, public corporation, public agency, political subdivision or other public instrumentality of either.

“Lending Institution” shall mean any bank or trust company, Federal National Mortgage Association, mortgage banker, mortgage company, national banking association, savings bank, savings and loan association and any other financial institution or Governmental Agency or person.

“Mortgage” shall mean a mortgage, mortgage deed, deed of trust, security agreement or other instrument creating a lien on a fee interest in real and/or personal property located with the Beneficiary or a leasehold on such fee interest.

“Mortgage Loan” means an interest bearing obligation secured by a Mortgage.

“State” shall mean the State of Oklahoma.

“Trustees” shall mean the Trustees of the Authority.

ARTICLE IV Purposes of Trust

The purposes of this Trust are:

- (1) To assist the Beneficiary, the State of Oklahoma, Governmental Agencies, municipalities and private entities, agencies and citizens in making the most efficient use of all of their economic resources and powers in accord with the needs and benefit of the State of Oklahoma and the Beneficiary in order to lessen the burdens on government and to stimulate economic growth and development, specifically including, but not limited to, the power to conduct studies and prepare comprehensive plans relating to the future economic growth and development of the Beneficiary; to inventory the services, facilities and resources of the Beneficiary; to promote, stimulate, encourage and finance the growth and development of the utility, agricultural, commercial, health care and industrial resources of the Beneficiary, all in order to achieve maximum utilization of the Beneficiary’s human, economic and natural resources and tourist attractions; to foster and promote an improved industrial climate within the Beneficiary and to otherwise promote its general economic welfare and prosperity and to finance any and all programs, utilities, facilities or resources promoting or intending to promote any of the foregoing and, without restriction, in furtherance of the foregoing general objectives, the following specific powers or purposes, to wit:
 - (a) To promote and develop any and all utility and public works projects or facilities of any type or description including, but not limited to, those for water, sewer, electric, solid waste, natural gas or other public utilities of any type or description.
 - (b) To promote, finance and develop projects or facilities relating to the development of energy of any sort or description including, but not limited to those relating to the development of oil, gas, coal, gravel, lead, zinc or other minerals or hydro-carbons, the financing of oil and gas equipment, refineries, drilling and pumping rigs and equipment, or other energy development of any sort or description and synthetic fuel facilities.
 - (c) To plan, establish, develop, construct, finance, enlarge, remodel, acquire, improve, alter, extend, maintain, equip, operate, lease, furnish and regulate any facilities related to any of the foregoing and, if desired, to lease such facilities and to operate the same in connection therewith and to do, perform, own, acquire, construct or engage in or finance any other enterprise or activity, project or facility to such extent and in such manner as now is or may be

considered a proper and lawful function of public trust entities within the State of Oklahoma.

- (2) To hold, maintain and administer any leasehold rights in and to physical properties heretofore or hereafter demised to the Beneficiary or the Authority and to comply with the terms and conditions of any such lease.
- (3) To acquire by lease, purchase, production, reduction to possession or otherwise, and to plan, establish, develop, construct, enlarge, improve, extend, maintain, equip, operate, furnish, provide, supply, regulate, hold, store and administer any and all physical properties (real, personal or mixed), rights, privileges, immunities, benefits and any other thing of value, designated or needful for utilization in furnishing, providing or supplying the aforementioned services, utilities, buildings and facilities; to finance and refinance and to enter into contracts of purchase, lease-purchase or other interest in or operation and maintenance of said properties, and revenues thereof, and to comply with the terms and conditions of any such contracts, leases or other contracts entered into in connection with the acquisition, equipping, maintenance and disposal of any of said property; and to relinquish, dispose of, rent or otherwise make provisions for properties owned or controlled by the Trust, but no longer needful for Trust purposes.
- (4) To acquire, construct, reconstruct, extend, lease, purchase, install, equip, maintain, repair, enlarge, remodel and operate any property, improvements, buildings and other facilities of every nature for use by the State of Oklahoma, the United States of America, or the Beneficiary, or for use by authorities or agencies of the State of Oklahoma, the United States of America or the Beneficiary or for the use of corporations, individuals, partnerships, associations or proprietary companies for industrial development; maintain, equip, operate, lease, furnish, provide, supply, regulate, hold, store and administer property, buildings, improvements and facilities of every nature, within the territorial boundaries of the Beneficiary which may be useful in securing, developing and maintaining such facilities, functions or activities.
- (5) To perform, on behalf of the Beneficiary, all functions, activities and powers authorized by industrial and economic development statutes as they from time to time exist.
- (6) To provide funds for the cost of financing, refinancing, acquiring, constructing, purchasing, equipping, maintaining, leasing, repairing, improving, extending, enlarging, remodeling, holding, storing, operating and administering any or all aforesaid property, improvements, buildings, facilities and all properties (real, personal or mixed) necessary or desirable for executing and fulfilling the Trust purposes, as set forth in this instrument, and all other charges, costs and expenses necessarily incurred in connection therewith and in so doing, to incur indebtedness, either unsecured or secured by all or any part of the Trust Estate and its revenues.
- (7) To expend all funds coming into the hands of the Trustees as revenue or otherwise for the payment of any indebtedness incurred by the Trustees for the purposes specified

herein, and in the payment of the aforesaid costs and expenses, and in payment of any other obligation properly chargeable against the Trust Estate, and to distribute the residue and remainder of such funds to the Beneficiary.

ARTICLE V Duration of Trust

This Trust shall have duration for the term of duration of the Beneficiary and until such time as its purposes shall have been fully fulfilled and all indebtedness of the Authority is paid, or until it shall be terminated as hereinafter provided.

ARTICLE VI The Trust Estate

The Trust Estate shall consist of:

- (1) The funds and property presently in the hands of the Trustees or to be hereafter acquired or constructed by the Trustees and dedicated by the Trustor, the Beneficiary and others to be used for trust purposes.
- (2) Any and all leasehold rights heretofore or hereafter remised to the Trustees by the Beneficiary, and others as authorized and empowered by law.
- (3) Any and all money, property (real, personal or mixed), rights, choses in action, contracts, leases, privileges, immunities, licenses, franchises, benefits, Mortgages, Mortgage Loans, collateral and all other things of value heretofore or hereafter coming into the hands of the Trustees under this Amended Trust Indenture.
- (4) Cash in the sum of \$10.00 paid by the Trustor to the Trustees, receipt of which is hereby specifically acknowledged by the Trustees.

ARTICLE VII The Trustees

- (1) The Trustees of this Trust shall be citizens and residents of the Beneficiary, who are the persons presently constituting the Mayor and members of the Board of Trustees of the Beneficiary, and the persons who shall be their successors as Mayor, and members of said Board of Trustees of said Beneficiary, and each such successor in office shall, upon taking the Oath of Office, but without any further act, deed or conveyance, automatically become Trustees of this Trust and become fully vested with all the estate, properties, rights, powers, duties and obligations of his predecessor hereunder with like effect as if originally named as a Trustee herein.

- (2) The person who shall be the Mayor of the Beneficiary, shall become automatically the Chairperson of the Trustees and shall preside at all meetings and perform other duties designated by the Trustees. The Trustees shall designate the time and place of all regular meetings. All actions by the Trustees pursuant to the provisions of this Amended Trust Indenture shall be approved by the affirmative vote of at least a majority of the Trustees qualified to act as such under the provisions of this Amended Trust Indenture. The Trustees shall select one of their members to be Vice-Chairperson who shall act in the place of the Chairperson during the latter's absence or incapacity to act.
- (3) The person who shall be the Clerk of the Beneficiary, shall become automatically the Secretary of the Trustees. The Trustees shall appoint an Assistant Secretary who shall act in the place of the Secretary during the latter's absence or incapacity to act. The Secretary or Assistant Secretary shall keep minutes of all meetings of the Trustees and shall maintain complete and accurate records of all their financial transactions, all such minutes, books and records to be on file in the office of the Trust. All meetings of the Trustees shall be open to the public, and the books, records and minutes of the Trustees shall be considered as public records and available for inspection at all times by any interested party.
- (4) The person who shall be the Treasurer of the Beneficiary, shall become automatically the Treasurer of the Trustees. The duties of the Treasurer shall be prescribed by the Trustees.
- (5) The Trustees may appoint a General Manager and/or Executive Director for the Trust Estate, and the Trustees may employ such other clerical, professional, legal and technical assistance as may be deemed necessary in the discretion of the Trustees to properly operate the business of the Trust, and may fix their duties, terms of employment and compensation from the Trust Estate. All Trustees shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties hereunder. In the event a General Manager and/or Executive Director for the Trust Estate is appointed by the Trustees, the said General Manager and/or Executive Director shall administer the business of the Trust Estate as directed from time to time by the Trustees. Nothing herein shall prohibit one of the Trustees from being selected and serving as General Manager. Provided, in the event one of the Trustees is employed as the General Manager, such Trustee shall not take part in any discussion or vote on any action of the Trustees pertaining to employment of the General Manager, or the salary or duties thereof.
- (6) The Trustees are authorized to contract, in connection with the incurrence of any funded indebtedness secured by the Trust Estate and/or its revenues, or any part of either or both, that in the event of a default in the fulfillment of any contractual obligation undertaken on behalf of the Trust Estate or in the payment of any indebtedness incurred on behalf of the Trust Estate, that a Temporary Trustee or Trustees or Receiver shall be appointed to succeed to the rights, powers and duties of the Trustees then in office. Any such contract, if made, may set forth the terms and conditions under which such Temporary Trustee or Trustees or Receiver may be

appointed to operate the Trust Estate and may provide for compensation to be paid, and may provide for such appointment to be vacated and permanent Trustees to be automatically reinstated upon termination of all defaults by which their appointment was authorized.

- (7) Bonds or other evidences of indebtedness to be issued by the Trustees shall not constitute an indebtedness or obligation of the State or the Beneficiary nor personal obligations of the Trustees, but shall constitute obligations of the Trust only, payable solely from the Trust Estate.
- (8) The Trustees, the State, and the Beneficiary shall not be charged personally with any liability whatsoever by reason of any act or omission committed or suffered in good faith or in the exercise of their honest discretion in the performance of such Trust or in the operation of the Trust Estate; but any act or liability for any omission or obligation of the Trustees in the execution of such Trust, or in the operation of the Trust Estate, shall extend to the whole of the Trust Estate or so much thereof as may be necessary to discharge such liability or obligation.
- (9) Notwithstanding any other provision of this Amended Trust Indenture which shall appear to provide otherwise, no Trustee or Trustees shall have the power or authority to bind or obligate any other Trustee, or the Beneficiary, in his or its capacity, nor can the Beneficiary bind or obligate the Trust or any individual Trustee.
- (10) The Trust shall cause to be prepared annually at the close of each fiscal year of the Trust an audit of the funds, financial affairs and transactions of the Trust including, but not limited to, all fees, salaries and expenditures in exact amounts and specifying to whom such expenditures were paid. Such audit is to be certified with an unqualified opinion of an independent, certified public account. A copy of the annual audit of the Trust shall be filed within the time period and in conformity with the provisions of Oklahoma law related thereto. Unless hereafter changed by specific resolution of the Trustees, the fiscal year of the Trust shall be July 1 to June 30 of the following year. All expense incurred in connection with the annual audits shall be paid from the Trust Estate.
- (11) Every person becoming a Trustee shall first take the Oath of Office required of an elected public officer. The Oath of Office shall be administered by any person authorized to administer oaths in the State, and shall be filed with the Clerk or Deputy Clerk of the Beneficiary. Every officer and employee who handles funds of the Trust shall furnish a good and sufficient fidelity bond in an amount and with surety as may be specified and approved by the Trustees; the Trustees may, but shall not be obligated to, obtain bonds relating to the performance of their duties as Trustees. Such bonds shall be in a surety company authorized to transact surety business in the State and the cost thereof shall be paid from the Trust Estate.

ARTICLE VIII
Powers and Duties of the Trustees

To accomplish the purposes of the Trust, the Trustees shall have, in addition to the usual powers incident to their office and the powers granted to them otherwise by law or in other parts of this Amended Trust Indenture, the following rights, powers, duties, authority, discretion and privileges, all to be exercised on behalf of and in the name of the Authority:

- (1) To sue and be sued.
- (2) To have a seal and alter same at pleasure.
- (3) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions hereunder.
- (4) To make and alter by-laws for its obligations and internal management as provided herein.
- (5) To make and alter rules and regulations pertaining to any loan or other program developed by the Authority.
- (6) To acquire, lease, convey, or otherwise hold and dispose of real and personal property for its Trust purposes; provided that, no purchaser at any sale or lessee under a lease made by the Trustees shall be bound to inquire into the expediency, propriety, validity or necessity of such sale or lease or to see or be liable for the application of the purchase or rental monies arising therefrom.
- (7) To enter into contracts for sale of Bonds, Notes or other evidences of indebtedness, interim Notes or Bonds or other obligations of the Trust and to issue the same for any of the purposes of the Trust authorized hereby including, but not limited to: the acquisition, construction, reconstruction, equipping or otherwise financing facilities discussed in Article IV hereof or for any other lawfully permitted facilities which may be secured with Mortgages, security interests or other collateral satisfactory to the Trustees; making Mortgage loans or purchasing Mortgage notes secured by Mortgages on dwellings; acquiring real or personal property or facilities at foreclosure of any loan or obligation or authorized to be acquired pursuant to the terms of this Amended Trust Indenture or other purposes authorized under any instrument securing any indebtedness of the Trust; refunding or advance refunding any outstanding indebtedness of the Trust; creating any reserves or replacement funds, loan funds or other funds or accounts deemed advisable by the Trustees in the furtherance of the Trust purposes or in connection with the securing of any of the Trust's debts or in the administration of Trust programs; and for any other purpose authorized by law and/or by Article IV hereof; and for those purposes the Trustees may:
 - (a) Sell all Bonds, Notes or other evidences of indebtedness or obligations of the Trust at public or private sale in whole or in installments or series and on such terms and conditions and in such manner as is prescribed by law and as the Trustees shall deem to be in the best interest of the Trust Estate; and

- (b) Appoint and compensate attorneys, paying agencies and corporate trustees in connection with the issuance of any such Bonds, Notes, evidences of indebtedness or other obligations of the Trust; and
- (c) Pay all expenses incident to the creation of any indebtedness or the issuance of any Bonds, Notes or other evidences of indebtedness including, but not limited to, printing expenses, feasibility studies, special consultants, travel expenses or reproduction expenses; and
- (d) Create any reserve fund and any and all other funds and accounts as the Authority shall deem necessary or desirable in connection with the issuance of any Bonds, Notes or other evidences of indebtedness.

Any such indebtedness shall be deemed to be incurred or issued on behalf of the Beneficiary and may be general or special obligations of the Trust as the Trustees may from time to time determine.

- (8) To purchase or redeem their Bonds, Notes or other evidences of indebtedness in whole or in part prior to the stated maturity thereof as specified in any instrument authorizing the issuance or securing the payment of any such indebtedness.
- (9) To pledge any or all of the Trust's revenues or assets to secure the payment of any of its indebtedness.
- (10) To enter into agreements with or participate in any programs of the Beneficiary, the State of Oklahoma, or any agency or instrumentality thereof, the United States of America, or any agency or instrumentality thereof.
- (11) To enter into and execute, purchase, lease or otherwise acquire property, real, personal or mixed, contracts, leases, rights, privileges, benefits, choses in action or other things of value and to pay for the same in cash, with bonds or other evidences of indebtedness or otherwise.
- (12) To fix, demand and collect charges, rentals and fees for the services and facilities of the Trust and to discontinue the furnishing of services and facilities to, and foreclose on any collateral of, any person, firm, or corporation, or public instrumentality delinquent in the payment of any indebtedness to the Trust; to purchase and sell such supplies, goods and commodities as are incident to the operation of its properties.
- (13) To make and perform contracts of every kind including, management contracts, with any person, firm, corporation, association, joint venture, trusteeship, municipality, government, sovereignty or other entity; and without limitation as to amount, to draw, make, accept, endorse, assume, guarantee, account, execute and issue promissory notes, drafts, bills of exchange, acceptances, warranties, bonds, debentures and other negotiable or non-negotiable instruments, obligations and evidences of unsecured indebtedness, or of indebtedness secured by mortgage, deed of trust or otherwise upon any or all income of the Trust, in the same manner and to the same extent as a natural person might or could do. To collect and receive any property, collateral, money,

rents, or income of any sort and distribute the same or any portion thereof for the furtherance of the authorized Trust purposes set out herein.

- (14) To exercise or to request of, arrange or contract with the Beneficiary or any governmental unit, agency or political subdivision thereof for the exercise of the power of eminent domain as necessary in establishing, operating, administering and maintaining any Trust facilities, systems, projects or programs.
- (15) To expend all funds coming into the hands of the Trustees as revenue or otherwise for the payment of any indebtedness incurred by the Trustees for purposes specified herein, and in the payment of the aforesaid costs and expenses, and in payment of any other obligation properly chargeable against the Trust Estate, to from time to time transfer any surplus funds to the Beneficiary as the Authority in its sole discretion may determine and, upon termination of the Trust, to distribute the residue and remainder of such funds to the Beneficiary.
- (16) To contract for services with firms or persons or other units and entities of government or private entities or agencies to carry out the purposes of the Trust; to apply for, contract for, receive and expend for its purposes, funds or grants from any governmental or non-governmental agency or entity, the Beneficiary, the State, the Federal Government or any agency or department thereof, or from any other source.
- (17) To receive funds, money, property, collateral, services, rights and choses in action from any source to finance the programs and operations of the Trust; to receive grants, gifts, contributions and donations to carry out the purposes for which the Trust is formed; to receive and accept from any Federal, State or private agencies or entities, grants or loans for or in aid of the construction of any facility or system and to receive and accept aid or contributions of money, labor or any other valuable things from any source.
- (18) To plan, coordinate, implement, administer or otherwise carry out public works or other projects or programs for public purposes for the benefit of the Beneficiary.
- (19) To make, or commit to make, or participate in the making of Mortgage Loans whether for construction, for acquisition, financing or purchasing of housing.
- (20) To invest monies of the Authority not required for immediate use, including proceeds from the sale of any Bonds or Notes, in accordance with the laws of the State.
- (21) To sell any Mortgages or other personal property acquired by the Authority at public or private sale and at such price or prices as it shall determine.
- (22) To renegotiate, refinance or foreclose, or contract for the foreclosure of any Mortgage, security interest or other obligation in default; to waive any default or consent to the modification of the terms of any Mortgage; to commence any action to protect or enforce any right conferred upon it by any law, Mortgage, security interest, contract or other agreement, and to bid for and purchase such property at any foreclosure or at any other sale, or acquire or take possession of any such property; to operate, manage,

rehabilitate, improve, lease, dispose of, and otherwise deal with such property, in such manner as may be necessary to protect the interests of the Trust and the holders of its Bonds, Notes or other obligations.

- (23) To renegotiate or refinance any loan in default; waive any default or consent to the modification of the terms of any loan, and commence any action or proceedings to protect or enforce any right conferred upon it by law, loan agreement, contract or other agreement.
- (24) To make and execute contracts and appoint agents for the administration or servicing of any loan made or acquired by the Trust and pay the reasonable value of services rendered to the Trust pursuant to such contracts.
- (25) To sell any loans made or acquired by the Trust at public or private sale and at such price or prices and on such terms as the Trust shall determine.
- (26) To collect and pay reasonable fees and charges in connection with making, committing to make, purchasing or committing to purchase and servicing its Mortgage Loans, Notes, Bonds, commitments and other evidences of indebtedness.
- (27) To procure insurance against any type loss in such amounts, and from such insurers, as it may deem necessary or desirable.
- (28) To consent, whenever it shall be deemed necessary or desirable in the fulfillment of its Trust purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any Mortgage Loan, Mortgage Loan commitment, construction loan, temporary loan, contract or agreement of any kind to which the Trust is a party.
- (29) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted herein, and to do all other acts in their judgment necessary or desirable, for the proper and advantageous management, investment and distribution of the Trust Estate and income therefrom.
- (30) To exercise exclusive management and control of the properties of the Trust Estate.
- (31) To contract for the furnishing of any services or the performance of any duties that they may deem necessary or proper and pay for the same as they see fit.
- (32) To select depositories for the funds and securities of this Trust.
- (33) To compromise any debts or claims of or against the Trust Estate, and adjust any dispute in relation to such debts or claims against the Trust Estate upon any evidence deemed by the Trustees to be sufficient. The Trustees may bring any suit or action which in their judgment is necessary or proper to protect the interest of the Trust Estate, or to enforce any claim, demand or contract for the Trust; and they shall defend, in their discretion, any suit against the Trust, or the Trustees or employees, agents or servants thereof. They may compromise and settle any suit or action, and discharge

the same out of assets of the Trust Estate, together with court costs and attorney's fees. All such expenditures shall be treated as expenses of executing this Trust.

- (34) To do each and all things necessary to implement the purposes of this Trust as set out herein, and to that end Article IV "Purposes of Trust" is incorporated in its entirety under this "Powers" Article for the purpose of insuring that all appropriate power is granted to the Trustees to accomplish the purposes hereof without inhibition.

ARTICLE IX Supervisory Control

The Trust created hereby and the Trustees appointed hereunder are subject to such supervision and control as may be determined from time to time by the Legislature of the State or by regulations that may be issued by departments or agencies of the United States of America, to insure the tax exempt status of any Bonds, Notes or other evidences of indebtedness issued by the Authority.

ARTICLE X Beneficiary of Trust

- (1) The Beneficiary of this Trust shall be the municipality designated in Article III herein, under and pursuant to Title 60, Oklahoma Statutes 2021, Sections 176 to 180.4, inclusive, as amended and supplemented, and other applicable statutes of the State presently in force and effect.
- (2) The Beneficiary shall have no legal title, claim or right to the Trust Estate, its income, or to any part thereof or to demand or require any partition or distribution thereof. Neither shall the Beneficiary have any authority, power or right whatsoever, to do or transact any business for, or on behalf of or binding upon the Trustees or upon the Trust Estate, nor the right to control or direct the actions of the Trustees pertaining to the Trust Estate or any part thereof, except as herein provided. The Beneficiary shall be entitled solely to the benefits of this Trust as administered by the Trustees hereunder, and at the termination of the Trust, as provided herein, and only then, the Beneficiary shall receive the residue of the Trust Estate.

ARTICLE XI Adoption and Amendment of By-Laws; Amendment and Termination of Trust

This Amended Trust Indenture may be amended by an affirmative vote of at least two-thirds (2/3) of all Trustees and any such proposed amendment shall be further approved by the affirmative vote of two-thirds (2/3) of the governing body of the Beneficiary before becoming effective.

The Trustees, by an affirmative vote of a majority of all Trustees, may adopt, alter and amend By-Laws of the Trust.

PROVIDED, HOWEVER, that this Amended Trust Indenture shall not be subject to revocation, alteration, amendment, revision, modification or termination in any manner which would be adverse to the interest of the holders of any evidence of indebtedness of the Trust without the consent of holders of indebtedness who would be adversely affected, which consent may be given by less than all of such holders, if so provided in any resolution, indenture or agreement relating to such indebtedness.

This Trust shall terminate -

- (1) When the purposes set out in Article IV of this instrument shall have been fully executed; or
- (2) In the manner provided by Oklahoma law. Provided, however, that this Trust shall not be terminated by voluntary action while there be outstanding indebtedness or fixed obligations of the Trustees, unless all owners of such indebtedness or obligations shall have consented in writing to such termination.

Upon the termination of this Trust, the Trustees shall proceed to wind up the affairs of this Trust, and after payment of all debts, expenses and obligations out of the monies and properties of the Trust Estate to the extent thereof, the Trustees shall distribute the residue of the money and properties of the Trust Estate to the Beneficiary hereunder. Upon final distribution, the powers, duties and authority of the Trustees hereunder shall terminate.

ARTICLE XII

The Trustees accept the Trust herein created and provided for, and agree to carry out the provisions of this Amended Trust Indenture on their part to be performed.

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IN WITNESS WHEREOF, the Trustor and the Trustees have hereunto set their hands on the day and year indicated.

William H. Joyce, Trustor

William H. Joyce, Trustee

Amy M. Dzialowski, Trustee

Christie Hawkins, Trustee

Kevin Clark, Trustee

Tim Hardin, Trustee

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STATE OF OKLAHOMA)
)SS
COUNTY OF PAYNE)

BEFORE ME, the undersigned, a Notary Public in and for the above County and State, on the 7th day of October, 2024, appeared William H. Joyce, and further known to me to be the identical person who subscribed said person's name to the foregoing instrument, as Trustor, and acknowledged to me that said person executed the same as said person's free and voluntary act and deed, for the uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year aforesaid.

Notary Public

(SEAL)

My Commission Expires: _____.
Commission No.: _____.

STATE OF OKLAHOMA)
)SS
COUNTY OF PAYNE)

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on the 7th day of October, 2024, personally appeared William H. Joyce, Amy M. Dzialowski, Christie Hawkins, Kevin Clark, and Tim Hardin, and further known to me to be the identical persons who subscribed their names to the foregoing instrument, as Trustees, and acknowledged to me that they executed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year aforesaid.

Notary Public

(SEAL)

My Commission Expires: _____.
Commission No.: _____.

STATE OF OKLAHOMA)
)SS
COUNTY OF PAYNE)

ACCEPTANCE

KNOW ALL MEN BY THESE PRESENTS:

That the Board of Trustees of the City of Stillwater, State of Oklahoma, hereby accepts the beneficial interest in the Trust created and recreated by the within and foregoing Amended Trust Indenture, for and on behalf of said City in all respects in accordance with the terms of said Amended Trust Indenture.

WITNESS my hand as Mayor of said City, attested by the Clerk of said City, pursuant to direction of the Board of Trustees of said City, as of this 7th day of October, 2024.

CITY OF STILLWATER, OKLAHOMA

WILLIAM H. JOYCE, Mayor

ATTEST:

TERESA KADAVY, City Clerk

(SEAL)

Approved as to form and content this ____ day of _____, 2024.

KIMBERLY CARNLEY, City Attorney

RESOLUTION NO. CC-2024-33

A RESOLUTION OF THE CITY OF STILLWATER, OKLAHOMA (THE “CITY”) APPROVING THE INCURRENCE OF INDEBTEDNESS BY THE STILLWATER UTILITIES AUTHORITY (THE “AUTHORITY”) ISSUING ITS UTILITY SYSTEM AND SALES TAX REVENUE BONDS (THE “BONDS”) IN ONE OR MORE SERIES FOR THE PURPOSE OF REFUNDING CERTAIN OBLIGATIONS OF THE AUTHORITY; PROVIDING THAT THE ORGANIZATIONAL DOCUMENT CREATING THE AUTHORITY IS SUBJECT TO THE PROVISIONS OF THE BOND INDENTURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING THE SALE OF SAID BONDS BY THE AUTHORITY AT NEGOTIATED SALE AND AT A PRICE LESS THAN PAR; RATIFYING AND CONFIRMING A LEASE AGREEMENT, AS AMENDED, PERTAINING TO THE LEASING OF THE CITY’S WATER, SANITARY SEWER, SOLID WASTE, AND ELECTRIC SYSTEMS TO THE AUTHORITY, AND AUTHORIZING AN AMENDED LEASE AGREEMENT AND OPERATION AND MAINTENANCE CONTRACT; APPROVING AND AUTHORIZING EXECUTION OF A SALES TAX AGREEMENT BY AND BETWEEN THE CITY AND THE AUTHORITY PERTAINING TO A YEAR-TO-YEAR PLEDGE OF CERTAIN SALES TAX REVENUE; APPROVING THE FORMS OF A CONTINUING DISCLOSURE AGREEMENT AND AN OFFICIAL STATEMENT; AND CONTAINING OTHER PROVISIONS RELATING THERETO.

WHEREAS, the Stillwater Utilities Authority (the “Authority”) was created by a Trust Indenture dated as of April 1, 1979, as amended by that certain Amendment to Trust Indenture dated as of November 1, 1980, and as further amended by a Second Amendment to Trust Indenture dated as of March 24, 2014, and as may be further amended as provided therein, all for the use and benefit of the City of Stillwater, Oklahoma (the “City”) under authority of and pursuant to the provisions of Title 60, Oklahoma Statutes 2021, Sections 176 to 180.4, inclusive, as amended and supplemented, the Oklahoma Public Trust Act (the “Act”) and other applicable statutes of the State of Oklahoma; and

WHEREAS, the Authority has heretofore issued its Utility System and Sales Tax Revenue Bonds, Series 2014A dated August 12, 2014, in the original principal amount of \$61,830,000.00 (the “2014A Bonds”), for the purpose of financing certain electric system improvements; and

WHEREAS, the City desires to grant to the Authority the approval for the issuance of obligations to refinance the 2014A Bonds in order to realize economic savings benefitting the City.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF STILLWATER, OKLAHOMA:

SECTION 1. INDEBTEDNESS AUTHORIZED. The Authority is hereby authorized to incur an indebtedness by the issuance of its Utility System and Sales Tax Revenue Bonds (the “Bonds”) in one or more series, in the aggregate amount of not to exceed \$51,325,000.00 for the purpose of refinancing the 2014A Bonds, according to the terms and conditions of a Series

Supplemental Bond Indenture (collectively, with the outstanding General Bond Indenture, the “Bond Indenture”) provided that said Bonds shall never constitute a debt of the City.

SECTION 2. ORGANIZATIONAL DOCUMENT SUBJECT TO BOND INDENTURE. The organizational document creating the Authority is hereby made subject to the terms of the Bond Indenture authorizing the issuance and securing the payment of the Bonds as more fully described in Section 1 hereof.

SECTION 3. WAIVING COMPETITIVE BIDDING; APPROVAL OF SALE PROCEEDINGS. The waiving of Competitive Bidding for the sale of said Bonds and the sale of said Bonds by the Authority pursuant to a Bond Purchase Agreement with a underwriting firm(s) as designated in a Certificate of Determination of the Authority to be executed prior to closing the Bonds, is hereby approved and the Mayor or Vice Mayor is authorized to approve any changes or additions to said Bond Purchase Agreement.

SECTION 4. LEASE. The Lease Agreement and Operation and Maintenance Contract dated as of April 1, 1979, as amended by that certain Amendment to Lease Agreement and Operation and Maintenance Contract dated as of December 1, 1980, as further amended by that certain Amendment to Lease Agreement and Operation and Maintenance Contract dated as of April 1, 1986, as further amended by that certain Amendment No. 1, City of Stillwater, Stillwater Utilities Authority, Extension of Lease Agreement and Operation and Maintenance Contract dated May 13, 2013, as further amended by that certain Amendment No. 2, City of Stillwater, Stillwater Utilities Authority, Lease Agreement and Operation and Maintenance Contract dated September 19, 2022, and as further amended by that certain Amendment No. 3, City of Stillwater, Stillwater Utilities Authority, Lease Agreement and Operation and Maintenance Contract dated December 5, 2022 (collectively, the “Existing Lease Agreement”), whereby the City leased its water, sanitary sewer, solid waste, and electric systems to the Authority, is hereby ratified and confirmed, and the term of said Existing Lease Agreement shall extend until the Bonds are repaid; provided however, the Mayor or Vice Mayor and City Clerk or Deputy City Clerk of the City are hereby authorized to execute and deliver an Amended Lease Agreement and Operation and Maintenance Contract that will replace and supersede the Existing Lease Agreement, and the term of said Amended Lease Agreement shall extend until the Bonds are repaid.

SECTION 5. SALES TAX AGREEMENT. The City hereby approves and authorizes the execution of a Sales Tax Agreement by and between the City and the Authority (the “Sales Tax Agreement”), which Sales Tax Agreement pertains to a year-to-year pledge of certain sales tax revenue as security for the Bonds.

SECTION 6. OFFICIAL STATEMENT AND CONTINUING DISCLOSURE AGREEMENT. The Continuing Disclosure Agreement and Official Statement pertaining to the Bonds, forms of which are incorporated herein by reference, are hereby approved with such additions, omissions and changes as may be approved by the persons executing the same, and the Mayor and City Clerk (or in their absence or incapacity, the Vice Mayor and Deputy Clerk, respectively) are authorized to execute the Continuing Disclosure Agreement and the Mayor, Vice Mayor or City Manager is authorized to sign the Official Statement for and on behalf of the City.

SECTION 7. APPROVING DOCUMENTS; AUTHORIZING EXECUTION. The Mayor or Vice Mayor and City Clerk or Deputy City Clerk at the closing of the above referenced bond issue is hereby authorized to execute, separately or jointly, and deliver such documents and take such other action as may be necessary or appropriate in order to effectuate the issuance, execution and delivery of the Bonds, including specifically, but not limited to, the Bond forms, tax or tax compliance documents, closing certificates, continuing disclosure or other security or securities-related documents, disbursement orders, or any other letter, representation or certification otherwise necessary and attendant to the issuance and delivery of the Bonds; to approve and make any changes to the documents approved by this Resolution, for and on behalf of the City, the execution and delivery of such documents being conclusive as to the approval of any changes contained therein by the City; and to execute, record and file any and all the necessary financing statements, security instruments, including but not limited to the documents approved hereby, and to consummate the transaction contemplated hereby.

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PASSED AND APPROVED THIS 7TH DAY OF OCTOBER, 2024.

(SEAL)

Mayor

ATTEST:

City Clerk

CERTIFICATE
OF
CITY COUNCIL ACTION

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

I further certify that the City Council of the City of Stillwater, Oklahoma, held a Regular Meeting at 5:30 P.M., on October 7, 2024, 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 a Resolution that was passed and approved by said City Council at said meeting as the same appears in the official records of my office and that said Resolution is currently in effect and has not been repealed or amended as of this date.

I further certify that below is listed those Council Members 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 7TH DAY OF OCTOBER, 2024.

CITY OF STILLWATER, OKLAHOMA

(SEAL)

City Clerk

ORDINANCE NO. 3546

AN ORDINANCE APPROVING AND ADOPTING THE STILLWATER DATA CENTER ECONOMIC DEVELOPMENT PROJECT PLAN AND SUPPORTING INCENTIVE DISTRICTS, PURSUANT TO THE OKLAHOMA LOCAL DEVELOPMENT ACT; IDENTIFYING AND ESTABLISHING SIX INCENTIVE DISTRICTS; DESIGNATING AND ADOPTING PROJECT AREA AND INCENTIVE DISTRICT BOUNDARIES; DEFERRING THE NUMERICAL DESIGNATIONS AND EFFECTIVE DATES FOR THE INCENTIVE DISTRICTS; ADOPTING CERTAIN FINDINGS; AUTHORIZING THE CITY OF STILLWATER AND THE STILLWATER ECONOMIC DEVELOPMENT AUTHORITY TO CARRY OUT AND ADMINISTER THE PROJECT PLAN; RATIFYING AND CONFIRMING THE ACTIONS, RECOMMENDATIONS AND FINDINGS OF THE REVIEW COMMITTEE AND THE STILLWATER PLANNING COMMISSION; APPROVING AND ADOPTING A TAX INCENTIVE AGREEMENT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY

WHEREAS, the City of Stillwater, Oklahoma, a municipal corporation (the “City”) has caused to be prepared the Stillwater Economic Development Project Plan and Supporting Incentive Districts (“Project Plan”), in accordance with the Oklahoma Local Development Act, 62 O.S. §850, *et seq.* (“Act”); and

WHEREAS, the purpose of the Project Plan is to provide the incentives necessary to support at least Five Hundred Million Dollars (\$500,000,000) in initial private investment by Kipper LLC (“Company”) in the first Phase (defined herein) of the development of a data center campus (meeting U.S. Industry Number 518210 of the North American Industry Classification System (NAICS) Manual, 2017 Revision), with the potential for five (5) additional Phases of development of similar magnitude, on approximately 386.698 acres of land within the City’s corporate boundaries to be acquired by the Company (collectively, the “Project”); and

WHEREAS, each developed Phase will include a data center comprised of approximately 300,000 square feet (each a “Data Center”), together with certain ancillary buildings, structures and infrastructure that support or are related to the data center campus operations, including but not limited to, utility buildings, structures, and appurtenances and office buildings; and

WHEREAS, the Company desires to develop a Data Center in each of the six Phases, however, the Company may construct fewer Data Centers, resulting in fewer Phases; and

WHEREAS, the term “Phase” as used herein refers to all new investments in real and personal property within an Incentive District (defined herein); and

WHEREAS, the Project Plan supports the City’s objectives to promote economic development, to stimulate private investment, to reverse economic stagnation or decline, to expand employment, and to enhance the tax base, and thereby making possible investment that would be difficult without the adoption of the Project Plan; and

WHEREAS, pursuant to the Act, the City Council previously established the Data Center Economic Development Review Committee (“Review Committee”), comprised of a representative of the City, a representative of the Stillwater Planning Commission (“Planning Commission”), representatives of each of the affected taxing jurisdictions (including the Board of Education of Independent School District Number 16 of Payne County, Oklahoma, the Board of Education of the Meridian Technology Center, the Board of Payne County Commissioners, and the Board of the Payne County Health Department, collectively, the “Taxing Entities”), and three members of the public at large, one of whom is a representative of the business community in the City of Stillwater; and

WHEREAS, the Review Committee has reviewed the proposed Project Plan, the proposed Project Area and the proposed Incentive Districts (temporarily identified in the Project Plan and this Ordinance as “Incentive Districts “1,” “2,” “3,” “4,” “5,” and “6”) (“Incentive Districts”) in accordance with the criteria specified in the Act and has determined that the Incentive Districts are eligible for designation as an incentive district and for development under the Act and that the financial impacts on the affected taxing jurisdictions and business activities from implementation of the Project Plan are positive; and

WHEREAS, the Review Committee has adopted a resolution of its findings and recommends to the City Council the approval of the Project Plan, including the proposed Incentive Districts; and

WHEREAS, the Planning Commission has determined that the Project Plan conforms to the Stillwater 2030 C3 Comprehensive Plan; and

WHEREAS, the Planning Commission has adopted a resolution recommending to the City Council the approval of the Project Plan, including the proposed Incentive Districts; and

WHEREAS, the Project Area and the proposed Incentive Districts, which share the same boundaries, are within a state designated enterprise zone and therefore meet the definition of an enterprise area as defined by the Act; and

WHEREAS, the Project Area, including the Incentive Districts, is located within a reinvestment area as defined by the Act; and

WHEREAS, the projected investment and development are difficult, but possible, within the proposed Project Area and Incentive Districts if the Project Plan is adopted and implemented; and

WHEREAS, the qualifying tax incentive provided in the Project Plan is a necessary component in generating economic development in the proposed Project Area and Incentive Districts; and

WHEREAS, the implementation of the Project Plan and the establishment of the proposed Incentive Districts will work in conjunction with existing programs and other locally implemented economic development efforts in order to encourage economic development in the proposed Project Area; and

WHEREAS, the Project is expected to generate substantial new investment within the proposed Incentive Districts and to stimulate additional indirect economic benefits outside of the Project Area which would not occur without the Project; and

WHEREAS, the Project Plan provides tools which will supplement and not supplant or replace normal public functions and services; and

WHEREAS, the boundaries of the proposed Incentive Districts do not dissect any similar area nor create an unfair competitive advantage; and

WHEREAS, maximum effort has been made to allow full public knowledge and participation in the application of the Act in the review and approval of the Project Plan; and

WHEREAS, all required notices have been given and all required hearings have been held in connection with the Project Plan, as prescribed by the Act, the Oklahoma Open Meetings Act, 25 O.S. § 301, *et seq.*, and other applicable law; and

WHEREAS, pursuant to published notice, at a regular meeting of the City Council held on August 19, 2024, members of the public were provided information, including an analysis of potential positive and negative impacts, and had questions answered regarding the Project Plan; and

WHEREAS, pursuant to published notice, at a regular meeting of the City Council held on September 9, 2024, all persons present were given an opportunity to be heard for and against the Project Plan; and

WHEREAS, the City and the Stillwater Economic Development Authority shall be authorized and designated to carry out certain provisions of the Project Plan, pursuant to the Act; and

WHEREAS, Section 856 of the Act authorizes the City to defer determination of the effective dates of the proposed Incentive Districts, provided that the determination is not more than ten (10) years after the date of approval of the Project Plan; and

WHEREAS, the City finds that it is in the best interest of the overall success of the Project to defer the determination of the effective dates of the Incentive Districts until a later date, which date must be determined within ten (10) years of the date of approval of the Project Plan; and

WHEREAS, the City retains the right, pursuant to the Act, to make minor amendments to the Project Plan; and

WHEREAS, as required by Article 10, Section 6C of the Oklahoma Constitution and pursuant to Sections 865 and 866 of the Act, the governing bodies of all taxing entities whose taxes are to be included in the incentives to be provided by the Incentive Districts will be requested to approve and execute a written agreement with the City Council providing for the same; and

WHEREAS, the incentives described in the Project Plan and the Tax Incentive Agreement (defined herein) are designed to grant a one hundred percent (100%) ad valorem tax exemption on

all new investment attributable to property qualifying under U.S. Industry Number 518210 of the NAICS Manual, 2017 Revision, within each Incentive District, during the twenty-five year duration of each Incentive District, upon the terms and conditions set forth in the Project Plan (“Incentive District Exemptions”); and

WHEREAS, the City has caused to be prepared a written agreement by and among the Taxing Entities, the City, and the Company, as the prospective owner of the Property and the recipient of the Incentive District Exemptions, as required by Sections 865 and 866 of the Act (“Tax Incentive Agreement”), setting forth the terms and conditions applicable to the Incentive District Exemptions; and

WHEREAS, the City has caused the preparation of an Economic Development Agreement by and among the City, the Stillwater Economic Development Authority (“SEDA”), and the Company delineating the parties’ respective obligations applicable to the first two Phases of development of the Project (“Development Agreement”), with the understanding that the City, SEDA, and the Company will execute one or more supplemental development agreements for any subsequent Phases the Company elects to develop (“Supplemental Development Agreement”); and

WHEREAS, in consideration of the Incentive District Exemptions granted for all Incentive Districts, the Company has agreed to make certain direct payments in lieu of taxes (“PILOT Payments”) to the Taxing Entities for the duration of each Incentive District, as more particularly described in and subject to the terms and conditions of the Tax Incentive Agreement, the Development Agreement, and the Project Plan; and

WHEREAS, in consideration of the Incentive District Exemptions granted for the Incentive Districts created for Phase 1 and Phase 2 of the Project, the Company has agreed to make certain direct payments to the City, described as Community Betterment Payments, and for the City to receive a franchise fee on the revenues generated from the sale of electric power to the Company (“Franchise Fees”), with the understanding that any such payments to the City for any subsequent Phases will be determined in accordance with a Supplemental Development Agreement, all as more particularly described in and subject to the terms and conditions of the Tax Incentive Agreement, the Development Agreement, and the Project Plan; and

WHEREAS, the revenue sources expected to finance eligible Project Costs pursuant to the Project Plan are comprised of the Community Betterment Payments and Franchise Fees received by the City throughout the duration of the Incentive Districts created for Phase 1 and Phase 2 of the Project; and

WHEREAS, the City deems it appropriate and desirable and in the best interest of the City and its citizens to approve and adopt the Project Plan, including the establishment of the Incentive Districts, and to approve and adopt the Tax Incentive Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF STILLWATER, OKLAHOMA THAT:

SECTION 1. In order to develop the Project Area, the City of Stillwater elects to utilize Article 10, Section 6C of the Constitution of the State of Oklahoma and the Act, which authorize the use

of incentives, exemptions, and other forms of relief from taxation for historic preservation, reinvestment, or enterprise areas that are exhibiting economic stagnation or decline.

SECTION 2. The Project Plan is hereby approved and adopted, as recommended by the Planning Commission and by the Review Committee. As used herein the “Project Plan” shall mean the document titled “Stillwater Data Center Economic Development Project Plan” with a cover page indicating the Review Committee recommended approval on July 10, 2024, and the Planning Commission recommended approval on July 16, 2024, and comprised of a cover sheet, a table of contents, ten (10) pages of text, and four (4) exhibits labeled Exhibits A, B, C, and D.

SECTION 3. All actions taken and all recommendations and findings made in connection with the Project Plan by the Planning Commission and the Review Committee are hereby ratified and confirmed, including, but not limited to, the designation and selection of representatives to the Review Committee by the City and each Taxing Entity, the selection of the three members of the public at large who serves on the Review Committee, the findings of conformance with the Stillwater 2030 C3 Comprehensive Plan, eligibility of the proposed Incentive Districts, and positive financial impacts on the affected taxing jurisdictions, and the recommendations for approval.

SECTION 4. The City Council hereby adopts the following findings:

A. Findings Regarding the Project Plan; Eligibility of the Project Area and Incentive Districts:

1. The Project Area and the proposed Incentive Districts “1”, “2”, “3”, “4”, “5”, and “6”, City of Stillwater (“Incentive Districts”) proposed in the proposed Data Center Economic Development Project Plan are entirely within a state designated enterprise zone and therefore meet the definition of an “enterprise area” under the Local Development Act (62 O.S. § 853(5), (6)). Enterprise Areas qualify for use of the tools of the Local Development Act pursuant to 62 O.S. §856(B)(4)(a).
2. The Project Area and the Incentive Districts proposed in the proposed Data Center Economic Development Project Plan comply with the statutory definition of a “reinvestment area” under the Local Development Act (62 O.S. § 853(17)) due to the fact that the area lacks public improvements necessary to reverse economic stagnation and to attract major investment in the area. Reinvestment Areas qualify for use of the tools of the Oklahoma Local Development Act pursuant to 62 O.S. §856(B)(4)(a).
3. The improvement of the Project Area is likely to enhance the value of other real property in the area and to promote the general public interest.
4. The level of investment, development, and economic growth desired by the City is difficult, but possible, within the Project Area and Incentive Districts if the provisions of the Local Development Act are utilized.
5. The incentives to be provided through the Incentive Districts are a necessary component in stimulating the proposed investment in the Project Area and Incentive

Districts, which would not have occurred without the provision of the incentive pursuant to the Act.

6. The incentives to be provided through the Incentive Districts will be used in conjunction with existing programs and efforts and other locally implemented economic development efforts.

B. Findings Regarding Financial Impacts on the Affected Taxing Jurisdictions and Business Activities within the Project Area and Incentive Districts:

1. As described in Section IX of the Project Plan, substantial public costs that may arise will be funded directly by the private development within the Incentive Districts.
2. The development anticipated by the project may result in a modest increase in demand for services by or in costs to the affected taxing jurisdictions, but that the PILOT Payments to be paid by the Company to the affected taxing jurisdictions, as described in Section X.B. of the Project Plan and other positive impacts will offset any increased costs for additional service demands upon those affected taxing jurisdictions.
3. The public revenue anticipated to result from the development described in the Project Plan includes increased tax revenue from economic growth and benefits outside of the Incentive Districts.
4. The economic benefits of the Project Plan for the affected taxing jurisdictions and the community as a whole offset any adverse financial impacts of the Project Plan on the affected taxing jurisdictions.
5. The aggregate impacts of the affected taxing jurisdictions and on business activities from implementation of the Project Plan are positive and include the achievement of the objectives set forth in Section V of the Project Plan.

SECTION 5. For identification purposes and until such time that the City Council officially numbers, designates, and makes effective each of the Incentive Districts established under this Ordinance, the Incentive Districts shall be identified temporarily as Incentive Districts No. “1”, “2”, “3”, “4”, “5”, and “6”, City of Stillwater, as shown on Exhibit A of the Project Plan, and may be commonly referred to as Incentive Districts No. 1, 2, 3, 4, 5, and 6, as depicted on Exhibit A of the Project Plan.

SECTION 6. The designation, naming, and effective dates of each Incentive District are deferred pending the fulfillment of the conditions set forth in the Project Plan and the Development Agreement, provided that such deferred action shall be made within ten (10) years of the City Council’s adoption of this Ordinance approving the Project Plan, as follows:

Phases 1 and 2: The Incentive Districts for Phases 1 and 2 shall become effective and provide the Incentive District Exemption upon the earlier of (a) the completion of a Data Center within that Incentive District as evidenced by the issuance of the final, unrestricted certificate of

occupancy for the Data Center (“Certificate of Occupancy”), or (b) January 1 after the date of issuance of the Certificate of Occupancy. In lieu of a Certificate of Occupancy, the Company may deliver notice of substantial completion to the City to trigger the effective date, which shall be January 1 immediately following the issuance of the notice of substantial completion.

Commencement of Phase 1: Upon the fulfillment of the conditions precedent described in the Development Agreement, the Company is to commence the development of Phase 1 of the Project. The Company must provide written notice to the City of its intent to commence Phase 2 within two (2) years of completion of Phase 1. Should the Company fail to initiate development of Phase 2 within this period, the City may terminate the undeveloped Incentive Districts.

Subsequent Phases: If Phase 2 is completed within the stipulated two-year timeframe, and the Company commences Phase 3 pursuant to a duly executed Supplemental Development Agreement, which includes design, engineering, permitting, construction for the site and/or associated infrastructure, within ten (10) years of the City Council’s adoption of this Ordinance approving the Project Plan, then the Incentive Districts for Phases 3, 4, 5, and 6 will become effective as of January 1 of the year marking the tenth anniversary of approval of the Project Plan.

If the Company has not commenced Phase 4 of the Project pursuant to an executed Supplemental Economic Development Agreement within 12 years of the adoption of this Project Plan, then the undeveloped Incentive Districts for Phases 4, 5, and 6 shall terminate. If the Company has not commenced Phase 5 of the Project pursuant to an executed Supplemental Economic Development Agreement within 14 years of the adoption of the Project Plan, then the undeveloped Incentive Districts for Phases 5 and 6 shall terminate. If the Company has not commenced Phase 6 of the Project pursuant to an executed Supplemental Economic Development Agreement within 16 years of the adoption of the Project Plan, then the Incentive District for Phase 6 shall terminate.

Termination of Subsequent Phases: Conversely, if upon completion of Phase 2, Phase 3 has not commenced within ten (10) years of the adoption of this Ordinance, the Incentive Districts for Phases 3, 4, 5, and 6 shall terminate.

Confirmation and Notice: Upon satisfaction of the conditions, the City Council will, by resolution, confirm the effective date, designation, and name of each Incentive District. If the City Council has not passed such resolution: (a) within thirty (30) days following the issuance of a Certificate of Occupancy or delivery of written notice by the Company to the City of substantial completion or (b) by December 15, whichever is earlier, the City Manager shall immediately provide written notice confirming the effective date, designation, and name of each Incentive District to each of the Taxing Entities, the Payne County Assessor, and the Company. In accordance with Section 856(B)(2) of the Act, no Incentive District Exemptions may become effective more than ten (10) years after the City Council’s adoption of this Ordinance approving the Project Plan.

SECTION 7. Once an Incentive District is made effective pursuant to Section 6 of this Ordinance, the Incentive District shall be effective for a period of twenty-five (25) fiscal years from its effective date (the “Incentive District Term”).

SECTION 8. The boundaries of the Project Area are depicted on Exhibit A of the Project Plan and are hereby designated and adopted as follows:

A tract of land located in the Northeast Quarter (NE/4), Northwest Quarter (NW/4), and Southwest Quarter (SW/4), and Southeast Quarters (SE/4) of Section Thirty-Six (36), Township Twenty (20) North, Range Two (2) East of the Indian Base and Meridian (I.B. & M.), Payne County, Oklahoma, being more particularly described as metes and bounds by Darrel Ray Mason OKLS1690 on March 13, 2024 as follows:

COMMENCING at the SW/C, SW/4, S36-T20-R2E monumented by a 1" Rail Road Spike; thence with a BASIS OF BEARING of N 00°41'24" W along the west line of the SW/4 a distance of 2638.58 feet to the NW/C, SW/4, SEC36-T20N-R3E monumented by a 1/2" Rebar AND the POINT OF BEGINNING;

Thence along the west line of the NW/4 with a bearing of N 00°42'47" W a distance of 2630.81 feet to the NW/C, NW/4 SEC36-T20N-R2E monumented by a Railroad Spike; Thence with a bearing of N 89°13'38" E along the north line of the NW/4 a distance of 2629.53 feet to the NE/C, NW/4 SEC36-T20N-R2E monumented by a 1/2" Rebar; Thence with a bearing of N 89°18'29" E along the north line of the NE/4 a distance of 2630.74 feet to the NE/C, NE/4, SEC36-T20N-R2E monumented by a Mag Nail; Thence with a bearing of S 00°49'51" E along the east line of the NE/4 a distance of 2122.35 feet to a point on the East Line of NE/4, SEC36-T20N-R2E, also being a point on the Northerly Rail Road R/W line of Eastern Oklahoma Railway particularly described in Book 7, Page 208;

Thence in a southwesterly direction with a non-tangent curve turning to the right with a radius of 2793.96 feet, having a chord bearing of S 27°41'11" W and a chord distance of 761.36, and an arc length of 763.73 feet to a point on said Northerly Rail Road R/W Line; Thence with a bearing of N 54°28'57" W a distance of 20.00 feet to a point on said Northerly Rail Road R/W Line;

Thence in a southwesterly direction with a non-tangent curve turning to the right with a radius of 2773.96 feet, having a chord bearing of S 40°33'13" W and a chord distance of 487.07 feet, and an arc length of 487.70 to a point on said Northerly Rail Road R/W Line monumented by a 1/2" Rebar w/ cap PLS 1802;

Thence with a bearing of S 44°24'34" E a distance of 20.00 feet to a point on said Northerly Rail Road R/W Line monumented by a 1/2" Rebar w/ cap PLS 1802;

Thence in a southwesterly direction with a non-tangent curve turning to the right with a radius of 2793.69 feet, having a chord bearing of S 51°55'38" W and a chord distance of 616.73, and an arc length of 617.99 feet to a point on said Northerly Rail Road R/W Line monumented by a 1/2" Rebar w/ cap PLS 1802;

Thence with a bearing of S 59°21'10" W a distance of 1676.22 feet to a point on said Northerly Rail Road R/W Line;

Thence with a bearing of S59°21'10" W a distance of 614.77 feet to a point on said Northerly Rail Road R/W Line;

Thence in a southwesterly direction with a tangent curve turning to the left with a radius of 2915.05 feet, having a chord bearing of S 55°26'11"W and a chord distance of 387.62 feet, and an arc length of 387.91 feet to a point on said Northerly Rail Road R/W Line monumented by a 1/2" Rebar w/ cap Hitech;

Thence with a bearing of N 00°47'43" W along the west line of the east 60 acres of the

SW/4 a distance of 2333.99 feet to a point on the north line of the SW/4, SEC36-T20N-R2E monumented by a 1/2" pipe;
Thence along said north line of said SW/4 with a bearing of N 89°28'48" E a distance of 1645.64' back to the POINT OF BEGINNING.

Less and Except:

A tract of land located in the Northwest Quarter (NW/4) and Northeast Quarters (NE/4) of Section Thirty-Six (36), Township Twenty (20) North, Range Two (2) East of the Indian Base and Meridian (I.B. & M.), Payne County, Oklahoma, being more particularly described as metes and bounds by Darrel Ray Mason OKLS1690 on August 3, 2024 as follows:

BEGINNING at the Northeast Corner of the Northwest Quarter of said Section 36,
Thence along the North line of the Northeast Quarter of said Section 36 N 89° 18' 29" E, a distance of 452.85 feet;
Thence departing said North line S 00° 00' 42" W, a distance of 1143.51 feet;
Thence S 89° 59' 34" W, a distance of 1,189.48 feet;
Thence N 00° 00' 04" E, a distance of 1,128.25 feet to a point on the North line of the Northwest Quarter of said Section 36;
Thence along said North line N 89° 13' 38" E, a distance of 736.95 feet back to the POINT OF BEGINNING.

Containing 16,844,572 square feet OR 386.698 acres more or loss

SECTION 9. Incentive District No. "1", whose boundaries are set forth below, is hereby created, but is to be effective at a later date as determined by Council, in accordance with the Project Plan. The boundaries of Incentive District No. "1", City of Stillwater are hereby designated and adopted as follows:

A tract of land located in the Northeast Quarter (NE/4) of Section Thirty-Six (36), Township Twenty (20) North, Range Two (2) East of the Indian Base and Meridian (I.B. & M.), Payne County, Oklahoma, being more particularly described as metes and bounds by Darrel Ray Mason OKLS1690 on August 3, 2024 as follows:

BEGINNING at the Northeast Corner of the Northeast Quarter of said Section 36,
Thence along the East line of the said Northeast Quarter S 00° 49' 50" E, a distance of 1542.63 feet; Thence departing said East line, S 89° 59' 44" W, a distance of 2,200.10 feet; Thence N 00° 00' 01" E, a distance of 1,516.34 feet to a point on the North line of said Northeast Quarter; Thence along said North line N 89° 18' 29" E, a distance of 2,177.89 feet back to the POINT OF BEGINNING.

Containing 3,347,887 square feet OR 76.857 acres more or less.

SECTION 10. Incentive District No. "2", whose boundaries are set forth below, is hereby created, but is to be effective at a later date as determined by Council, in accordance with the Project Plan. The boundaries of Incentive District No. "2", City of Stillwater are hereby designated and adopted as follows:

A tract of land located in the Southeast Quarter (SE/4) and Northeast Quarter (NE/4) of Section Thirty-Six (36), Township Twenty (20) North, Range Two (2) East of the Indian Base and Meridian (I.B. & M.), Payne County, Oklahoma, being more particularly described as metes and bounds by Darrel Ray Mason OKLS1690 on August 3, 2024 as follows:

COMMENCING at the Northeast Corner of the Northeast Quarter of said Section 36,
Thence along the East line of the said Northeast Quarter S 00° 49' 50" E, a distance of 1542.63 feet to the POINT OF BEGINNING;
Thence S 00° 49' 52" E, a distance of 579.72 feet to a point being a non-tangent curve to the right also being a point on the Northeasterly Railroad Right-Of-Way line recorded at Book 7, Page 208 in the records of Payne County Clerk's Office; Thence along the Northwestern Right-Of-Way line for the next six (6) calls:
(1) Along said curve to the right having a radius of 2,799.14 feet, an arc length of 763.70 feet, and having a chord bearing of S 27° 41' 41" W, a chord length of 761.34 feet to a point of non-tangency;
(2) Thence N 54° 28' 57" W, a distance of 20.00 feet to a non-tangent curve to the right;
(3) Thence along curve to the right having a radius of 2773.96 feet, an arc length of 487.70 feet, and having a chord bearing of S 40° 33' 14" W, a chord length of 487.07 feet to a point of non-tangency;
(4) Thence S 44° 24' 34" E, a distance of 20.00 feet to a non-tangent curve to the right;
(5) Thence along curve to the right having a radius of 2793.69 feet, an arc length of 617.99 feet, and having a chord bearing of S 51° 55' 38" W, a chord length of 616.73 feet to a point of non-tangency;
(6) Thence S 59° 19' 00" W, a distance of 1,221.25 feet;
Thence departing from said Northwestern Right-Of-Way line N 00° 00' 12" E, a distance of 1,155.08 feet;
Thence N 00° 00' 00" W, a distance of 1,075.36 feet;
Thence N 00° 00' 00" E, a distance of 399.42 feet;
Thence N 89° 59' 44" E, a distance of 2,200.12 feet back to the POINT OF BEGINNING

Containing 4,111,928 square feet OR 94.397 acres more or less.

SECTION 11. Incentive District No. "3", whose boundaries are set forth below, is hereby created, but is to be effective at a later date as determined by Council, in accordance with the Project Plan. The boundaries of Incentive District No. "3", City of Stillwater are hereby designated and adopted as follows:

A tract of land located in the Southeast Quarter (SE/4) and Southwest Quarter (SW/4) of Section Thirty-Six (36), Township Twenty (20) North, Range Two (2) East of the Indian Base and Meridian (I.B. & M.), Payne County, Oklahoma, being more particularly described as metes and bounds by Darrel Ray Mason OKLS1690 on August 3, 2024 as follows:

COMMENCING at the Southwest Corner of the Northwest Quarter of said Section 36;
Thence along the South line of said Northwest Quarter S 89° 28' 48" E, a distance of 1645.61 feet;
Thence along the West line of Lot Four (4) Richmond Road & Highway 177 Addition, S 00° 48' 02" E, a distance of 334.80 feet to the POINT OF BEGINNING;

Thence N 89° 59' 20" E, a distance of 1,399.15 feet; Thence S 00° 00' 12" W, a distance of 1,155.08 feet to a point on the Northwestern line of a Railroad Right-Of-Way recorded at Book 7, Page 208 in the records of Payne County Clerk's Office; Thence continuing along said Northwestern line S 59° 19' 00" W, a distance of 1,223.40 feet to a non-tangent curve to the left; Thence along said curve having a radius of 2915.00 feet, an arc length of 387.91 feet, and having a chord bearing of S 55° 26' 11" W, a chord length of 387.62 feet to a point of non-tangency; Thence departing said Northwestern line N 00° 47' 43" W, a distance of 1999.19 feet back to the POINT OF BEGINNING.

Containing 2,172,023 square feet OR 49.878 acres more or less.

SECTION 12. Incentive District No. "4", whose boundaries are set forth below, is hereby created, but is to be effective at a later date as determined by Council, in accordance with the Project Plan. The boundaries of Incentive District No. "4", City of Stillwater are hereby designated and adopted as follows:

A tract of land located in the Southeast Quarter (SE/4) and Southwest Quarter (SW/4) and Northeast Quarter (NE/4) and Northwest Quarter (NW/4) of Section Thirty-Six (36), Township Twenty (20) North, Range Two (2) East of the Indian Base and Meridian (I.B. & M.), Payne County, Oklahoma, being more particularly described as metes and bounds by Darrel Ray Mason OKLS1690 on August 3, 2024 as follows:

COMMENCING at the Southwest Corner of the Northwest Quarter of said Section 36; Thence along the South line of said Northwest Quarter S 89° 28' 48" E, a distance of 1622.33 feet to the POINT OF BEGINNING;
Thence N 00° 00' 46" W, a distance of 740.78 feet; Thence N 89° 59' 20" E, a distance of 1427.27 feet;
Thence S 00° 00' 00" W, a distance of 1075.36 feet; Thence S 89° 59' 20" W, a distance of 1399.15 feet;
Thence N 00° 48' 02" W, a distance of 334.80 feet; Thence continuing along said South line S 89° 28' 48" W, a distance of 23.28 feet back to the POINT OF BEGINNING.

Containing 1,526,135 square feet OR 35.035 acres more or less.

SECTION 13. Incentive District No. "5", whose boundaries are set forth below, is hereby created, but is to be effective at a later date as determined by Council, in accordance with the Project Plan. The boundaries of Incentive District No. "5", City of Stillwater are hereby designated and adopted as follows:

A tract of land located in the Northwest Quarter (NW/4) and Northeast Quarters (NE/4) of Section Thirty-Six (36), Township Twenty (20) North, Range Two (2) East of the Indian Base and Meridian (I.B. & M.), Payne County, Oklahoma, being more particularly described as metes and bounds by Darrel Ray Mason OKLS1690 on August 3, 2024 as follows:

COMMENCING at the Northeast Corner of the Northwest Quarter of said Section 36, Thence along the North line of the Northeast Quarter of said Section 36, N 89° 18' 29" E, a distance of 452.85 feet;

Thence departing said North line and along the East line of Lot Seven (7) in Richmond Road & Highway 177 Addition, S 00° 00' 42" W, a distance of 1143.51 feet to the POINT OF BEGINNING;
Thence S 00° 02' 04" E, a distance of 372.20 feet; Thence S 00° 00' 00" W, a distance of 399.42 feet;
Thence S 89° 59' 20" W, a distance of 1,427.27 feet; Thence N 00° 00' 17" E, a distance of 210.20 feet;
Thence N 90° 00' 00" E, a distance of 237.55 feet; Thence N 00° 00' 00" W, a distance of 562.17 feet;
Thence N 89° 59' 34" E, a distance of 1,189.48 feet to the POINT OF BEGINNING.

Containing 968,675 square feet OR 22.238 acres more or less.

SECTION 14. Incentive District No. "6", whose boundaries are set forth below, is hereby created, but is to be effective at a later date as determined by Council, in accordance with the Project Plan. The boundaries of Incentive District No. "6", City of Stillwater are hereby designated and adopted as follows:

A tract of land located in the Northwest Quarter (NW/4) of Section Thirty-Six (36), Township Twenty (20) North, Range Two (2) East of the Indian Base and Meridian (I.B. & M.), Payne County, Oklahoma, being more particularly described as metes and bounds by Darrel Ray Mason OKLS1690 on August 3, 2024 as follows:

BEGINNING at the Northwest Corner of the Northwest Quarter of said Section 36,
Thence along the North line of said Section 36 N 89° 13' 38" E, a distance of 1,892.59 feet;
Thence departing from said North line S 00° 00' 03 " W, a distance of 1690.42 feet;
Thence S 89° 56' 04" W, a distance of 237.57 feet;
Thence S 00° 00' 00" W, a distance of 209.93 feet;
Thence S 00° 00' 46" E, a distance of 740.78 feet to a point on the South line of the Northwest Quarter of said Section 36; Thence along said South line S 89° 28' 48" W, a distance of 1622.33 feet to the Southwest corner of the Northwest Quarter; Thence departing said South line and along the West line of the Northwest Quarter of said Section 36 N 00° 42' 47" W, a distance of 2630.81 feet back to the POINT OF BEGINNING.

Containing 4,717,996 square feet OR 108.310 acres more or less.

SECTION 15. The following Project and Incentive District authorizations are hereby approved:

A. The City of Stillwater is designated as the principal entity responsible for implementation and is authorized to carry out and administer the provisions of the Project Plan and to exercise all powers necessary or appropriate thereto pursuant to Section 854 of the Act, including the power to make minor amendments to the Project Plan in accordance with Section 858(D) of the Act;

B. The Stillwater Economic Development Authority, a public trust with the City as its sole beneficiary, shall have the authority to carry out certain provisions of the Project Plan,

including all necessary, appropriate, and supporting steps described in the Project Plan, as well as the authority to exercise all powers necessary or appropriate thereto pursuant to Section 854 of the Act except for approval of the Project Plan and those powers enumerated in paragraphs 1, 2, 3, 4, 7, 13, and 16 of Section 854 of the Act; and

C. The City Manager, Kimberly Meek, or her successor in office, shall be the person in charge of implementation of the Project Plan in accordance with the provisions, authorizations, and respective delegations of responsibilities contained in the Project Plan.

SECTION 16. The revenue sources to the City, as described in Sections XI and XII of the Project Plan, comprised of Community Betterment Payments and Franchise Fees generated from sale of electric power to the Company throughout the Incentive District Term of the Incentive Districts created for Phase 1 and Phase 2 of the Project, (a) shall be used to pay eligible Project Costs under Section XII of the Project Plan, (b) shall constitute special funds of the City or, at the direction of the City, the Stillwater Economic Development Authority, a public trust, and (c) shall not be subject to annual appropriation as a part of the general fund of the City.

SECTION 17. The Tax Incentive Agreement is hereby adopted and approved. As used herein the “Tax Incentive Agreement” shall mean the document by and among the Company, the City and the Taxing Entities, comprised of 14 pages of text, an Exhibit Table of Contents, 13 exhibits labeled Exhibits A, B, C, D, E, F, G, H, I, J, K, L.1, and L.2, and titled “Local Development Act Tax Incentive Agreement.”

SECTION 18. Subject to the terms of the Tax Incentive Agreement, the incentive to be provided within an Incentive District shall be a one hundred percent (100%) ad valorem tax exemption on all new investment attributable to property qualifying under U.S. Industry Number 518210 of the North American Industry Classification System (NAICS) Manual, 2017 Revision, within each Incentive District, for the duration of the Incentive District Term, during which no ad valorem taxes shall be assessed against such property (“Incentive District Exemptions”). The Incentive District Exemptions shall not include Public Service Property, if any, located within each Incentive District; provided that “Public Service Property” shall be defined as property of all railroads, air carriers and public service corporations assessed annually by the State Board of Equalization pursuant to 68 O.S. § 2847 and Article 10, § 21 of the Oklahoma Constitution.

SECTION 19. In demonstration of compliance with the requirements of Section 6C of Article X of the Constitution of the State of Oklahoma and the requirements of Section 865 of the Act, the City directs the Tax Incentive Agreement be submitted to the Taxing Entities for their review, consideration, and adoption within sixty (60) days of City Council’s approval of this Ordinance.

SECTION 20. The Project Plan is determined to be feasible and desirable and is hereby approved.

SECTION 21. REPEALER. All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed to the extent of the conflict only.

SECTION 22. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional, such portion shall not affect the validity of the remaining portions of this Ordinance.

SECTION 23. EMERGENCY CLAUSE. It being immediately necessary for the preservation of the peace, health, safety, and public good of the City of Stillwater, and the citizens thereof, that the provisions of this Ordinance take effect and be put into full force and effect, an emergency is declared to exist by reason whereof this Ordinance shall take effect immediately and be put in full force and effect from and after the date of its enactment, as provided by law.

PASSED AND APPROVED in an open meeting of the City Council of Stillwater, Oklahoma on the ____ day of _____, 2024, with the Emergency Clause voted on and approved separately.

CITY OF STILLWATER

By: _____

William H. Joyce, Mayor

ATTEST:

Teresa Kadavy, City Clerk

(SEAL)

EMERGENCY CLAUSE

THE EMERGENCY CLAUSE IS HEREBY PASSED, APPROVED AND ADOPTED THIS
__ DAY OF _____, 2024.

William H. Joyce, Mayor

ATTEST:

Teresa Kadavy, City Clerk

(SEAL)

Approved as to form and legality this ____ day of _____, 2024:

Special Counsel for Economic Development

First Reading: October 7, 2024

Second Reading:

ORDINANCE NO. 3547

AN ORDINANCE AUTHORIZING THE RESTATEMENT OF THE LEASE AGREEMENT AND OPERATION AND MAINTENANCE CONTRACT DATED APRIL 1, 1979, AS HERETOFORE AMENDED, INCLUDING THE EXTENSION OF THE LEASE TERM; PROVIDING FOR CITIZEN INITIATED REFERENDUM OF SAID LEASE AGREEMENT IN ACCORDANCE WITH SECTION 4- 2 OF THE CITY CHARTER.

WHEREAS, the City of Stillwater, Oklahoma, a municipal corporation (the “City”), and the Stillwater Utilities Authority, a public trust (the “Authority”) have-previously entered into that certain Lease Agreement and Operation and Maintenance Contract dated as of April 1, 1979, duly recorded in the office of the Payne County Clerk at Book 541, Page 819, as amended by that certain Amendment to Lease Agreement and Operation and Maintenance Contract dated as of December 1, 1980, duly recorded in the office of the Payne County Clerk at Book 541, Page 833, as further amended by that certain Amendment to Lease Agreement and Operation and Maintenance Contract dated as of April 1, 1986, duly recorded in the office of the Payne County Clerk at Book 790, Page 059, as further amended by that certain Amendment No. 1, City of Stillwater, Stillwater Utilities Authority, Extension of Lease Agreement and Operation and Maintenance Contract dated May 13, 2013, as further amended by that certain Amendment No. 2, City of Stillwater, Stillwater Utilities Authority, Lease Agreement and Operation and Maintenance Contract dated September 19, 2022, duly recorded in the office of the Payne County Clerk at Book 2733, Page 881, as further amended by that certain Amendment No. 3, City of Stillwater, Stillwater Utilities Authority, Lease Agreement and Operation and Maintenance Contract dated December 5, 2022, duly recorded in the office of the Payne County Clerk at Book 2759, Page 451 (collectively, the “Prior Lease Agreement”); and

WHEREAS, pursuant to the Prior Lease Agreement, the City leases its water, sewer and electric systems and improvements thereto (collectively, the “Facilities”), which Facilities are more particularly described in Exhibit A attached to the Prior Lease Agreement, to the Authority to enable the Authority to secure bonds issued by a pledge of its leasehold interest in the Facilities and the proceeds, fees, charges, revenues, income, rents, receipts, issues and benefits; and

WHEREAS, the Prior Lease Agreement will expire on June 30, 2069, unless certain enumerated contingencies occur; and

WHEREAS, it is necessary to reduce confusion relating to the multiple amendments to the Prior Lease Agreement, and to extend the term of said lease to ensure the continued and uninterrupted operation of the Stillwater Utilities Authority until June 30, 2124; and

WHEREAS, the Mayor and City Council deem it appropriate and desirable to restate in full the provisions of the Prior Lease Agreement and to extend the term of said lease until June 30, 2124, and to make other modifications and amendments to the terms of said lease as appropriate by reason of the foregoing; and

WHEREAS, the value of the leased property exceeds Two Hundred and Fifty Thousand

Dollars (\$250,000.00); and

WHEREAS, Section 4-2 of the City Charter mandates that the sale or lease of real property wherein the value exceeds Two Hundred and Fifty Thousand Dollars (\$250,000.00) shall be done through the adoption of an ordinance; and

WHEREAS, the Mayor and City Council deem the lease of this property to be beneficial to and in the best interest of the City of Stillwater; and

WHEREAS, it is the intention of the Mayor and City Council to enter into an Amended Lease Agreement and Operation and Maintenance Contract attached hereto as Exhibit "A" for such purpose.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STILLWATER, THAT:

SECTION 1: Pursuant to Section 4-2 of the City Charter, the restatement of lease provisions and the extension of the lease term, as reflected in the Amended Lease Agreement and Operation and Maintenance Contract attached hereto as Exhibit "A" is hereby authorized and approved by the Mayor and City Council. The Mayor is further authorized to execute any and all documents necessary to facilitate said transaction(s).

SECTION 2: If one or more petitions with signatures of registered qualified voters of the city equal to at least twenty-five (25) percent of the total number of votes cast in the last scheduled general municipal election are filed with the city clerk within thirty (30) days after passage and publication of this ordinance, this ordinance shall not go into effect until the petition or petitions are finally found to be illegal and/or insufficient, or, if any such petition is found legal and sufficient, until the ordinance is approved at an election by a majority of the qualified voters voting on the question. If no petition with signatures is filed, this ordinance shall go into effect thirty (30) days after its passage and publication.

SECTION 3: This ordinance shall be published in a newspaper authorized by law to publish legal publications in its entirety within ten (10) days of its passage on second reading by the Mayor and City Council.

[Remainder of Page Left Blank Intentionally]

PASSED, APPROVED, AND ADOPTED THIS ____ DAY OF OCTOBER, 2024.

CITY OF STILLWATER, OKLAHOMA

WILLIAM H. JOYCE, MAYOR

ATTEST:

TERESA KADAVY, CITY CLERK

(SEAL)

Approved as to form and content this ____ day of October, 2024.

KIMBERLY CARNLEY, City Attorney

First Reading: 10-7-2024
Second Reading: 10-21-2024

**AMENDED LEASE AGREEMENT AND
OPERATION AND MAINTENANCE CONTRACT**

THIS AMENDED LEASE AGREEMENT AND OPERATION AND MAINTENANCE CONTRACT dated as of _____, 2024 (hereinafter called “Agreement”), by and between the City of Stillwater, Oklahoma (hereinafter called “City”), a municipal corporation acting by its Mayor and City Council, and the Stillwater Utilities Authority (hereinafter called “Authority”), a public trust created under the authority of and pursuant to the provisions of Title 60, Oklahoma Statutes 2021, Section 176 to 180.4, as amended and supplemented, and the Oklahoma Trust Act, replaces and supersedes in all respects that certain Lease Agreement and Operation and Maintenance Contract dated as of April 1, 1979, duly recorded in the office of the Payne County Clerk at Book 541, Page 819, as amended by that certain Amendment to Lease Agreement and Operation and Maintenance Contract dated as of December 1, 1980, duly recorded in the office of the Payne County Clerk at Book 541, Page 833, as further amended by that certain Amendment to Lease Agreement and Operation and Maintenance Contract dated as of April 1, 1986, duly recorded in the office of the Payne County Clerk at Book 790, Page 059, as further amended by that certain Amendment No. 1, City of Stillwater, Stillwater Utilities Authority, Extension of Lease Agreement and Operation and Maintenance Contract dated May 13, 2013, as further amended by that certain Amendment No. 2, City of Stillwater, Stillwater Utilities Authority, Lease Agreement and Operation and Maintenance Contract dated September 19, 2022, duly recorded in the office of the Payne County Clerk at Book 2733, Page 881, as further amended by that certain Amendment No. 3, City of Stillwater, Stillwater Utilities Authority, Lease Agreement and Operation and Maintenance Contract dated December 5, 2022, duly recorded in the office of the Payne County Clerk at Book 2759, Page 451, together with such other lease documents pertaining to the water, sanitary sewer, solid waste, and electric systems which are the subject of this Agreement.

W I T N E S S E T H:

WHEREAS, the Authority was created and recreated pursuant to an Amended Trust Indenture dated as of October 7, 2024 (the “Trust Indenture”), for the use and benefit of the City pursuant to Title 60, Oklahoma Statutes 2021, Sections 176 to 180.4; and

WHEREAS, it has been determined beneficial to the City that the Authority incur indebtedness for the purpose of financing and refinancing the construction of certain additions and improvements to the water, sanitary sewer, solid waste, and electric systems of the City but thereafter for such purposes as may from time to time be determined by the Authority to be beneficial to the City (hereinafter collectively or individually called “Projects”); and

WHEREAS, in consideration of the Authority’s agreement to extend and improve the existing water, sanitary sewer, solid waste, and electric systems and pursuant to Title 11, Oklahoma Statutes 2021, Section 35-201, as amended and supplemented, the City has determined to lease its presently

existing and hereafter acquired water, sanitary sewer, solid waste, and electric systems, together with all additions, betterments and improvements thereto and extensions thereof hereafter constructed or acquired by the Authority or the City (hereinafter called the "Facilities"), together with all appurtenances thereof and incidents thereto, more fully described in Section 1 hereof, to the Authority to enable the Authority to obtain financing secured by a pledge of its leasehold interest in all or a part of the Facilities and the proceeds, fees, charges, revenues, income, rents, receipts, issues and benefits (hereinafter called the "Revenues" and together with the Facilities called the "Trust Estate"); and

WHEREAS, the Authority has determined, in conformity with the desires of the City and to insure the continued efficient operation and maintenance of the Facilities, to operate and maintain the Facilities for and on behalf of the City during the term of this Agreement and to collect the Revenues therefrom.

NOW, THEREFORE:

SECTION 1. The City, in consideration of the agreements of the Authority and the contribution of the projects to the health, safety and welfare of the City's citizens and residents, does by these presents demise, lease and rent to the Authority the following described property, real or personal or both, owned by or under the control of the City as follows:

(1) The real property now owned or hereafter acquired by the City pertaining to the water, sanitary sewer, solid waste, and electric systems, including the real property described in Exhibit "A" attached hereto;

(2) All of the presently existing water, sanitary sewer, solid waste, and electric systems of the City and all appurtenances thereof presently belonging to the City, or under its custody, management or control, located within and without the corporate limits of the City, together with the rights-of-ways, licenses, easements, permits to take and use ground water and other rights and privileges appertaining or related thereto;

(3) The real estate currently owned and utilized by the City for the operation of the existing water, sanitary sewer, solid waste, and electric systems;

(4) All interest of the City in and to all unexpired leases and contracts heretofore or hereafter executed by the City pertaining to all or any part of said Facilities, including revenue and income to be received therefrom and retained by the City;

(5) All interest of the City in and to proceeds, fees, charges, revenues, income, rents, receipts, issues and benefits from the Facilities of the City; and

(6) All property, real, personal or mixed, together with all rights and privileges, appertaining or related thereto which hereafter may be acquired by or in the name of the City for use in connection with furnishing of water, sanitary sewer, solid waste, electric services to persons, firms, corporations and others within and without the corporate limits of the City; it being the intention of this paragraph that any of the foregoing, including income therefrom, immediately upon its acquisition shall be a part of the property demised and leased hereunder.

TO HAVE AND TO HOLD the same to the Authority for a term of approximately one hundred (100) years, commencing _____, 2024, and ending June 30, 2124. Provided, that such term shall be extended beyond June 30, 2124, until all indebtedness payable from the Trust Estate, whenever issued, issued by the Authority and secured by the Trust Estate or payable from revenues derived therefrom, has been retired and paid or provision for the payment thereof has been made.

The City hereby covenants and agrees that all or any part of the leasehold interest in the Facilities herein granted to the Authority may be pledged by the Authority as security for any indebtedness incurred by the Authority.

SECTION 2. In consideration of the agreements of the Authority, the City hereby covenants and agrees during the term of this Agreement set out in Section 1 above, as follows:

(1) To furnish for distribution through the Facilities a supply of water adequate to meet the demand of the users of the Facilities;

(2) To impose or approve such rates, fees and charges which shall be sufficient to satisfy all the provisions of any indenture or other instrument securing and providing for the payment of any indebtedness incurred by the Authority, including the establishment of and maintenance of any funds, reserves or accounts required pursuant to any indenture or other instrument securing such indebtedness;

(3) In accordance with the uniform rates, fees and charges to each and every user of the Facilities and the services thereof, and if legal, to enforce payments of said rates, fees and charges by termination of water, sanitary sewer, solid waste, electric, or other services to users delinquent in payment of the rates, fees and charges, and, in addition, by any other legally available means;

The City will not permit any free use of any of the Facilities of the Trust Estate;

(4) Not to commit or allow any waste with respect to any of the Facilities;

(5) To comply faithfully and fully with and abide by every statute, rule, order and regulation now in force or hereafter enacted by any competent government agency or authority with respect to or affecting the Facilities or the operation and maintenance thereof, and to keep the Facilities and the Revenues and all parts thereof free from judgments, mechanic's and materialmen's liens and free from all other mortgages, liens, claims, demands and encumbrances of whatever nature or character to the end that the priority of the pledge provided for in any indenture or other instrument properly entered into by the Authority may at all times be maintained and preserved free from any claim or liability. The provisions set out in this paragraph (6) of this Section 2 shall not prevent the transfer or possession or control of the Trust Estate or any part thereof to temporary trustees or a receiver for operation therein in accordance with the provisions of any indenture or other instrument securing the payment of any indebtedness incurred by the Authority;

(6) To carry, as long as any indebtedness of the Authority secured by a pledge of the Authority's leasehold interest in the Facilities and the Revenues therefrom are outstanding, the

insurance required to be carried by the Authority under the terms of any indenture or instrument relating to such indebtedness and to apply the proceeds of any such insurance in accordance with the terms of such indenture, indentures or other instrument;

(7) To keep proper books of record and account of all transactions relating to the Trust Estate in accordance with the terms established by the Authority and to cause statements and audits to be furnished to the Authority and other designated parties in accordance with the terms to be provided for by the Authority;

(8) To promptly institute and diligently prosecute appropriate proceedings in eminent domain for the condemnation of lands or interest therein necessary for the construction or acquisition of any improvement or betterment to or extension of the properties of the Trust Estate which has been approved by the governing body of the City, the costs and expenses of such proceedings and the award of damages as a result thereof to be paid by the Authority unless otherwise agreed to by the parties hereto, title to all such property to be taken in the name of the City and upon acquisition to become part of the properties leased to the Authority hereunder and to be included in the Trust Estate;

(9) The City and the Authority will agree at any time to amend this Agreement to transfer the responsibility of operation and maintenance of the Facilities or any part thereof from the Authority to the City; provided, that the City hereby agrees that the Authority may provide for the operation and maintenance of the Facilities by a temporary trustee or a receiver in the event there is a default under any indenture or other instrument securing indebtedness incurred by the Authority; and in such event, the City will cooperate fully with such provisions; and

(10) To be bound by and keep and perform all covenants, acts and things by it to be kept and performed according to the true intent and meaning of any indenture or instrument executed by the Authority, the Trust Indenture and this Agreement.

SECTION 3. In consideration of the agreements of the City, the Authority hereby covenants and agrees during the term of this Agreement set out in Section 1 above, as follows:

(1) To procure financing and to expend the proceeds thereof for the maintenance and expansion of the water and/or sanitary sewer and/or solid waste and/or electric services and to procure financing in the future for other approved projects as shall be mutually agreeable by the parties;

(2) To fix, with the consent of the City, a schedule of uniform and non-discriminatory rates, fees and charges for the use of the Facilities and for services supplied by the Facilities such as will provide in any year revenues sufficient to pay monthly debt service requirements including the principal of and interest on all indebtedness incurred by the Authority including the establishment of and maintenance of any funds, reserves or accounts required pursuant to any indenture or other instrument securing such indebtedness;

(3) To adjust the rents, rates, fees and charges for the services supplied by the use of the Facilities to reflect uniform changes in such rents, rates, fees and charges requested from time to time by ordinance or resolution of the governing body of the City, provided that such adjustments and changes in such rents, rates, fees and charges do not in any way impair the ability of the Authority to

comply fully with any covenant contained in any indenture or other instrument securing indebtedness of Authority;

(4) From the Revenues of the Facilities paid by the City to the Authority as hereinafter provided, to maintain and operate in first class condition, keep in good repair and make necessary replacements, extensions and improvements of the Facilities and from said Revenues to protect and hold the City harmless from damages due to injury to persons or property arising by reason of the Authority's operation, maintenance, repair, replacement, extension and improvement of the Facilities;

(5) To submit to the City each month during the term of this Agreement an itemized statement of all costs and expenses of operation, maintenance, repairs, replacements, extensions and improvements of the Facilities including the cost of holding the City harmless from damages to persons or property;

(6) To bill and collect all rates, charges and fees on a monthly basis, derived from the operation of the Facilities, and deposit same in a trustee or depository bank in the manner as may specifically be set out in any indenture or other instrument securing any indebtedness incurred by the Authority;

(7) To receive the monies transferred to it by the City or by direction of the City each month and to use said monies to pay all costs and expenses of operation, maintenance, repairs, replacements, extensions and improvements of the Facilities, including the cost of water and other related fees and expenses and the cost of holding the City harmless from damages to persons or property;

(8) To incur only such indebtedness secured by the Trust Estate as may be authorized in the Trust Indenture, creating the Authority and as may be approved from time to time by ordinance or resolution of the governing body of the City;

(9) To do all things necessary and proper to perform the purposes of the Trust within the scope of the powers and duties set forth in the Trust Indenture and within the scope of any indenture or other instrument securing the payment of any indebtedness incurred by the Authority, including the payment of principal, interest and the accumulation of reserve requirements as may be provided for in such indenture or other instrument securing same;

(10) To do any and all things required to be done by it under the terms of this Agreement, and cooperate with the City to the end that the Facilities may be efficiently operated and maintained.

SECTION 4. The Authority hereby agrees with the City that the full legal title to the Facilities shall be vested in the City and the Facilities shall be operated and maintained by the Authority, provided upon the expiration of this Agreement, all right, title and interest of the Authority in the Facilities shall revert to the City.

SECTION 5. The City and the Authority may, from time to time and at any time, amend this Agreement, provided, any amendment shall not be inconsistent with the terms and provisions hereof

nor with the terms and provisions of any indenture securing the payment of indebtedness incurred by the Authority, for the following purposes:

- (a) To cure any ambiguity or formal defect, inconsistency or omission in this Agreement or to clarify matters or questions arising thereunder; or
- (b) To add additional covenants and agreements for the purpose of securing the payment of indebtedness incurred by the Authority; or
- (c) To confirm as further assurance any pledge of additional revenues, monies, securities or funds; or
- (d) For the purposes set out in Section 2(10) hereof.

From and after the incurrence of any indebtedness, this Agreement shall not be assigned by either party, provided, however, it may be assigned and pledged pursuant to any indenture and/or mortgage securing the payment of indebtedness incurred by the Authority.

SECTION 6. Indebtedness incurred by the Authority shall not constitute an indebtedness of the State of Oklahoma nor of the City, nor be personal obligations of the Trustees of the Authority, but such indebtedness shall be special obligations of the Authority, payable solely from the revenues of the Trust Estate or portions thereof as may be set out in any indenture or other instrument securing the payment of such indebtedness.

SECTION 7. The provisions of this Agreement shall be deemed separable. If it shall ever be held by a court of competent jurisdiction that any one or more sections, clauses or provisions of this Agreement is invalid or ineffective for any reason, such holding shall not affect the validity and effectiveness of the remaining sections, clauses and provisions thereof.

SECTION 8. It is the contemplation of the parties and the City hereby agrees that facilities built with approved sources of financing and any additional financing shall be fully integrated with the existing Facilities of the City, for the purposes of operation, maintenance, repair, replacement, extension and improvements. In the event of the Authority's default under any indenture or other instrument securing indebtedness incurred by the Authority which results in the appointment of temporary or permanent receivers or trustees for the Trust Estate of the Authority, or any part thereof, the City hereby agrees to perform with respect to such receivers or trustees, all covenants and agreements herein undertaken with respect to the Authority.

In the event of the City's default hereunder, the City agrees to continue to perform the agreements of the City set out in Section 2 hereof, and promptly remit all revenues from the Facilities to the Authority.

SECTION 9. CONFIRMATION OF TRANSFER: The value of the property subject to transfer under this Agreement exceeds Two Hundred and Fifty Thousand Dollars (\$250,000.00) in value. This transaction is therefore subject to the provisions of Section 4.2, Stillwater City Charter which provides as follows:

- (1) By authority of an ordinance approved or enacted at an election by an affirmative vote of a majority of the qualified voters of the city who vote on the question of approving or enacting the ordinance (the ordinance being submitted to the voters by the city council or by initiative of the voters); or
- (2) By authority of a non-emergency ordinance passed by the city council, which shall be published in full in a newspaper authorized by law to publish legal publications within ten (10) days after its passage, and which shall include a section reading substantially as follows:

"Section . If one or more petitions with signatures of registered qualified voters of the city equal to at least twenty-five (25) percent of the total number of votes cast in the last scheduled general municipal election are filed with the city clerk within thirty (30) days after passage and publication of this ordinance, this ordinance shall not go into effect until the petition or petitions are finally found to be illegal and/or insufficient, or, if any such petition is found legal and sufficient, until the ordinance is approved at an election by a majority of the qualified voters voting on the question . If no petition with signatures is filed, this ordinance shall go into effect thirty (30) days after its passage and publication."

The Authority acknowledges that this transaction is subject to said Charter provision and that it has no right to seek specific performance or any other remedy to compel the conveyance of the property should the voters reject the sale under this Agreement. The Authority further acknowledges and agrees that it has no right to damages or any other compensation permitted under this Agreement should the voters reject the sale of the property pursuant to this Charter provision.

[Remainder of Page
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IN WITNESS WHEREOF, the City has caused this instrument to be signed by its Mayor and City Clerk and its seal affixed, and the Authority has caused this instrument to be signed by its Chairman and Secretary and its seal affixed, all as of the ____ day of _____, 2024.

CITY OF STILLWATER, OKLAHOMA

(SEAL)
ATTEST:

Mayor

City Clerk

STILLWATER UTILITIES AUTHORITY

(SEAL)
ATTEST:

Chairman

Secretary

STATE OF OKLAHOMA)
)SS
COUNTY OF PAYNE)

BEFORE ME, the undersigned, a Notary Public in and for said State, on the ____ day of _____, 2024, personally appeared William H. Joyce, Mayor, and Teresa Kadavy, City Clerk, of the City of Stillwater, Oklahoma, and to me further known to be the identical persons who subscribed the name of said City as one of the makers thereof, to the foregoing instrument as its Mayor and City Clerk, respectively, and acknowledged to me that they executed the same as their free and entirely voluntary act and deed and as the free and voluntary act and deed of said City, for the uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year aforesaid.

(SEAL)

Notary Public

My Commission Expires: _____.
Commission No.: _____.

STATE OF OKLAHOMA)
)SS
COUNTY OF PAYNE)

BEFORE ME, the undersigned, a Notary Public in and for said State, on the ____ day of _____, 2024, personally appeared William H. Joyce, Chairman, and Teresa Kadavy, Secretary, of the Trustees of the Stillwater Utilities Authority, the makers of the above and foregoing instrument of writing, and to me further known to be the identical persons who subscribed the names of the makers thereof to the foregoing instrument, and acknowledged to me that they executed the same as their free and voluntary act and deed, and as the free and voluntary act and deed of said Trustees for the uses and purposes therein mentioned and set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year aforesaid.

(SEAL)

Notary Public

My Commission Expires: _____.
Commission No.: _____.

EXHIBIT “A”

Exhibit A-1

ORDINANCE NO. 3545

AN ORDINANCE AMENDING THE STILLWATER CITY CODE BY AMENDING CHAPTER 20, FIRE PREVENTION AND PROTECTION, ARTICLE II, FIRE DEPARTMENT, BY AMENDING SECTION 20-30, FIRE SERVICE FEES BY DESIGNATING HOW FUNDS COLLECTED ARE TO BE USED AND BY INCREASING THE RURAL FIRE SERVICES CONTRACT ANNUAL FEE; REPEALING ALL ORDINANCES TO THE CONTRARY; AND PROVIDING FOR SEVERABILITY.

(AMENDMENTS HIGHLIGHTED BY STRIKETHROUGH AND UNDERLINING)

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

SECTION 1: That the Stillwater City Code, Chapter 20, Fire Prevention and Protection, Article II, Fire Department, Section 20-30, Fire service fees, be amended to read as follows:

Sec. 20-30. Fire service fees.

There shall be a fee charged by the city for any fire services delivered outside the corporate limits of the city. The fee for services authorized herein shall be established by city council resolution.

(1) The fee, which shall be collected by the director of finance, shall be levied and charged against the property owner or lessee upon whose property the fire department provides fire and/or rescue services. Fees collected pursuant to this section shall be placed in a designated Fire Fund and utilized to support the operations of the Stillwater Fire Department.

(2) Owners or lessees of real property located in unincorporated areas of the county may contract with the city for fire services authorized under this article, provided the property to be served:

- (a) lies within ten road miles of the nearest fire station;
- (b) does not lie within the jurisdiction of another fire service entity;
- (c) is not owned by a federal, state, county or other local government entity;
- (d) is not primarily used for the storage, distribution, sale, transportation and/or disposal of flammable liquids and/or gases, or hazardous, dangerous, and/or other materials or activities regulated by federal or state law; and
- (e) the property owner or lessee pays a two hundred dollar (\$200.00) ~~one hundred dollar (\$100.00)~~ annual fee.

If the annual fee described in subsection (2)(e) above has been paid and the fire department provides services as provided in this article, the maximum fee charged for such services shall be capped at two thousand dollars (\$2,000.00) ~~one thousand dollars (\$1,000.00)~~ per run for the period beginning January 1, 2025 ~~2009 and ending December 31, 2009, and thereafter at two thousand dollars (\$2,000.00) per run. If the fee described in subsection (2)(e) above is not paid prior to the time service is rendered, the fee assessed for a response by the fire department shall be subject to the provisions of subsection (3) below.~~

(3) If the property owner or lessee either does not qualify to contract for service, or if qualified to contract elects not to contract, the full cost any service

rendered by the fire department shall be billed to the property owner or lessee in accordance with the rate schedule resolution authorized by subsection (1).

SECTION 2: REPEALER. All ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

SECTION 3: SEVERABILITY. If any section, subsection, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by a Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

Passed, approved, and adopted this 7th day of October, 2024.

William H. Joyce, Mayor

(SEAL)
ATTEST:

Teresa Kadavy, City Clerk

Approved as to form and legality, this 7th day of October, 2024.

Kimberly Carnley, City Attorney

First Reading: 9/23/2024
Second Reading: 10/07/2024