



Together, Investing in Municipal Excellence

**CITY COUNCIL MEETING AGENDA**  
 FEBRUARY 9, 2026

723 S. Lewis Street, Room 1122  
 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.	Stillwater Public Art Presentation	Dawn Dodson
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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 January 26, 2026 regular and executive session meeting minutes.	
b.	Approve budget amendments to close out Federal Aviation Administration grants #3-40-0090-039-2023 and #3-40-0090-040-2023 for the design of the new terminal.	Jared Thulin
c.	Approve Memo to set the public hearing date for March 23rd, 2026 for the closing of easement(s) on property located at 410 W. Franklin Avenue per application by Independent School District No. 16 as required by City Code 23-60(b).	Henry Bibelheimer
d.	Approve the Construction Manager at Risk Agreement with	Bill Millis

	Nabholz Construction Corporation for construction of the new Stillwater Animal Welfare Facility.		
e.	Approve annual federal grant compliance plans to include Anti-displacement Plan, Citizen Participation Plan, Fair Housing Plan, Minority/Women Business Enterprises Plan, and Section 3 Plan for calendar year 2026.	CC-26-19	Shelly Crynes
f.	Approve the granting of three (3) gas line easements to Heritage Petroleum over City properties located around the proposed YMCA site at 799 W 12th Avenue.	CC-26-20	Henry Bibelheimer
g.	Approve budget amendments reflecting receipt and appropriation of \$5,132 in donations to the Stillwater Public Library.	CC-26-21	Stacy Delano
h.	Approve budget amendments reflecting receipt and appropriation of \$350 in Oklahoma Humanities grant funds to the Stillwater Public Library.	CC-26-22	Stacy Delano
i.	Approve budget amendments reflecting receipt and appropriation of \$20,117 in Oklahoma Department of Libraries State Aid grant funds to the Stillwater Public Library.	CC-26-23	Stacy Delano
j.	Approve contract with Oklahoma Department of Libraries for grant funds in the amount of \$100,000 for the Stillwater Public Library to purchase and provide eMedia resources on the Oklahoma Virtual Library Consortium; authorize the City Manager to execute the contract; approve budget amendments reflecting receipt and expenditure of the funds; and authorize a sole source purchase in the amount of \$100,000 of the downloadable content from Overdrive.	CC-26-24	Stacy Delano
k.	Accept permanent easement and authorize the mayor to execute the easement documents for: <ul style="list-style-type: none"> <li>• Parcel 4A - Airport Water line Project with AREC 28, LLC</li> </ul>	CC-26-25	Bill Millis

I.	Accept permanent easement and authorize the mayor to execute the easement documents for: <ul style="list-style-type: none"> <li>Parcel 1A – Sangre Waterline Project with Vicky G. Jerome AKA Victoria G. Gerome and Todd L. Gerome</li> </ul>	CC-26-26	Bill Millis
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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.	<p>Pursuant to 11 O.S. § 22-121, the Stillwater City Council will conduct a hearing to determine whether the apartments located at 1815 North Boomer Road, Stillwater, Oklahoma (the “Dwellings”), constitute a public nuisance as defined in 50 O.S. § 2 and Section 18-64 of the City of Stillwater Code of Ordinances and as designated as a nuisance in Section 18-71 of the City of Stillwater Code of Ordinances on February 9, 2026, at 5:30 P.M., in the City Council Hearing Room, 723 South Lewis Street, Stillwater, Oklahoma. At said date and time, the City Council shall make a determination as to whether said Dwellings constitute a public nuisance as defined by the referenced statutes and ordinances and whether to order the abatement of said Dwellings as authorized by 50 O.S. § 11 and Section 18-69 of the City of Stillwater Code of Ordinances and the assessment of all associated costs thereof to the owners of said property.</p> <p>For purposes of this hearing and process, the City of Stillwater alleges that the Dwellings located at 1815 North Boomer Road, Stillwater, Oklahoma, constitute a public nuisance in accordance with 11 O.S. § 22-121, and Sections 18-71, 18-152, 18-153, and 10-111 of the Stillwater Code of Ordinances,</p>	Beth Ann Childs
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	<p>because of the following:</p> <ol style="list-style-type: none"> <li>1. Said Dwellings, which through neglect or injury lack necessary repairs or otherwise are in a state of decay or partial ruin to such an extent that it is a hazard to the health, safety, or welfare of the general public and, in particular, the residents of the Dwellings.</li> <li>2. Said Dwellings are unfit for human occupancy due to the lack of hot water and heat which is a hazard to the health, safety, and welfare of the public, including the residents and visitors.</li> <li>3. With regard to the foregoing, said Dwellings are presently maintained in violation of the following sections of the 2018 International Property Maintenance Code: <ol style="list-style-type: none"> <li>a. IPMC 505.1 GENERAL. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water supply system or to an approved private water system. Kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the International Plumbing Code.</li> <li>b. IPMC 505.3 SUPPLY: The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.</li> <li>c. IPMC 505.4 WATER HEATING FACILITIES: Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature not less than 110°.</li> <li>d. IPMC 602.3 HEAT SUPPLY: Heat shall be supplied in all habitable rooms, bathrooms and toilet rooms in order to maintain a minimum temperature of 68°.</li> </ol> </li> </ol>		
b.	<p>Receive public comment regarding a Text Amendment to Stillwater City Code Chapter 23, Land Development Code, Article I General Provisions, Section 23-7, Definitions; Article V, Use Categories and Limitations, Division 1, Generally, Section 23-96, Definitions; Article VI,</p>	CC-26-27	Henry Bibelheimer

	Land Use Classifications, Division 3, Residential Districts, Section 23-140, RMI (Multi-Family Intermediate) District, and Section 23-141 RMU (Multi-Family Urban) District; and Article IX, Landscaping, Screening, and Environmental Standards, Section 23-230, Generally.		
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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 the Stillwater Public Library’s “Stillwater Fire Department Collection” which was digitized as an archive collection through a grant from the Oklahoma Historical Society.	CC-26-28	Stacy Delano
b.	Presentation by Washington School Advisory Committee to present the committee’s 2026 proposed work plan; including possible action to approve the 2026 work plan and authorize the City Manager to execute site access agreements as necessary to allow execution of the work plan.		Christy Driskel

**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-2026-2: A RESOLUTION OF THE STILLWATER CITY COUNCIL DECLARING THE APARTMENTS LOCATED AT 1815 NORTH BOOMER ROAD, STILLWATER, OKLAHOMA, A PUBLIC NUISANCE DETRIMENTAL TO THE HEALTH, SAFETY, AND WELFARE OF THE GENERAL PUBLIC AND THE COMMUNITY; ORDERING THE NUISANCE TO BE ABATED IN ACCORDANCE WITH 50 O.S. § 11 AND SECTION 18-69 OF THE CITY OF STILLWATER CODE OF ORDINANCES; AUTHORIZING THE FILING OF A DISTRICT COURT ACTION SEEKING A JUDICIAL DECLARATION THAT THE APARTMENTS CONSTITUTE A PUBLIC NUSANCE AND ENTERING AN ORDER AUTHORIZING THE CITY OF STILLWATER TO ABATE THE PUBLIC NUISANCES ON THESE PROPERTIES WITH COSTS TO BE PAID BY THE OWNER OF THE PROPERTIES; AND AUTHORIZING THE CITY MANAGER TO TAKE ALL ACTIONS REASONABLY NECESSARY TO PROCEED WITH THE ABATEMENT AND DISTRICT COURT CAUSE OF ACTION		
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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. 3590: AN ORDINANCE AMENDING STILLWATER CITY CODE CHAPTER 23, LAND DEVELOPMENT CODE, ARTICLE I, GENERAL PROVISIONS, SECTION 23-7, DEFINITIONS; ARTICLE V, USE CATEGORIES AND LIMITATIONS, DIVISION 1, GENERALLY, SECTION 23-96, DEFINITIONS; ARTICLE VI, LAND USE CLASSIFICATIONS, DIVISION 3, RESIDENTIAL DISTRICTS, SECTION 23-140, RMI (MULTI-FAMILY INTERMEDIATE) DISTRICT, AND SECTION 23-141 RMU (MULTI-FAMILY URBAN) DISTRICT; AND ARTICLE IX, LANDSCAPING, SCREENING, AND ENVIRONMENTAL STANDARDS, SECTION 23-230, GENERALLY; REPEALING ALL ORDINANCES TO THE CONTRARY; AND PROVIDING FOR SEVERABILITY.
b.	ORDINANCE NO. 3592: AN ORDINANCE AMENDING THE STILLWATER CITY CODE BY CREATING A NEW CHAPTER 30, MUNICIPAL CODE LIEN ENFORCEMENT; CREATING SECTION 30-1, ADOPTION OF THE MUNICIPAL CODE LIEN ENFORCEMENT ACT OF 2025; CREATING SECTION 30-2, DEFINITIONS; CREATING SECTION 30-3, CODE VIOLATION FEES AND COSTS ENFORCED IN REM; OWNER-OCCUPIED PROPERTY EXCEPTION; PRIORITY; CREATING SECTION 30-4, IN REM FORECLOSURE OF MUNICIPAL CODE LIENS; CREATING 30-5, CODE ENFORCEMENT; IDENTIFICATION OF PROPERTIES; PETITION; NOTICE; REPEALING ALL ORDINANCES TO THE CONTRARY; AND PROVIDING FOR SEVERABILITY.

Second Read

a.	ORDINANCE NO. 3591: AN ORDINANCE AMENDING THE STILLWATER CITY CODE BY CREATING A NEW CHAPTER 34, "PUBLIC ART PROGRAM;" CREATING SECTION 34-1, "PURPOSE;" CREATING SECTION 34-2, "DEFINITIONS;" CREATING SECTION 34-3, "FUND ESTABLISHED;" CREATING SECTION 34-4, "ADMINISTRATION;" CREATING SECTION 34-5, "STILLWATER PUBLIC ART COMMITTEE;" CREATING SECTION 34-6, "DISPLAY OF PUBLIC ART;" CREATING SECTION 34-7, "INFRASTRUCTURE ART SPONSORSHIP PROGRAM;" 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

12. Questions and Inquiries

13. Adjourn

On February 6, 2026 at 11:15 a.m., a true and correct copy of this agenda was posted on the kiosk outside City Hall, 723 S. Lewis Street, Stillwater, OK.

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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.

**IN ACCORDANCE WITH THE OKLAHOMA OPEN MEETING LAW  
THE AGENDA WAS POSTED JANUARY 22, 2026 AT 5:20 P.M.  
AT THE MUNICIPAL BUILDING, 723 SOUTH LEWIS, STILLWATER, OKLAHOMA**

**MINUTES  
STILLWATER CITY COUNCIL  
REGULAR MEETING  
COUNCIL HEARING ROOM  
723 S. LEWIS  
JANUARY 26, 2026**

**PRESENT: MAYOR WILLIAM H. JOYCE, VICE MAYOR AMY DZIALOWSKI,  
COUNCILORS CHRISTIE HAWKINS, KEVIN CLARK AND TIM HARDIN**  
**ABSENT: NONE**

**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 January 12, 2026 regular meeting minutes.
- b. Approve a budget amendment to return unused project appropriations for completed transportation projects (FY20 Pavement Management Plan) to the fund balance of the Transportation Sales Tax Fund.
- c. Approve budget amendments to reflect receipt of a grant from the Grand River Dam Authority (GRDA) for the purchase of an outdoor sound system for Block 34 KICKER Soundstage.
- d. Approve a budget amendment to return unused project appropriations for completed projects (Couch Park bathroom, City Hall chiller replacement and vehicle upfitting) to the fund balance of the City Capital Fund.
- e. Approve budget amendments to reflect receipt of a grant from the Oklahoma Bureau of Investigation for the Internet Crimes Against Children (ICAC) grant for travel and training to the Northwest ICAC & Technology Conference.
- f. Approve budget amendments to reflect receipt and appropriation of insurance proceeds related to property damage.
- g. Approve Task Order No. 3 to the Professional Services Agreement (PSA) with Benham Design, LLC for FY25 Pavement Management Program in the amount of \$983,307; authorize total expenditures of \$1,081,637, which includes design, bidding, construction administration, and contingency (10%); approve Amendment No. 1 to the same PSA allowing Task Orders under this same Agreement for implementation of the FY26 PMP; authorize the City Manager to execute related documents; and approve the associated budget amendment.
- h. Acceptance of utility and access easements for construction of the Sigma Chi House as follows:
  - Access Easement from Gamma Delta Investors, LLC at 221 S. Lincoln Street
  - Access Easement from Sigma Omicron Housing Association, Inc., at 1123 W. University
  - General Utility Easement from Gamma Delta Chapter of Sigma Chi House Corporation, consisting of 1,500 square feet, more or less at 1101 W. University
  - General Utility Easement from Sigma Omicron Housing Association, Inc., consisting of 1,500 square feet, more or less at 1123 W. University Avenue

- General Utility Easement from Gamma Delta Investors, LLC, consisting of 1,500 square feet, more or less at 221 S. Lincoln
  - General Utility Easement from Gamma Delta Chapter of Sigma Chi House Corporation, consisting of 1,500 square feet, more or less at 206 & 224 S. Monroe
- i. Approve a contract with Action Safety Supply Co., L.L.C. using the Statewide Contract SW0776, Solicitation No. 0900000516 — Traffic Striping, for citywide pavement marking and striping services in an amount not to exceed \$400,000; authorize the City Manager to execute all documents; authorize expenditures of \$400,000; and approve the associated Budget Amendment.

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

ROLL CALL VOTE: JOYCE-YEA, DZIALOWSKI-YEA, HAWKINS-YEA, CLARK-YEA, HARDIN-YEA. NAY-NONE. MOTION CARRIED WITH FIVE 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. ORDINANCES**

##### **a. First Reading**

Ordinance No. 3591: An ordinance amending the Stillwater City Code by Creating a New Chapter 34, "Public Art Program;" Creating Section 34-1, "Purpose;" Creating Section 34-2, "Definitions;" Creating Section 34-3, "Fund Established;" Creating Section 34-4, "Administration;" Creating Section 34-5, "Stillwater Public Art Committee;" Creating Section 34-6, "Display Of Public Art;" Creating Section 34-7, "Infrastructure Art Sponsorship Program;" Repealing All Ordinances To The Contrary; And Providing For Severability

Communications Director Dawn Dodson reported that this ordinance is about formally establishing Stillwater Public Art as an official City program. We already do this work today through the Stillwater Art Integration initiative which simply provides structure, clarity and longevity, while establishing a donation fund. She stated that a little more than three years ago we started Stilwater Art Integration. The goals were simple: to add art in our community, encourage local existing and new artists, and also increase public awareness of existing art spaces and installations. Ms. Dodson reported that the initial program began with a small group wanting to beautify Chris Salmon Plaza by adding murals. We pursued a grant to fund this project, and while we did not receive the funding, we found another solution and strengthened partnerships with our talented OSU art students and professors and Prairie Arts. Since that project, we added the utility art box program, and have another fun project regarding storm drains to be shared soon with the community. Ms. Dodson stated that what initially began as a small group has grown to include many community partners and businesses. Establishing Stillwater Public Art will help us:

- Identify and catalog existing public art across Stillwater.
- Increase public awareness of our art spaces and installations.
- Thoughtfully identify future public spaces where art could enhance placemaking.
- Establish a formal process for art donations, acquisitions and related funding.
- We believe that people and businesses want to invest and grow in beautiful places where they feel safe, a sense of place, community pride and enhances their quality of life.

Ms. Dodson stated that this is a foundational step that positions Stillwater well for future partnerships, donations and thoughtful growth of public art.

City Manager Brady Moore thanked Dawn for all the work she has done with Stillwater Art Integration and now becoming more of a formalized program for the City. Mr. Moore reported that the City has a community partner that has agreed to make a sizable donation to help kick this program off and staff hopes to be announcing that at a City Council meeting soon.

City Attorney Kimberly Carnley stated that discussions have been held with Assistant City Manager and Chief Financial Officer Christy Cluck regarding the considerations that will have to be formulated by guidelines or other processes approved by the Council. This Ordinance just says establish the program, establish the fund and establish the committee. Staff still needs to work through the process for Council to accept those donations before they are deposited and how those funds will be appropriated.

MOTION BY VICE CHAIR DZIALOWSKI, SECOND BY COUNCILOR HAWKINS TO ADVANCE ORDINANCE NO. 3591 TO SECOND READ AS PRESENTED.

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

## **7. APPOINTMENTS**

### **a. Board of Adjustment**

MOTION BY MAYOR JOYCE, SECOND BY COUNCILOR CLARK TO APPOINT MIKE WOODS AND JANTZEN HARRISON TO NEW THREE (3) YEAR TERMS ON THE BOARD OF ADJUSTMENT THAT WILL EXPIRE JANUARY 2029.

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

### **b. Sister Cities Council**

MOTION BY MAYOR JOYCE, SECOND BY COUNCILOR HAWKINS TO APPOINT ANNA BOSMA TO THE STILLWATER SISTER CITIES COUNCIL AS YOUTH REPRESENTATIVE.

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

## **8. REPORTS FROM OFFICERS & BOARDS**

### **a. Miscellaneous items from the City Attorney:**

- i. Request for an executive session pursuant to 25 O.S. § 307(B)(1) for the purpose of discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of City Manager Brady Moore.
- ii. Request for an executive session pursuant to 25 O.S. § 307(B)(1) for the purpose of discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of City Attorney Kimberly Carnley.

### **b. Miscellaneous items from the City Manager:**

- City Manager Brady Moore announced that City offices will be closed for Presidents Day on Monday, February 16. Trash, recycling, and yard waste will still be collected. Make sure to set your carts out by 6 a.m. because collection routes can vary.

### **c. Miscellaneous items from the City Council:**

- Councilor Hardin reminded residents to please remember to apply or renew their burglar or fire alarm permit registration with Stillwater Police. Permits are \$6 per alarm, and free to government entities and also residents who are 62 years of age or older. If you live outside of city limits, but within the Stillwater Fire Department's response areas, please consider purchasing a Rural Fire Service Contract. The annual fee is \$200, and the contract provides assurances that could save you thousands. The City wants to help in all ways possible to keep you and your family protected and safe.
- Councilor Clark reported that the past few days of severe winter weather are a reminder to follow Stillwater Emergency Management on Facebook and make sure to check the City's emergency page at [stillwaterok.gov/emergency](http://stillwaterok.gov/emergency). Residents may also want to opt-in to receive important notifications on their phones. This will provide them with the latest emergency notifications, warnings, and watches. Please make sure you are prepared, weather aware, and connected. Many thanks to Rob Hill and the SEMA team for all of their efforts to keep us informed and safe throughout the past few days.
- Councilor Hawkins invited residents to please join us for the annual "Meet Your Legislators," event this Thursday, January 29, from 6-8 p.m. at the Stillwater Public Library. This is a great opportunity to ask questions, build relationships, and share concerns with your elected officials, including City Councilors and Payne County Commissioners. Many thanks to Stillwater League of Women Voters and Friends of the Stillwater Public Library for hosting the event.
- Vice Mayor Dzialowski reminded residents that it's that time of year to file taxes and the Stillwater Library is offering assistance. Community members can schedule appointments for free tax preparation assistance from the American Association of Retired Persons (AARP) by scheduling an appointment online at: [stillwaterok.gov/LibraryTaxes](http://stillwaterok.gov/LibraryTaxes), or by calling (405) 372-3633, extension 8103. Appointments are available now through April 7.
- Mayor Joyce stated that during this severe winter weather, City of Stillwater employees across Public Works, Waste Management, Electric, Water, and so many other departments have been working long hours, often in difficult conditions, to keep essential services running, restore outages, make repairs, and keep our community safe. We are incredibly grateful for their dedication, teamwork, and commitment to Stillwater. Thank you for all you do every day and especially when it matters most.
- Mayor Joyce reported that the Washington Street School is partially demolished as planned and now the 1938 original "T" structure can be seen.
  - i. Discussion about scheduling items for future meetings.

## 9. QUESTIONS & INQUIRIES

None.

## 10. EXECUTIVE SESSION

- a. Confidential communications for the purpose of discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of City Manager Brady Moore.
- b. Confidential communications for the purpose of discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of City Attorney Kimberly Carnley.

MOTION BY MAYOR JOYCE, SECOND BY VICE MAYOR DZIALOWSKI TO RECESS THE STILLWATER CITY COUNCIL MEETING AT 5:44 P.M.

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

Stillwater City Council meeting recessed at 5:44 p.m. to convene Stillwater Utilities Authority meeting.

Stillwater City Council reconvened at 5:57 p.m.

MOTION BY COUNCILOR HARDIN, SECOND BY COUNCILOR CLARK TO ENTER INTO EXECUTIVE SESSION AT 5:57 P.M

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

#### **11. RETURN FROM EXECUTIVE SESSION**

MOTION BY COUNCILOR CLARK, SECOND BY COUNCILOR HARDIN TO RECONVENE THE REGULAR STILLWATER CITY COUNCIL MEETING AT 8:25 P.M.

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

- a. No action was taken on this item.
- b. No action was taken on this item.

#### **12. ADJOURN**

MOTION BY COUNCILOR HARDIN, SECOND BY VICE MAYOR DZIALOWSKI TO ADJOURN THE JANUARY 26, 2026 REGULAR MEETING OF THE STILLWATER CITY COUNCIL.

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

The January 26, 2026 regular meeting of the Stillwater City Council adjourned at 8:25 p.m.

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

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**TERESA KADAVY  
CITY CLERK**

**IN ACCORDANCE WITH THE OKLAHOMA OPEN MEETING LAW,  
THE AGENDA WAS POSTED JANUARY 22, 2026 AT 5:20 P.M. AT  
THE MUNICIPAL BUILDING, 723 SOUTH LEWIS, STILLWATER, OKLAHOMA**

**MINUTES  
STILLWATER CITY COUNCIL  
EXECUTIVE SESSION  
723 S. LEWIS  
STILLWATER, OK 74074  
JANUARY 26, 2026  
5:57 P.M.**

**PRESENT: MAYOR WILLIAM H. JOYCE, VICE MAYOR AMY DZIALOWSKI,  
COUNCILORS CHRISTIE HAWKINS, KEVIN CLARK AND TIM HARDIN**  
**ABSENT: NONE**

- a. Confidential communication regarding the employment, appointment, promotion, demotion, disciplining, or resignation of City Manager Brady Moore.

Discussion was held regarding the employment, appointment, promotion, demotion, disciplining, or resignation of City Manager Brady Moore, pursuant to 25 O.S. §307 (B)(1).

- b. Confidential communication regarding the employment, appointment, promotion, demotion, disciplining, or resignation of City Attorney Kimberly Carnley.

Discussion was held regarding the employment, appointment, promotion, demotion, disciplining, or resignation of City Attorney Kimberly Carnley pursuant to 25 O.S. §307 (B)(1).

The Executive Session concluded at 8:25 p.m.

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**WILLIAM H. JOYCE, MAYOR**

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**TERESA KADAVY, CITY CLERK**

Budget Amendment Request  
For Budget Year 2026

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

Office: 405.372.0025  
Web: stillwater.org

Date: 02/02/2026

Department: Finance

Requested by: Jared Thulin

Explanation: Revenue:  
To close Airport Improvement Program Project No. 3-40-0090-039-2023 and Airport Infrastructure Grant Project No. 3-40-0090-040-2023 for the design of the new airport terminal. This amendment reduces the Federal grant revenue to be received due to the project being completed under budget.


Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount	
Increase:	-				\$ 0	
	-				\$ 0	
	-				\$ 0	
	-				\$ 0	
	-				\$ 0	
Decrease:	Terminal 039-23/Federal Grant Rev	8207010 - 43100	23AP04820	\$ 18.884	(\$ 10.125)	\$ 8,759
	Terminal 040-23/Federal Grant Rev	8207010 - 43100	23AP05820	\$ 18.884	(\$ 10,125)	\$ 8,759
	-				\$ 0	
	-				\$ 0	
	-				\$ 0	

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

**(\$ 20,250)**

Reviewed by Department Manager: \_\_\_\_\_

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

Reviewed by Finance: 

Date: 2/2/2026

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 2026

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

Office: 405.372.0025  
Web: stillwater.org

Date: 02/02/2026

Department: Finance

Requested by: Jared Thulin

Explanation: Expenditures:  
To close Airport Improvement Program Project No. 3-40-0090-039-2023 and Airport Infrastructure Grant Project No. 3-40-0090-040-2023 for the design of the new airport terminal. Funds are being returned to the fund balance of the Airport Grant Fund.


Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount	
Increase:	-				\$ 0	
	-				\$ 0	
	-				\$ 0	
	-				\$ 0	
	-				\$ 0	
Decrease:	Terminal 039-23/Const Prof Services	8207010 - 54020	23AP04820	\$ 11,245	(\$ 11,245)	\$ 0
	Terminal 040-23/Const Prof Services	8207010 - 54020	23AP05820	\$ 41,104	(\$ 41,104)	\$ 0
	-				\$ 0	
	-				\$ 0	
	-				\$ 0	

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

**(\$ 52,349)**

Reviewed by Department Manager: \_\_\_\_\_

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

Reviewed by Finance:  \_\_\_\_\_

Date: 2/2/2026

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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## MEMORANDUM

DATE: February 9, 2026  
HEARING DATE: March 23, 2026  
TO: Stillwater City Council  
FROM: Henry Bibelheimer, Senior Planner  
SUBJECT: Closing multiple utility, drainage, and pedestrian easements located on property at 410 W Franklin Avenue.

Staff is requesting a public hearing on the school district's application to close multiple general utility, drainage and pedestrian easements over the property located at 410 W Franklin Avenue. This property is owned by the school district and is the site of the new Stillwater High School. These easements are:

- General Utility, Drainage, and Pedestrian easement
  - o Book 698, Page 346
- Utility Easement – Cimarron Plaza Dedication
  - o Book 695, Page 015
- Utility Easement (1979)
  - o Book 444, Page 387

Per Stillwater City Code Section 23.60, the City Council must set a date for the consideration of a closing request. The fixed date must be a minimum of 30 days in advance in order for the proper notification to be met. Staff recommends setting the hearing date for March 23, 2026.

This closing is proposed to be heard concurrently with the final plat for the new Stillwater High School. The final plat will be dedicating all easements required to replace the easements that are requested to be closed.

 **AIA**® Document A133® – 2019

**Standard Form of Agreement Between Owner and Construction Manager as Constructor** where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

**AGREEMENT** made as of the 9th day of February in the year 2026  
(In words, indicate day, month, and year.)

**BETWEEN** the Owner:

City of Stillwater, Oklahoma,  
723 S. Lewis Street  
Stillwater, OK 74074  
(405) 372-0025

and the Construction Manager:

Nabholz Construction Corporation  
301 NW 13<sup>th</sup> Street  
Suite 104  
Oklahoma City, OK 73103

for the following Project:

Stillwater Animal Welfare Facility  
3111 N. Hargis Rd.  
Stillwater, Oklahoma 74075

Construct a new animal welfare facility on land owned by the City situated on Hargis Road just north of the City's Waste Management Administration Building. The new facility will provide increased overall square footage, a specialized air ventilation system, a customized washdown and drainage plumbing system for kennels and other areas, increased kennel capacity for cats and dogs, intake and adoption areas, an outdoor exercise area and a floorplan and construction style that allows for future building expansion.

The Architect:

(Name, address, and other information)

Barrett L. Williamson Architects  
102 W. Apache  
Norman, OK 73069  
(405) 360-1566

The Owner and Construction Manager agree as follows.

**ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

## TABLE OF ARTICLES

1	INITIAL INFORMATION
2	GENERAL PROVISIONS
3	CONSTRUCTION MANAGER'S RESPONSIBILITIES
4	OWNER'S RESPONSIBILITIES
5	COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
6	COMPENSATION FOR CONSTRUCTION PHASE SERVICES
7	COST OF THE WORK FOR CONSTRUCTION PHASE
8	DISCOUNTS, REBATES, AND REFUNDS
9	SUBCONTRACTS AND OTHER AGREEMENTS
10	ACCOUNTING RECORDS
11	PAYMENTS FOR CONSTRUCTION PHASE SERVICES
12	DISPUTE RESOLUTION
13	TERMINATION OR SUSPENSION
14	MISCELLANEOUS PROVISIONS
15	SCOPE OF THE AGREEMENT

### EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT

### EXHIBIT B INSURANCE AND BONDS

## ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:

*(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)*

Construction of a new approximately 12,000 sq ft. Stillwater Animal Welfare Facility as further described above.

§ 1.1.2 The Project's physical characteristics:

*(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)*

Approximate Building Size: 12,000 square feet, single-story, CMU and steel structure.

Site features include parking lots for staff and visitors, outdoor play yards, kennels, and a screened sally port.

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:

*(Provide total and, if known, a line item breakdown.)*

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User Notes:

(1768569196)

Owner's Preliminary Construction Budget: Approximately \$6,713,368.00. Construction Manager does not guarantee any budget, estimate, date, or schedule except the Guaranteed Maximum Price, date of Substantial Completion, and Final Completion Date as set forth in the GMP Amendment in accordance with this Agreement.

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

100% Design (per BLW Architects)	June 2026
Bid Packages Out	July 2026
Trade Partner Bid Awards	August 2026
Amendment No. 1 for GMP	September 2026
Notice to Proceed with Construction Services	September 2026
Substantial Completion for the Project	TBD at GMP Amendment

*(Paragraphs deleted)*

Final Acceptance by City 45 Days after Substantial Completion

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:  
*(Identify any requirements for fast-track scheduling or phased construction.)*

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:  
*(Identify and describe the Owner's Sustainable Objective for the Project, if any.)*

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, upon request of the Owner and Construction Manager shall complete and incorporate AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, as may be amended by the parties, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234-2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234-2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 Other Project information:  
*(Identify special characteristics or needs of the Project not provided elsewhere.)*

N/A

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:  
*(List name, address, and other contact information.)*

Bill Millis, Director of Engineering  
City of Stillwater  
723 S. Lewis St.  
Stillwater, OK 74075  
(405) 742-8000

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:  
*(List name, address and other contact information.)*

Barrett L. Williamson Architects, and their designated subconsultants, in coordination with the City of Stillwater

§ 1.1.10 The Owner shall retain the following consultants and contractors:  
*(List name, legal status, address, and other contact information.)*

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User Notes:

(1768569196)

.1 Geotechnical Engineer:

To be retained by the City of Stillwater. – unknown at the date of execution.

.2 Civil Engineer:

TBD

.3 Other, if any:

*(List any other consultants retained by the Owner, such as a Project or Program Manager.)*

TBD

§ 1.1.11 The Architect's representative:

*(List name, address, and other contact information.)*

Barrett L. Williamson Architects  
102 W. Apache  
Norman, OK 73069  
(405) 360-1566  
Email: [blw@blwarchitects.com](mailto:blw@blwarchitects.com)  
Representative: Barrett L. Williamson, AIA

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:

*(List name, address, and other contact information.)*

Eric Schiess, Project Executive  
Nabholz Construction Corporation  
301 NW 13<sup>th</sup> Street  
Suite 104  
Oklahoma City, OK 73103  
Email: [Eric.Schiess@Nabholz.com](mailto:Eric.Schiess@Nabholz.com)

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:

*(List any Owner-specific requirements to be included in the staffing plan.)*

N/A

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:

*(List any Owner-specific requirements for subcontractor procurement.)*

All subcontracts shall follow the procedures for awarding work as set forth in the Public Construction Management Act for Political Subdivisions as set forth in 61 O.S. § 217.

All subcontractors shall be qualified to perform the work and possess the appropriate license and permits for their work. Subcontracts shall conform to the applicable payment provisions of this Agreement. The Construction Manager shall be responsible for coordination of the work of the trades, construction subcontractors, subcontractors, and material men. The City and its representatives will not undertake to settle any differences between Construction Manager and Subcontractors, or between Subcontractors. Nothing contained in this Agreement shall contain any obligation or liabilities by the City to a Subcontractor.

Subcontractor Bonds & Insurance: The Construction Manager shall require Payment, Performance, and Maintenance Bonds from each of its Subcontractors on approved forms in the full amount of each trade subcontract, naming the Construction Manager and the City of Stillwater as obligees. Each Subcontractor shall carry Commercial General Liability Insurance in the amounts required by the Construction Manager. Each trade subcontractor shall name the Construction Manager and the City of Stillwater as additional insureds on the Subcontractor's General Liability and

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Automobile Insurance policies. The Construction Manager shall obtain a certificate of insurance from each trade Subcontractor and provide the same to the City.

**§ 1.1.15 Other Initial Information on which this Agreement is based:**

N/A

**§ 1.2** The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change, and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

**§ 1.3** Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

**ARTICLE 2 GENERAL PROVISIONS**

**§ 2.1 The Contract Documents**

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

**§ 2.1.1** Construction Manager shall exercise the degree of care, skill and diligence in the performance of the Construction Manager's Work, to assure its Work is performed in a good and workmanlike manner, consistent with construction industry standards for similar projects and circumstances in the same geographic area (hereinafter the "Construction Manager's Standard of Care"). The Construction Manager shall be responsible for and have control over all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Construction Manager's Work under this Agreement, including all coordination of the duties of all trades, and shall furnish efficient business administration and supervision of the Work.

Construction Manager's Standard of Care specifically excludes any design or design-related responsibilities, and any action taken by Construction Manager under this Agreement does not and shall not be construed to approve, represent or warrant the adequacy and suitability of the plans and specifications for the purpose for which they are provided.

**§ 2.1.2** To the extent the Owner requests that the Construction Manager provide services within its Standard of Care, such as value analysis and/or constructability suggestions or comments with respect to the Drawings and Specifications, Owner acknowledges that such services are advisory only and not professional design services. The Owner shall refer all suggestions and comments to the Architect or other design professionals for review and evaluation prior to Owner's acceptance thereof. The Owner further acknowledges that the Construction Manager is not responsible for adequacy of the drawings and specifications or for identifying errors or omissions that may exist therein. The Owner shall cause the Architect to revise the Drawings and Specifications to reflect all value analysis and constructability suggestions and comments accepted by the Owner without delay or disruption to the timely and orderly progress of the work. The contract sum and contract time may be adjusted upon the Contractor's review and pricing of the revised Drawings and Specifications.

**§ 2.2 Relationship of the Parties**

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner

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consistent with the Owner's interests and the Construction Manager's Standard of Care. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents. Nothing herein shall negate Construction Manager's right to equitable adjustments in the Contract Time or Contract Sum in accordance with the Contract Documents.

### **§ 2.3 General Conditions**

**§ 2.3.1** For the Preconstruction Phase, AIA Document A201™-2017, General Conditions of the Contract for Construction (as amended), shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law; Article 15, Claims and Disputes. The term "Contractor" as used in A201-2017 (as amended) shall mean the Construction Manager.

**§ 2.3.2** For the Construction Phase, the general conditions of the contract shall be as set forth in A201-2017 (as amended), which document is incorporated herein by reference. The term "Contractor" as used in A201-2017 (as amended), shall mean the Construction Manager.

## **ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES**

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017(as amended) referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

### **§ 3.1 Preconstruction Phase**

#### **§ 3.1.1 Extent of Responsibility**

The Construction Manager shall perform its Preconstruction Services consistent with the Construction Manager's Standard of Care. The Construction Manager does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

**§ 3.1.2** The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

#### **§ 3.1.3 Consultation**

**§ 3.1.3.1** The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

**§ 3.1.3.2** The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, and possible cost reductions.

**§ 3.1.3.3** The Owner and Architect shall consult with the Construction Manager in establishing building information modeling and digital data protocols for the Project to establish the protocols for the development, use, transmission, and exchange of digital data.

#### **§ 3.1.4 Project Schedule**

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Owner's acceptance. The Construction Manager shall obtain the Architect's

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approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: completion of various elements of the Architect's work, submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor (or appropriate breakdown of the Work); ordering and delivery of products, including those that must be ordered in advance of construction (if such products are known by or communicated to the Construction Manager) and the occupancy requirements of the Owner.

### **§ 3.1.5 Phased Construction**

The Construction Manager shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

### **§ 3.1.6 Cost Estimates**

**§ 3.1.6.1** Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

**§ 3.1.6.2** As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, and Construction Manager, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget and make recommendations for corrective action.

**§ 3.1.6.3** If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together in an effort to reconcile the cost estimates.

**§ 3.1.7** As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Owner's approval.

**§ 3.1.8** The Construction Manager shall provide recommendations and information to the Owner regarding equipment, materials, services, and temporary Project facilities.

**§ 3.1.9** [Intentionally Omitted]

**§ 3.1.10** If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

### **§ 3.1.11 Subcontractors and Suppliers**

**§ 3.1.11.1** [Intentionally Omitted]

**§ 3.1.11.2** The Construction Manager shall develop bidders' interest in the Project.

**§ 3.1.11.3** The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

### **§ 3.1.12 Procurement**

[Intentionally Omitted]

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### § 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

### § 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

*(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)*

## § 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 When the Drawings and Specifications have been completed, the Construction Manager will solicit trade contractors for competitive bids in relevant trade categories. Upon completion of the bidding cycle, the Construction Manager shall propose a Guaranteed Maximum Price ("GMP"), which shall be the sum of the estimated cost of work, including contingencies described in Section 3.2.4 and the Construction Manager's Fee as described in Section 6.1.2, and General Conditions.

§ 3.2.2 The Owner and Construction Manager acknowledge that the Construction Manager will/has developed the Guaranteed Maximum Price based upon completed Contract Documents.

In the event that the Owner and Construction Manager agree that the Construction Manager will develop a Guaranteed Maximum Price before the completion of the Contract Documents, in that such Drawings and Specifications do not contain all details and requirements of the Work, the Guaranteed Maximum Price will be based on certain assumptions by the Construction Manager. To the extent that the Contract Documents are anticipated to require further development, the Construction Manager will include an allowance to be identified in the GMP Amendment for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, or any condition which was not reasonably anticipated by the Construction Manager's assumptions regarding the completion of the design, all of which, if required shall be incorporated by Change Order for additional cost and/or time as required. If the Contract Documents or final Drawings and Specifications require performance of the Work in any manner different from such assumptions, or contain changes in the scope of the Work to be performed by the Construction Manager, the Construction Manager shall as soon as practicable notify the Owner thereof and of the Construction Manager's estimate of the resulting increase or decrease in the Guaranteed Maximum Price. At such time as the Owner and the Construction Manager have agreed upon the effect of such difference and/or changes in the scope of the Work, a Change Order shall be issued substituting the finished Contract Documents for those described in this Agreement and the Guaranteed Maximum Price and Contract Time shall be adjusted as agreed by the parties.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.
- .6 The Date of Commencement of the Work shall be within ten (10) days of receipt of 1) Owner's Notice to Proceed, 2) the issuance of all applicable permits, and 3) Proof of adequate financing for the Work by the Owner and/or Owner's lender (in a form suitable to the Construction Manager shall include its), whichever is later.

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User Notes:

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§ 3.2.4 The GMP shall include to total amount for Construction Manager's Contingency as set forth in § 7.7.5.

§ 3.2.5 The Construction Manager shall meet with the Owner to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 Prior to the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, by Contract Amendment No. 1 GMP approval by the City Council, and issuance of a Notice to Proceed, with the exception of reimbursable costs associated with Preconstruction Services, the Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work, except as the Owner may specifically authorize in writing.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents, provided the Architect clouds all changes to the Drawings and Specifications on which the Guaranteed Maximum Price was based.

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted at the time the Guaranteed Maximum Price Amendment is executed. Construction Manager understands and acknowledges that the City of Stillwater is tax exempt.

§ 3.2.10 The GMP will be calculated based on current prices for component building materials. Contractor will use commercially reasonable diligence with respect to the selection and management of material suppliers and supply chains in an effort to minimize the risk of price increases or schedule disruptions; however, due to volatile market conditions, Contractor cannot warrant material prices or the timely performance of material suppliers. Should there be a significant price increase in the prices of the specified materials that are purchased after execution of the GMP Amendment, the Owner agrees that the GMP may be adjusted by written Amendment approved by the City Council. A significant price increase means a change in price from the date of establishment of the GMP to the date of purchasing the materials by an amount exceeding five percent (5%). Such price increases shall be documented by available vendor quotes, estimates, invoices, catalogs, receipts or other documentation.

### § 3.3 Construction Phase

#### § 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201-2017 (as amended), the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner's issuance of a Notice to Proceed. Prior to acceptance of the Guaranteed Maximum Price proposal, the Construction Phase shall commence only by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

### **§ 3.3.2 Administration**

**§ 3.3.2.1** The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

**§ 3.3.2.2** Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017 (as amended).

### **§ 3.3.2.3 Monthly Report**

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

### **§ 3.3.2.4 Daily Logs**

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

### **§ 3.3.2.5 Cost Control**

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes.

## **ARTICLE 4 OWNER'S RESPONSIBILITIES**

### **§ 4.1 Information and Services Required of the Owner**

**§ 4.1.1** The Owner shall provide information in a timely manner, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

**§ 4.1.2** Prior to the execution of the Guaranteed Maximum Price Amendment, that the Owner shall provide reasonable evidence in a form satisfactory to Construction Manager that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 (as amended) Section 2.2.

**§ 4.1.3** The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

**§ 4.1.4 Structural and Environmental Tests, Surveys and Reports.** During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

**§ 4.1.4.1** The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

**§ 4.1.4.2** The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements

and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents in a timely manner so as not to delay the Project schedule. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

#### § 4.2 Owner's Designated Representative

The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. The Owner's representative shall render decisions promptly and furnish information expeditiously, to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2017 (as amended), the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

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

#### § 4.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™-2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

### ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

#### § 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services, the Owner shall compensate the Construction Manager as follows:

*(Paragraphs deleted)*

The fee for preconstruction services shall be a lump sum of Twenty Two Thousand Five Hundred Dollars (**\$ 22,500**). Any miscellaneous costs associated with the delivery of preconstruction services (printing, advertising, travel, etc.) shall be invoiced at direct cost of the item without mark-up or profit for the Construction Manager. Preconstruction Services will be invoiced on a pro-rata monthly basis for the term of the preconstruction services as identified in Article 5.1.2.

*(Table deleted)*

*(Paragraph deleted)*

§ 5.1.2 [Intentionally Omitted]

§ 5.1.3 [Intentionally Omitted]

#### § 5.2 Payments

§ 5.2.1 All payments will be made to the Construction Manager in accordance with the Fair Pay for Construction Act (61 O.S. § 221, et seq).

§ 5.2.2

Init.

Progress Payments: Based upon a proper and timely submitted Application for Payment in the form agreed to by the parties by the Construction Manager and a Certificate for Payment issued by the Architect, the City shall make progress payments for work or services performed by the Construction Manager.

Retainage: As allowed by law, five percent (5%) of all partial payments due shall be withheld as Retainage until the City determines, upon written request from the Construction Manager, that at least fifty percent (50%) of the total Work to be performed by the Construction Manager has been completed, inclusive of any and all Addendums, Amendments, modifications, or extra work. Upon completion of 50% or more of the Work completed, 50% of all retainage previously withheld shall be released to the Construction Manager and two and one-half percent (2.5%) retainage shall be withheld of all remaining partial payments due thereafter.

## ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

### § 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

§ 6.1.2 The Construction Manager's Fee:

*(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)*

3.75%

§ 6.1.3 A lump sum equal to 3.75 % of the Cost of the Work. The Construction Manager's Fee shall be adjusted for changes in the Work by zero percent (0%) for deductive changes and 3.75 % for additive changes.

§ 6.1.4 [Intentionally Omitted]

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed Ninety percent ( 90 %) of the standard rental rate paid at the place of the Project.

§ 6.1.6 Liquidated damages, if any:

*(Insert terms and conditions for liquidated damages, if any.)*

The parties expressly agree that time is of the essence with respect to this Agreement. Should the Project not achieve Substantial Completion by the date set forth in the GMP Amendment, as may be adjusted pursuant to the terms of this Agreement, the Construction Manager agrees to have liquidated damages, not a penalty, of \$1,000 per calendar day, deducted or withheld from payments owed to the Construction Manager beginning 30 days after the Substantial Completion date and continuing for each calendar day thereafter until the Project achieves Substantial Completion with a maximum total of \$30,000.

§ 6.1.7 Other:

*(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)*

All unspent Allowances and Contingencies shall be returned to Owner at completion of project.

### § 6.2 Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

§ 6.2.1 [Intentionally Omitted]

Init.

### § 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes to Construction Manager in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time and/or Contract Sum as a result of changes in the Work.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017 (as amended), General Conditions of the Contract for Construction.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017 (as amended), General Conditions of the Contract for Construction.

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017 (as amended), as they refer to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document A201–2017 (as amended) shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

## ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

### § 7.1 Costs to Be Included in the Guaranteed Maximum Price

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.1.1 The sum for General Conditions will be billed as a lump sum and paid in monthly installments commencing with the next calendar month following the date of commencement of construction of the Project and concluding on the date of completion of the Work. Payments will be pro-rated for part of a calendar month at the commencement of construction and the calendar month in which Final Completion occurs.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 [Intentionally Omitted]

### § 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or at off-site locations or workshops.

§ 7.2.2 Wages or Salaries of the Construction Manager's supervisory, project/operations management, executive, safety and administrative personnel when engaged in execution of the Work, whether at the site, at the Construction Manager's principal office or offices other than the site office. These person costs will be charged on an hourly basis and will be included in an agreed upon General Conditions costs.

#### § 7.2.2.1

*(Paragraphs deleted)*

[Intentionally Omitted]

§ 7.2.3 [Intentionally Omitted]

**§ 7.2.4** Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, collectively referred to as "Labor Burden", shall be charged at a flat rate of 49% of base wage, provided that such costs are based on wages and salaries included in the Cost of the Work as described herein. Owner acknowledges that the Personnel Rates included in the agreed upon General Conditions costs as referenced in § 7.2.2 are burdened hourly rates current as of the date of the Agreement and may be adjusted periodically as described herein.

**§ 7.2.4.1** The Contract Sum is based upon the Project not being subject to State and Federal Prevailing Wage Law. In the event that this Project becomes subject to State or Federal Prevailing Wage Law, the Contract Sum will be adjusted accordingly.

**§ 7.2.5** If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

### **§ 7.3 Subcontract Costs**

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

### **§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction**

**§ 7.4.1** Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

**§ 7.4.2** Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

### **§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items**

**§ 7.5.1** Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

**§ 7.5.2** Rental charges for temporary facilities, machinery, equipment and hand tools not owned by the construction workers, which are provided by the Construction Manager at the site, whether rented from the Construction Manager or others, and costs of transportation, installation, minor repairs and replacements, dismantling and removal thereof. Equipment owned by the Construction manager shall be rented at a rate not to exceed (90%) of the standard local market rental rate of any comparable item.

**§ 7.5.3** Costs of removal of debris and/or costs associated with diverting waste to a waste recycling center from the site of the Work and its proper and legal disposal.

**§ 7.5.4** Costs of the Construction Manager's site office, including general office equipment and supplies.

**§ 7.5.5** Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

### **§ 7.6 Miscellaneous Costs**

**§ 7.6.1** That portion of insurance including deductibles and bond premiums that can be directly attributed to this Contract and expenses for Subcontractor and Supplier Surety shall be reimbursed at the following rate: Contractor's actual premium cost for other Payment and Performance Bonds from the Subcontractors. Premiums for Subcontractors bonds and insurance shall only be included provided to the extent not included in Subcontractor's Subcontract contract amount.

Init.

The Construction Manager's insurance program shall be reimbursed at the rate of \$9.50 per thousand dollars of Contract Sum. Rates shall be subject to adjustment on the first day of each calendar year if required by the Construction Manager.

Builders Risk Insurance maintained by the Construction Manager at the rate of \$0.10 per thousand of Contract Sum per month to insure the components of the Project while under construction. If the construction type for the project classifies as wood frame or jointed masonry, different rates may apply.

§ 7.6.1.1 Fees for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 7.6.1.2 Fees for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

§ 7.6.3 Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 (as amended) or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.5.1 [Intentionally Omitted]

§ 7.6.6 Costs for communications services, data lines, telephone service, electronic equipment, and software, directly related to the Work and located at the site.

§ 7.6.7 Costs of document reproductions, postage, and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

*(Paragraph deleted)*

§ 7.6.9 [Intentionally Omitted].

§ 7.6.10 Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work.

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

## § 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017 (as amended).

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 (as amended) or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

§ 7.7.5 **Construction Manager’s Contingency:** Construction Manager’s Contingency shall mean the sum total amount agreed to by the parties and included in the Cost of Work for the Construction Manager’s sole and exclusive use to cover additional Costs that are costs of Work but are not eligible for an Amendment (including, but not limited to, costs of Work arising from excused non-compensable delays).

The total amount for Construction Manager’s Contingency shall be included in the GMP Amendment Proposal as a percentage of the Cost of Work.

Construction Manager shall notify the City’s Representative before it intends to use any Construction Manager’s Contingency amount and must secure the City’s advance written approval (which approval shall not be unreasonably delayed or withheld) for any withdrawals exceeding \$25,000 for any one use or any combined use for a single purpose from the Construction Manager’s Contingency. Construction Manager cannot split the procurement of activities, equipment, materials, work, or construction services to avoid the \$25,000 withdrawal threshold or to avoid competitive bidding requirements. If the Construction Manager requests to exceed the overall amount for the Construction Manager’s Contingency line item in the Cost of Work, then City Council approval must be obtained. The Construction Manager’s Contingency shall not be used for additional Costs of Work for which Construction Manager is entitled to an Amendment.

Construction Manager shall include with any Applications for Payment an accounting of the Construction Manager’s Contingency showing amount(s) of Construction Manager’s Contingency funds utilized and the purposes for which the funds were used.

If the Construction Manager’s Contingency is not fully spent when the Project is complete, the remaining balance of the Construction Manager’s Contingency and any corresponding Construction Manager’s Fee if previously applied shall accrue to the benefit of and be applied as a credit to the City in the final accounting for the Project at Final Acceptance.

**Warranty Reserve (CM at Risk).** A warranty reserve in the amount of One quarter (0.25%) of the Cost of the Work will be established and included in the GMP Amendment(s) to cover the Construction Manager’s cost for providing the warranty as outlined in the Contract Documents. The warranty reserve shall be deemed a Cost of the Work. In order to facilitate the final payment process, set forth in Article 11.2, the Construction Manager will bill the Owner a lump sum amount for the full warranty reserve at the time of final payment. The expenditure of the warranty reserve will not be subject to the audit provisions of this Agreement.

## § 7.8 Related Party Transactions

§ 7.8.1 [Intentionally Omitted]

§ 7.8.2 [Intentionally Omitted]

## § 7.9 Costs Not To Be Reimbursed

§ 7.9.1 The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Construction Manager’s personnel stationed at the Construction Manager’s principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager’s principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager’s capital expenses, including interest on the Construction Manager’s capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;

- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7; and
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

## **ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS**

**§ 8.1** Cash discounts obtained on payments made by the Construction Manager to Subcontractors shall accrue to the Owner and be reflected in the Cost of Work.

**§ 8.2** Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

## **ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS**

**§ 9.1** Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Construction Manager and Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection. Upon Construction Manager's request, the Owner shall sign an acknowledgement of approval for the subcontractors submitted by the Construction Manager and approved by the Owner.

All subcontracts shall follow the procedures for awarding work as set forth in the Public Construction Management Act for Political Subdivisions as set forth in 61 O.S. § 217.

All subcontractors shall be qualified to perform the work and possess the appropriate license and permits for their work. Subcontracts shall conform to the applicable payment provisions of this Agreement. The Construction Manager shall be responsible for coordination of the work of the trades, construction subcontractors, subcontractors, and material men. The City and its representatives will not undertake to settle any differences between Construction Manager and Subcontractors, or between Subcontractors. Nothing contained in this Agreement shall contain any obligation or liabilities by the City to a Subcontractor.

**Subcontractor Bonds & Insurance:** The Construction Manager shall require Payment, Performance, and Maintenance Bonds from each of its Subcontractors on approved forms in the full amount of each trade subcontract, naming the Construction Manager and the City of Stillwater as obligees. Each Subcontractor shall carry Commercial General Liability Insurance in the amounts required by the Construction Manager. Each trade subcontractor shall name the Construction Manager and the City of Stillwater as additional insureds on the Subcontractor's General Liability and Automobile Insurance policies. The Construction Manager shall obtain a certificate of insurance from each trade Subcontractor and provide the same to the City.

**§ 9.1.1** When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

**§ 9.2** Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

## ARTICLE 10 ACCOUNTING RECORDS

§ 10.1 The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

§ 10.2 The Contractor shall not be obligated to provide any services, information or documentation relating to its Work to auditors working on a contingency fee basis (auditor's fees calculated as a percentage of the client's net recovery), nor shall any reimbursement obligation otherwise required by the Contract Documents be applicable to Contractor when an auditor is hired by Owner on a contingency fee basis.

## ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

### § 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 11.1.3 Provided an Application for Payment is received by the Architect not later than the 1<sup>st</sup> day of the month, the Owner shall make payment to the Construction Manager not later than the 20<sup>th</sup> day of the **same** month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than 30 days after the Architect received the Application for Payment. Owner and Construction Manager agree that the terms outlined in 5.2.2 shall apply to this Article 11.1.3. An Application for Payment shall be deemed certified 14 days after submittal unless the Owner or Architect objects to all or part of the Application for Payment within 14 days of submittal.

§ 11.1.4 If required by the Owner, with each Application for Payment, the Construction Manager shall submit a detailed cost transaction report generated from the Construction Manager's accounting system, and upon request by the Owner or Architect, shall provide any other evidence reasonably required by the Owner or Architect to demonstrate that cash disbursements already made by the Construction Manager on account of the Cost of the Work equal or exceed (1) progress payments already received by the Construction Manager, less (2) that portion of those payments attributable to the Construction Manager's Fee, plus (3) payrolls for the period covered by the present Application for Payment.

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5.2 Owner acknowledges that the Guaranteed Maximum Price applies in the aggregate to all categories and line items of the Cost of the Work. The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 [Intentionally Omitted]

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.7 In accordance with AIA Document A201–2017 (as amended) and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 11.1.7.1 The amount of each progress payment shall first include:

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017 (as amended);
- .3 [Intentionally Omitted];
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017 (as amended);
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

#### § 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

*(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)*

Retainage: As allowed by law, five percent (5%) of all partial payments due shall be withheld as Retainage until the City determines, upon written request from the Construction Manager, that at least fifty percent (50%) of the total Work to be performed by the Construction Manager has been completed, inclusive of any and all Addendums, Amendments, modifications, or extra work. Upon completion of 50% or more of the Work completed, 50% of all retainage previously withheld shall be released to the Construction Manager and two and one-half percent (2.5%) retainage shall be withheld of all remaining partial payments due thereafter.

§ 11.1.8.1.1 The following items are not subject to retainage:

*(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)*

N/A

**§ 11.1.8.2** Reduction or limitation of retainage, if any, shall be as follows:  
*(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)*

Retainage: As allowed by law, five percent (5%) of all partial payments due shall be withheld as Retainage until the City determines, upon written request from the Construction Manager, that at least fifty percent (50%) of the total Work to be performed by the Construction Manager has been completed, inclusive of any and all Addendums, Amendments, modifications, or extra work. Upon completion of 50% or more of the Work completed, 50% of all retainage previously withheld shall be released to the Construction Manager and two and one-half percent (2.5%) retainage shall be withheld of all remaining partial payments due thereafter. (61 O.S. § 113.1(A))

**§ 11.1.8.3** Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:  
*(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)*

**§ 11.1.9** If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of AIA Document A201–2017 (as amended).

**§ 11.1.10** Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

**§ 11.1.11** Except with the Owner's prior approval, payments to Subcontractors shall be subject to retention of not less than five percent (5%). Upon recommendation of the Construction Manager, a Subcontractor's retainage may be reduced by a percentage established and agreed upon by the Construction Manager. The full five percent (5%) retainage may be reinstated with respect to remaining payments for identified Subcontractors whose manner of completion of the work and its progress do not remain satisfactory to the Construction Manager and/or the Owner, or if any surety withholds its consent, or for other good and sufficient reasons. Notwithstanding any other provision herein, if the Subcontractor is required to provide a bond pursuant to Oklahoma Statutes Title 61, and when the Subcontractor's portion of the Work is at least fifty percent (50%) complete, the Subcontractor's retainage shall be two and one-half percent (2.5%) with respect to the balance of the work to be performed by the Subcontractor without reduction of the Subcontractor's previous retainage.

**§ 11.1.12** In taking action on the Construction Manager's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

**§ 11.1.13** The receipt by Construction Manager of a partial payment of any amount due to Construction Manager endorsed as payment in full will be deemed to be a part payment only, and any endorsements or statements on a check or other form of commercial paper, or any other document accompanying the payment, shall not be deemed an accord and/or satisfaction, notwithstanding such endorsements.

## **§ 11.2 Final Payment**

**§ 11.2.1** Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017 (as amended);

Init.

- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner’s receipt of the Construction Manager’s final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors’ findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect’s reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017 (as amended). The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201–2017 (as amended). The Architect is not responsible for verifying the accuracy of the Construction Manager’s final accounting.

§ 11.2.2.3 If the Owner’s auditors’ report concludes that the Cost of the Work, as substantiated by the Construction Manager’s final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017 (as amended). A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager’s receipt of a copy of the Architect’s final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner’s auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect’s final Certificate for Payment.

§ 11.2.3 The Owner’s final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect’s final Certificate for Payment, or as follows:

§ 11.2.4 If, subsequent to final payment, and at the Owner’s request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager’s Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

**§ 11.3 Interest**

*(Paragraphs deleted)*  
[Intentionally Omitted]

*(Paragraph deleted)*

**ARTICLE 12 DISPUTE RESOLUTION**

**§ 12.1 Initial Decision Maker**

§ 12.1.1 [Intentionally Omitted]

**§ 12.1.2**

*(Paragraphs deleted)*  
[Intentionally Omitted]

**§ 12.2 Binding Dispute Resolution**

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017 (as amended), the method of binding dispute resolution shall be as follows:

*(Check the appropriate box.)*

- Arbitration pursuant to Article 15 of AIA Document A201–2017 (as amended)
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

## **ARTICLE 13 TERMINATION OR SUSPENSION**

### **§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment**

**§ 13.1.1** If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner.

**§ 13.1.2** In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

**§ 13.1.3** Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Article 14 of A201–2017 (as amended).

**§ 13.1.4** In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

**§ 13.1.5** If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

**§ 13.1.6** The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

**§ 13.1.6.1** If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will

terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

### § 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

#### § 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017 (as amended).

#### § 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017 (as amended), the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 (as amended) shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017 (as amended).

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain with the consent of Construction Manager and that is not otherwise included in the Cost of the Work.. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

#### § 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017 (as amended), then the Owner shall pay the Construction Manager a termination fee as follows:

*(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner's convenience.)*

### § 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017 (as amended); in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017 (as amended), except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

## ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201–2017 (as amended). Where reference is made in this Agreement to a provision of AIA Document A201–2017 (as amended) or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

### § 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017 (as amended), neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 14.2.2 The Owner may, without consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Owner shall provide Construction Manager with advance written notice of such assignment. The Construction Manager shall execute all consents reasonably required to facilitate the assignment and acceptable to Construction Manager.

### § 14.3 Insurance and Bonds

#### § 14.3.1 Preconstruction Phase

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1 Commercial General Liability with policy limits of Two million dollars (\$ 2,000,000 ) for each occurrence and two million dollars (\$ 2,000,000 ) in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of two million dollars (\$ 2,000,000 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 14.3.1.3 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits of one million dollars (\$ 1,000,000 ) each accident for bodily injury, one million dollars (\$ 1,000,000 ) each employee for bodily injury by disease, and one million dollars (\$ 1,000,000 ) policy limit for bodily injury by disease.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of two million dollars (\$ 2,000,000 ) per claim and two million dollars (\$ 2,000,000 ) in the aggregate.

#### § 14.3.1.6 Other Insurance

*(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)*

Coverage	Limits
----------	--------

§ 14.3.1.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

#### § 14.3.2 Construction Phase

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

Init.

§ 14.3.2.1 The Construction Manager shall provide bonds if required in AIA Document A133™–2019 Exhibit B, and elsewhere in the Contract Documents. Bonds may be obtained through the Construction Manager’s usual source and the cost thereof shall be included in the Cost of the Work. The amount of each bond shall be equal to one hundred percent (100%) of the Contract Sum.

§ 14.4 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017 (as amended), may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

*(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)*

§ 14.5 Other provisions:

§ 14.5.1 Owner acknowledges that Contractor is an independent contractor and the owner has no ownership or control over Contractor, a private entity. Contractor has not agreed to act as a custodian of public records for the Owner subject to the provisions of the Oklahoma Open Records Act.

In the event Owner receives a request for disclosure of records under the Oklahoma Open Records Act, or other request for disclosure pursuant to subpoena or other means, Owner shall provide notice of such request to Contractor within twenty-four (24) hours of receipt of the request, subpoena or demand, and shall not disclose such records without Contractor’s written consent or unless Owner is ordered to disclose pursuant to court order, or is otherwise required to disclose records pursuant to law.

Contractor understands and acknowledges that Owner is subject to the Oklahoma Open Records Act (51 O.S. § 24A.1 et seq.) and therefore cannot assure the confidentiality of contract terms or other information provided by Contractor pursuant to this Agreement that would be inconsistent with its statutory requirements. Contractor further understands and acknowledges that Owner can only keep records confidential if they are exempt or confidential under a specific state or federal statute, and therefore not subject to public access under the Oklahoma Open Records Act. For each document or record submitted by Contractor for which it is claim an exemption or a confidential privilege, Contractor shall identify the federal and/or state law that creates said privilege. For example, for trade secrets, see 21 O.S. § 1372 (Larceny of Trade Secrets) and the Uniform Trade Secrets Act, 78 O.S. § 85 et seq.

§14.5.2 If Drawings are revised after the Drawings referenced in the Contract, the Owner shall have the Architect re-date all revised sheets and clearly identify all changes by bubble and delta number or other means acceptable to the Construction Manager and Owner. The Owner and Construction Manager acknowledge that it is difficult to determine and implement changes that are not so identified. Regardless if the Contract is amended to incorporate revised Drawings, the Guaranteed Maximum Price and Contract Time are subject to additional equitable adjustments for the cost and time impacts if implementing any changes not so identified.

§ 14.5.3 [Intentionally Omitted]

§ 14.5.4 [Intentionally Omitted]

## ARTICLE 15 SCOPE OF THE AGREEMENT

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

§ 15.2 The following documents comprise the Agreement:

- .1 AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 Exhibit A, Guaranteed Maximum Price Amendment, if executed
- .3 AIA Document A133™–2019, Exhibit B, Insurance and Bonds

Init.

.4 AIA Document A201™-2017, General Conditions of the Contract for Construction (as amended)

This Agreement is entered into as of the day and year first written above.

*(Paragraphs deleted)*

**By signing this Agreement, Owner certifies that funds have been duly appropriated pursuant to applicable law and are currently available to satisfy the financial obligations of the Owner under this Agreement.**

\_\_\_\_\_  
**OWNER** *(Signature)*

Brady Moore, City Manager

*(Printed name and title)*

*(Paragraphs deleted)*



\_\_\_\_\_  
**CONSTRUCTION MANAGER** *(Signature)*

Justin Woolverton, EVP Operations

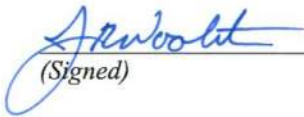
*(Printed name and title)*

Init.

## Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Justin Woolverton, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 10:11:37 ET on 01/30/2026 under Order No. 2114446684 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A133™ – 2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, other than those additions and deletions shown in the associated Additions and Deletions Report.

  
(Signed)

EVP of Operations  
(Title)

1-30-2026  
(Dated)

# AIA® Document A133® – 2019 Exhibit B

## Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Construction Manager, dated the 9<sup>th</sup> day of February 2026  
(In words, indicate day, month and year.)

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

New Stillwater Animal Welfare Facility  
3111 N. Hargis Rd.  
Stillwater, Oklahoma 74075

**THE OWNER:**  
(Name, legal status, and address)

City of Stillwater, Oklahoma,  
723 S. Lewis Street  
Stillwater, OK 74074  
(405) 372-0025

**THE CONSTRUCTION MANAGER:**  
(Name, legal status, and address)

Nabholz Construction Corporation  
301 NW 13<sup>th</sup> Street  
Suite 104  
Oklahoma City, OK 73103

### TABLE OF ARTICLES

- B.1 GENERAL**
- B.2 OWNER'S INSURANCE**
- B.3 CONSTRUCTION MANAGER'S INSURANCE AND BONDS**
- B.4 SPECIAL TERMS AND CONDITIONS**

#### ARTICLE B.1 GENERAL

The Owner and Construction Manager shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™–2017, General Conditions of the Contract for Construction, as modified.

#### ARTICLE B.2 OWNER'S INSURANCE

§ B.2.1 General [Intentionally Omitted]

*(Paragraphs deleted)*

§ B2.1.2 If Owner engages directly with separate contractors to perform Work on the project, the Owner shall take reasonable steps to require its separate contractors to name the Owner and Contractor as Additional Insureds on the separate contractors' general

#### ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

This document is intended to be used in conjunction with AIA Document A201™–2017, General Conditions of the Contract for Construction. Article 11 of A201™–2017 contains additional insurance provisions.

Init.

liability insurance policies and file certificates of insurance with the Owner showing such compliance prior to commencing Work at the Project site.

**§ B.2.2 Liability Insurance** [Intentionally Omitted]

**§ B.2.3 Required Property Insurance – Construction Manager Provided Builder’s Risk**

**§ B.2.3.1** Unless directed otherwise in writing by Owner, Construction Manager shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, builder’s risk insurance written on an "all-risks" policy form and sufficient to cover the total value of the entire Project on a replacement cost basis without optional deductibles. This builder’s risk insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and cost of any labor performed and materials, furnishings, equipment or fixtures. Owner will provide advance written notice to Contractor if materials, furnishings, or equipment supplied by others should be covered under the builder’s risk insurance. The builder’s risk insurance shall be maintained until Substantial Completion and thereafter as provided in Section B.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the Owner, Construction Manager, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees. If Owner and Construction Manager agree in writing that the Owner will provide Builder’s Risk coverage, Owner shall disclose, before an exposure to a loss may occur, any "warranty" or "protective safeguard" endorsements that are a stipulated condition of coverage on any of the policies purchased by the Owner. The cost of compliance by the Construction Manager and its subcontractors with any such endorsements shall be deemed an additional cost of the Work.

**§ B.2.3.1.1 Causes of Loss.** The insurance required by this Section B.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire (with extended coverage), physical loss or damage, explosion, theft, vandalism, malicious mischief, collapse, earthquake, earth movement, flood, water damage, rain damage, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials.

**§ B.2.3.1.2 Specific Required Coverages.** The insurance required by this Section B.2.3.1 shall provide coverage for loss or damage to falsework, temporary structures, building systems, and construction forms, including, cribbing and scaffolding, falsework, and from testing and startup (both cold and hot testing). The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, utility replacement costs and fees, general conditions costs including supervision, third party consultants for inspections and testing, all local, state, and federal permits, fees and inspections, business interrupting and expediting expenses, "soft costs" including reasonable compensation for A/E services, interest, taxes, advertising expenses, insurance and legal and accounting expenses, portions of the Work and materials stored off-site, portions of the Work and materials stored on-site but not yet incorporated into the Work, and portions of the Work in transit, required as a result of such insured loss, including claim preparation expenses.

**§ B.2.3.1.3** Unless the parties agree otherwise, upon Substantial Completion, the Owner shall assure continuation of the insurance required by Section B.2.3.1 or, if necessary, replace the insurance policy required under Section B.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

**§ B.2.3.1.4** [Intentionally Omitted]

**§ B.2.3.2 Occupancy or Use Prior to Substantial Completion.** The Owner’s occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section B.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Construction Manager shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing. In the event Owner fails to obtain any necessary insurer consent to occupy prior to Substantial Completion, and such failure results in a loss or reduction of insurance coverage, Owner shall bear all risk of loss and waives all its rights of action against Contractor, Subcontractors, and Sub-subcontractors for such loss.

**§ B.2.3.3 Insurance for Existing Structures** [Intentionally Omitted]

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*(Paragraphs deleted)*

*(Table deleted)*

*(Paragraphs deleted)*

*(Table deleted)*

## **ARTICLE B.3 CONSTRUCTION MANAGER'S INSURANCE AND BONDS**

### **§ B.3.1 General**

**§ B.3.1.1 Certificates of Insurance.** The Construction Manager shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article B.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. The certificates will show the Owner as an additional insured on the Construction Manager's Commercial General Liability, automobile, and builder's risk liability insurance, and excess or umbrella liability policy or policies.

**§ B.3.1.2 Deductibles and Self-Insured Retentions.** If requested, the Construction Manager shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Construction Manager. The Contractor shall be responsible for all loss not covered because of such deductibles or retentions when providing the Builder's Risk coverage. Any deductibles or self-insurance retention of the Construction Manager for any of the liability coverage required herein are the sole obligation of the Construction Manager. The Construction Manager's certificate of insurance must list the amount of any self-insurance retainage and the Construction Manager must notify Owner when any deductibles exceed \$100,000. Except for Builder's Risk Insurance and Professional Liability, the Construction Manager must ensure first dollar of loss coverage to the City of Stillwater for any payment of a loss or claim or their related investigation, claim administration, and defense expenses arising from Construction Manager's liability that fall within the deductible or self-insurance retention amounts.

**§ B.3.1.3 Additional Insured Obligations.** To the fullest extent permitted by law, the Construction Manager shall cause the commercial general liability coverage to include (1) the Owner, as additional insureds for claims caused in whole or in part by the Construction Manager's negligent acts or omissions during the Construction Manager's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 04 13, CG 20 37 04 13.

### **§ B.3.2 Construction Manager's Required Insurance Coverage**

**§ B.3.2.1** The Construction Manager shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Construction Manager shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below: *(If the Construction Manager is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)*

#### **§ B.3.2.2 Commercial General Liability**

**§ B.3.2.2.1** Commercial General Liability insurance for the Project written on an occurrence form with policy limits of Two Million Dollars (\$ 2,000,000 ) each occurrence, Two Million Dollars (\$ 2,000,000 ) general aggregate, and Two Million Dollars (\$ 2,000,000 ) aggregate for products-completed operations hazard, providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal injury and advertising injury;
- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and

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- .5 the Construction Manager's indemnity obligations under Section 3.18 of the General Conditions, as modified.

**§ B.3.2.2.2** The Construction Manager's Commercial General Liability policy under this Section B.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

- .1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
- .2 Claims for property damage to the Construction Manager's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
- .3 Claims for bodily injury other than to employees of the insured.
- .4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
- .5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
- .6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
- .7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
- .8 Claims related to roofing, if the Work involves roofing.
- .9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
- .10 Claims related to earth subsidence or movement, where the Work involves such hazards.
- .11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

**§ B.3.2.3** Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager, with policy limits of Two Million Dollars (\$ 2,000,000 ) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

**§ B.3.2.4** The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section B.3.2.2 and B.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

**§ B.3.2.5** Workers' Compensation at statutory limits.

**§ B.3.2.6** Employers' Liability with policy limits of One Million Dollars (\$ 1,000,000 ) each accident for bodily injury, One Million Dollars (\$ 1,000,000 ) each employee for bodily injury by disease, and One Million Dollars (\$ 1,000,000 ) policy limit for bodily injury by disease.

**§ B.3.2.7** Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks.

**§ B.3.2.8** If the Construction Manager is required to furnish professional services as part of the Work, the Construction Manager shall procure Professional Liability insurance covering performance of the professional services, with policy limits of Two Million Dollars (\$ 2,000,000 ) per claim and Two Million Dollars (\$ 2,000,000 ) in the aggregate.

**§ B.3.2.9** If the Work involves the transport, dissemination, use, or release of pollutants, the Construction Manager shall procure Pollution Liability insurance, with policy limits of Two Million Dollars (\$ 2,000,000 ) per claim and Two Million Dollars (\$ 2,000,000 ) in the aggregate.

**§ B.3.2.10** Coverage under Sections B.3.2.8 and B.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of Two Million Dollars (\$ 2,000,000 ) per claim and Two Million Dollars (\$ 2,000,000 ) in the aggregate.

§ B.3.2.11 If required, insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of ( \$ ) per claim and ( \$ ) in the aggregate.

§ B.3.2.12 If required, insurance for the use or operation of unmanned aircraft, if the Work requires such activities, with policy limits of Two Million Dollars ( \$ 2,000,000 ) per claim and Two Million Dollars ( \$ 2,000,000 ) in the aggregate.

**§ B.3.3 Construction Manager's Other Insurance Coverage**

§ B.3.3.1 Insurance selected and described in this Section B.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Construction Manager shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

*(If the Construction Manager is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)*

§ B.3.3.2 The Construction Manager shall purchase and maintain the following types and limits of insurance in accordance with Section B.3.3.1.

*(Select the types of insurance the Construction Manager is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)*

§ B.3.3.2.1 Builder's Risk insurance on an "all-risks" form of the type and scope satisfying the requirements identified in Section B.2.3, which, if selected in this Section B.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section B.2.3.1.3 and Section B.2.3.3. The Construction Manager shall comply with all obligations under Section B.2.3 except to the extent provided below. The Construction Manager shall be responsible for losses within the deductible. Upon request, the Construction Manager shall provide the Owner with a copy of the builder's risk insurance policy or policies required. Unless otherwise indicated below, the Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the Builder's Risk insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:

Contractor will be responsible for adjusting and settling a loss with the insurer and act as trustee of the proceeds of insurance under a Contractor-provided Builder's Risk policy.

§ B.3.3.2.2 Railroad Protective Liability Insurance, with policy limits of Two Million Dollars ( \$ 2,000,000 ) per claim and Two Million ( \$ 2,000,000 ) in the aggregate, for Work within fifty (50) feet of railroad property.

§ B.3.3.2.3 Asbestos Abatement Liability Insurance, under a Pollution Liability policy with policy limits of Two Million Dollars ( \$ 2,000,000 ) per claim and Two Million Dollars ( \$ 2,000,000 ) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

§ B.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

§ B.3.3.2.5 Property insurance on an "all-risks" completed value form, covering property owned by the Construction Manager and used on the Project, including scaffolding and other equipment.

§ B.3.3.2.6 Other Insurance  
*(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)*

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Coverage

Limits

§ B.3.4 Performance Bond, Payment Bond, and Maintenance Bond

The Construction Manager shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:

(Specify type and penal sum of bonds.)

Type	Penal Sum (\$0.00)
Payment Bond	100% of the agreed upon GMP
Performance Bond	100% of the agreed upon GMP
Maintenance Bond	100% of the agreed upon GMP

Payment Bond: A Payment Bond in the full amount (100%) of the agreed upon GMP for the term of the bond, issued in favor of the City of Stillwater. The Payment Bond shall guaranty the Construction Manager will make payment for all labor, materials, and equipment used in or for the Project and/or for the provision of the services. The Construction Manager shall furnish an executed original and have a power of attorney attached, showing the authority of the executing agent for the Surety.

Performance Bond: A Performance Bond in the full amount (100%) of the agreed upon GMP for the term of the bond, issued in favor of the City of Stillwater. The Payment Bond shall guarantee the completion of the Project and guarantee the Construction Manager’s full and faithful execution of the work and services and performance of the Agreement. The Construction Manager shall furnish an executed original and have a power of attorney attached, showing the authority of the executing agent for the Surety.

Maintenance Bond: A Maintenance Bond in the full amount (100%) of the agreed upon GMP for the term of the bond, issued in favor of the City of Stillwater, which guarantees the maintenance of the improvements against failure due to defective workmanship and materials for a specified period after completion and acceptance of the Project by the City. Construction Manager’s full and faithful execution of the work and services and performance of the Agreement. The term of the Maintenance Bond shall be in place for two (2) years following the Project’s final acceptance.

Payment, Performance, and Maintenance Bonds shall be on the appropriate AIA forms or compatible bond forms provided by the Surety Company.

(Paragraph deleted)

(Table deleted)

(Paragraphs deleted)

ARTICLE B.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:



# AIA® Document A201® – 2017

## General Conditions of the Contract for Construction

**for the following PROJECT:**

*(Name and location or address)*

City of Stillwater New Animal Welfare Facility

**THE OWNER:**

*(Name, legal status and address)*

City of Stillwater, Oklahoma  
723 S. Lewis Street  
Stillwater, OK 74074  
(405) 372-0025

**THE ARCHITECT:**

*(Name, legal status and address)*

Barrett L. Williamson Architects  
102 W. Apache  
Norman, OK 73069  
(405) 360-1566

**TABLE OF ARTICLES**

- 1 GENERAL PROVISIONS
- 2 OWNER
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- 5 SUBCONTRACTORS
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- 13 MISCELLANEOUS PROVISIONS

**ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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- 14 TERMINATION OR SUSPENSION OF THE CONTRACT
- 15 CLAIMS AND DISPUTES
- 16 RENOVATIONS OR ADDITIONS TO AN EXISTING STRUCTURE AND TEMPORARY UTILITIES

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## **ARTICLE 1 GENERAL PROVISIONS**

### **§ 1.1 Basic Definitions**

#### **§ 1.1.1 The Contract Documents**

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically excluded in the Agreement, the Contract Documents include other documents such as the advertisement or invitation to bid, Instructions to Bidders, Contractors Bid Manual, schedules, sample forms, other information furnished by the Owner or Contractor in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding requirements.

#### **§ 1.1.2 The Contract**

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties. Likewise, the Contractor shall be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of Contractor's duties.

#### **§ 1.1.3 The Work**

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

#### **§ 1.1.4 The Project**

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

#### **§ 1.1.5 The Drawings**

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

#### **§ 1.1.6 The Specifications**

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

#### **§ 1.1.7 Instruments of Service**

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

#### **§ 1.1.8 Initial Decision Maker**

*[Intentionally Omitted]*

#### **§ 1.1.9 Site**

The term Site refers to that portion of the property on which the Work is to be performed or which has been otherwise set aside for use by the Contractor.

#### **§ 1.1.10 Punch List**

Init.

The term Punch List means, collectively, unfinished items of the construction of the Project, which unfinished items of construction are minor or insubstantial details of construction, mechanical adjustment or decoration remaining to be performed, the non-completion of which would not materially affect the use of the Project, and which are capable of being completed within thirty (30) days of Substantial Completion, subject to the availability of special order parts and materials.

## **§ 1.2 Correlation and Intent of the Contract Documents**

**§ 1.2.1** The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

**§ 1.2.1.1** The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

**§ 1.2.2** Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

**§ 1.2.3** Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

## **§ 1.3 Capitalization**

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

## **§ 1.4 Interpretation**

In the interest of brevity, the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

## **§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service**

**§ 1.5.1** The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

**§ 1.5.2** The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

## **§ 1.6 Notice**

**§ 1.6.1** Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative or officer of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

### § 1.7 Digital Data Use and Transmission

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents.

### § 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees. Any agreement to such protocols shall be included in the Contract Documents as "BIM Addendum," or other agreed designation. The Owner shall cause an identical version of the BIM Addendum, if any, to be appended or incorporated into all written agreements between the Owner and any design professional performing obligations to be modeled.

### § 1.9 Order of Precedence

§ 1.9.1 In case of conflicts between the drawings and specifications, the specifications shall govern. In any case of the omissions or errors in figures, drawings or specifications, the Contractor shall immediately submit the matter to the Architect for clarification. The Architect's clarifications are final and binding on all parties, subject to an equitable adjustment in Contract Time or Price pursuant to Articles 7 and 8 or claims and disputes in accordance with Article 15.

§ 1.9.2 Where figures are given, they shall be preferred to scaled dimensions.

§ 1.9.3 Any terms that have well-known technical or trade meanings, unless otherwise specifically defined in the Contract Documents, shall be interpreted in accordance with the well-known meanings.

§ 1.9.4 In case of any inconsistency, conflict or ambiguity among the Contract Documents, the documents shall govern in the following order:

- a. Change order and written Modifications to this Agreement
- b. The Agreement (A133-2019 for the Project)
- c. General Conditions (A201-2017 for the Project)
- d. Project Specification
- e. Drawing Details/Sections/Schedules
- f. Large Scale Drawings
- g. Approved Submittals
- h. Information furnished by the Owner
- i. Other documents listed in the Agreement (Among categories of documents having the same order of precedence, the term or provision that includes the most recent date shall control).

## ARTICLE 2 OWNER

### § 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen (15) days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.1.3 [Intentionally Omitted]

## § 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence satisfactory to Contractor that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence satisfactory to Contractor that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence within fourteen (14) days of the Contractor's request, the Contract may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

## § 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall, before the Schematic Design budgeting phase, furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work. If, after establishing the Contract Sum, Owner provides such information to Contractor, and the information necessitates an increase in the Contract Sum or Time, the Owner shall provide for increase.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness and, in any event, within seven (7) days of Contractor's request, so as not to delay or hinder the progress of the Work. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work within seven (7) days after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one hard copy and one electronic copy of the Contract Documents for purposes of bidding pursuant to Section 1.5.2. Prior to commencement of the Work, and to the extent available, Owner shall furnish the Contractor any electronic drawings (.dwg, .dxf, .ifc, .rvt, .nwd or others as appropriate) that will enable, but not require, Contractor to build an electronic model of the Project.

#### § 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

#### § 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

### ARTICLE 3 CONTRACTOR

#### § 3.1 General

§ 3.1.1 The Contractor, whether referred to as Construction Manager, General Contractor or Contractor within this and related Contract Documents, is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor. The Contractor can rely on written instructions/directions/interpretations of the Architect as well as the Owner's testing firm in performing its Work.

§ 3.1.4 The Owner hereby agrees that Contractor shall not be liable or responsible in any manner whatsoever for any claims, damages, expenses, costs, errors or omissions arising out of the professional services performed by the Architect or other design professionals, whether through indemnity or otherwise. The Owner's sole recourse shall be against the Architect, or other design professionals performing such professional services, and any insurance procured by the Architect.

To the extent that the Owner requires, or the Contractor otherwise provides, any incidental services, construction consulting, or value engineering, the Owner acknowledges that such services are advisory and are not professional design services. The Owner shall, with due diligence, refer such questions, matters and inquiries to the design professionals, and the Contractor shall have no liability to the Owner or to the Architect or its consultants for such services required by the Owner and rendered hereunder.

### **§ 3.2 Review of Contract Documents and Field Conditions by Contractor**

**§ 3.2.1** Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

**§ 3.2.2** Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully review the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions (if practical without destructive inspections) related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by Contractor. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional.

**§ 3.2.3** The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by the Contractor as a request for information in such form as the Architect may require.

**§ 3.2.4** If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

### **§ 3.3 Supervision and Construction Procedures**

**§ 3.3.1** The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. Unless otherwise required by the Construction Documents, the Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures but Contractor shall not be held responsible for any loss or damage to the Work or adjacent property caused by the means methods, techniques, sequences, or procedures required by the Contract Documents. If the Contractor determines that such means, methods, techniques, sequences or procedures required by the Contract Documents may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

**§ 3.3.2** The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors. This provision shall in no way be construed as creating any rights or obligations to third parties.

**§ 3.3.3** The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

### **§ 3.4 Labor and Materials**

**§ 3.4.1** Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

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§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or other written approval.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

### § 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality or type required or permitted by the Contract Documents. Work, materials or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by construction by the Owner and by Separate Contractors, abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

### § 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are applicable and legally enacted when bids are received, or negotiations concluded.

### § 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. ("Legal Obligations"). In the event that Contractor may be adversely impacted by any change to, or increase of, Legal Obligations (as well as any additional health and safety practices required in order to comply with existing Legal Obligations), the Contract Time shall be extended appropriately, and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs, plus reasonable overhead and profit thereon. The Contract Sum and Contract Time are based upon a mutual expectation that reasonable positions will be taken by federal, state, or local inspectors and officials ("Authorities"), and that such Authorities shall act with reasonable promptness and diligence regarding issuance of permits, approvals, certificates of occupancy, and in interpreting applicable codes and standards. Contractor shall be entitled to a change order adjusting the Contract Sum and Contract Time for any impact resulting from a deviation.

§ 3.7.2 Without assuming any design responsibilities, the Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 It is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes that portions of the Contract Documents are at variance therewith, the Contractor shall, upon discovery, notify the Owner and Architect in writing, and necessary changes shall be accomplished by appropriate Modifications. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

### § 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the Site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an

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unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide written notice to the Owner and the Architect before conditions are disturbed, if possible, and in no event later than seven (7) days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, shall be entitled to equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15.

**§ 3.7.5** If, in the course of the Work, the Contractor knowingly encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence or good faith belief of such existence of such remains or features may be made as provided in Article 15.

### **§ 3.8 Allowances**

**§ 3.8.1** The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

**§ 3.8.2** Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts as well as the labor costs of performing the Work when made part of the allowance line item within the Schedule of Values;
- .2 unless excluded in 3.8.2.1 above, Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

**§ 3.8.3** Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness to avoid delay in the Work.

### **§ 3.9 Superintendent**

**§ 3.9.1** The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case.

**§ 3.9.2** The Contractor, as soon as practicable after award of the Contract, shall inform the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect or Owner may notify the Contractor, stating whether the Owner or Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect or Owner to provide notice within the 14 day period shall constitute notice of no reasonable objection.

*(Paragraph deleted)*

**§ 3.9.3** The Contractor shall not employ a proposed superintendent to whom the Owner has made reasonable and timely objection. The Contractor shall not change the superintendent without informing the Owner in writing.

### § 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised by Contractor at appropriate intervals in its discretion and without prior notice as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor shall prepare and keep current a schedule of submittals that is coordinated with the Contractor's construction schedule and which allows the Owner and Architect reasonable time to review submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect. When changes do not affect the Substantial Completion date, they may be made at Contractor's discretion.

### § 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Owner or, if directed, to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

### § 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors. The Contractor shall provide the Owner and Architect with copies of all submittals made to regulatory agencies.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked the information contained within such submittals with the requirements of the Work and of the Contract Documents. The Contractor, in making this representation, is relying on the Architect to have fully coordinated the design drawings.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect. The Contractor shall correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

§ 3.12.8 The Work shall be in accordance with approved submittals.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Contract Documents.

### § 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

### § 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

### § 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste

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materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project resulting from Contractor's Work.

**§ 3.15.2** If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so upon seventy-two (72) hours advance written notice to Contractor, and the Owner shall be entitled to reimbursement of reasonable costs from the Contractor.

### **§ 3.16 Access to Work**

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

### **§ 3.17 Royalties, Patents and Copyrights**

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by the Contractor, and that infringement or violation relates to copyright or patent rights within the Contract Documents, the Contractor shall promptly notify the Architect and the Owner and shall not be responsible for such infringement or violation(s).

### **§ 3.18 Indemnification**

**§ 3.18.1** To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the Owner, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, except to the extent such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

**§ 3.18.2** In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

**§ 3.18.3** The obligations of the Contractor shall not extend to the liability of the Architect, the Architect's consultants, and agents and employees of any of them, including but not limited to any liability arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications or (2) the giving of or the failure to give directions or instructions by the Architect, the Architect's consultants and agents and employees of any of them.

## **ARTICLE 4 ARCHITECT**

### **§ 4.1 General**

**§ 4.1.1** The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

**§ 4.1.2** Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

### **§ 4.2 Administration of the Contract**

**§ 4.2.1** The Architect will provide administration of the Contract as described in the Contract Documents during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

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§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work .

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner and Contractor (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

#### § 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, 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.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

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§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor in writing of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness; however, delivery of such interpretation shall not be extended to cause the Contractor delay in the Work.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith, except to the extent such interpretations or decisions result from professional negligence, errors, omissions, willful neglect or misconduct.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness, and delivery of such interpretation shall not be extended to cause the Contractor delay in the Work or cause the Work to be performed out of sequence. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

## ARTICLE 5 SUBCONTRACTORS

### § 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

### § 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall inform the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. Within 14 days of receipt of such information, the Architect may reply to the Contractor in writing stating whether the Owner or the Architect(1) has reasonable objection to any proposed person or entity or (2) requires additional time for review. Failure of the Owner or Architect to reply within the 14 day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If, in the opinion of the Contractor, the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time may be allowed for such change if the Contractor did not act promptly and responsively in submitting names as required.

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§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

### § 5.3 Subcontractual Relations

By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, that the Contractor, by these Contract Documents, assumes toward the Owner. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

### § 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

## ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

### § 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation. To the extent the Owner chooses to perform construction or operations related to the Project, or to award separate contracts in connection with other portions of the Project or other construction or operations on the site, the Owner shall be required to secure a separate permit for that Work, if required by the authority having jurisdiction. Regardless, the Owner shall ensure that the Contractor is listed as an additional insured on the Separate Contractor's general liability and excess liability policy. Further, the Owner agrees to defend, indemnify and hold harmless the Contractor from any claims made against the Contractor resulting from damage to property (other than the Work) or injury to, or death of, persons in or about the Project caused by, arising out of or in connection with the construction, services, labor, materials, and equipment which have been performed, provided or supplied to the Project by the Owner or its Separate Contractor. If the Contractor claims that delay or additional cost is involved because of performance of construction or operations of Separate Contractors, of such action by the Owner or its Separate Contractors, the Contractor shall make such Claim as provided in Article 15.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement and shall be granted any necessary extensions to the deadline for Substantial Completion necessitated by revisions to the Contractor's construction schedule caused by other work. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

**§ 6.2 Mutual Responsibility**

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Owner and Architect of known discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to inform the Owner and Architect of known discrepancies or defects prior to proceeding with the Work may constitute an acknowledgement that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are unknown.

§ 6.2.3 The Contractor shall reimburse the Owner for reasonable costs the Owner incurs that are payable to a Separate Contractor to the extent caused by Contractor's inexcusable delays or defective construction. The Owner shall be responsible to the Contractor for reasonable costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5. The Owner or its Separate Contractors shall promptly remedy damage that the Owner or its Separate Contractor cause to the Contractor's completed or partially completed construction.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.1.4.

**§ 6.3 Owner's Right to Clean Up**

If a dispute arises among the Contractor, Separate Contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner, after notifying responsible party(s) by written notice and allowing the responsible party(s) to resolve this issue, may clean up and the Architect will allocate the cost among those responsible.

**ARTICLE 7 CHANGES IN THE WORK**

**§ 7.1 General**

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

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§ 7.1.2 A Change Order shall be based upon agreement among the Owner or Architect and the Contractor. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

## § 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect or Contractor and signed by the Owner, Contractor and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

## § 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner and the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any,

provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Directive.

#### § 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing and approved by the Owner. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time. Notwithstanding, in the event the Architect has issued multiple Additional Supplementary Instructions that, in the aggregate, result in the changes justifying an adjustment in Contract Sum or extension of the Contract Time, Contractor shall be entitled to submit a request for an equitable adjustment.

### ARTICLE 8 TIME

#### § 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement. Date of Commencement shall not be earlier than the date upon which all necessary permits are procured that would allow the Contractor to initiate and continue the Work and a written notice to proceed is received by the Contractor.

§ 8.1.3 The date of Substantial Completion is the date established under Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

#### § 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall use commercially reasonable efforts to achieve Substantial Completion within the Contract Time.

### § 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor shortages and/or disputes, fire, unusual delay in deliveries, transportation delays not within the Contractor's control, unavailability of suitable materials, riots, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, epidemics, pandemic, or other designated health emergency, or other causes beyond the Contractor's control; (4) disruptions in labor or materials supply resulting from a public health crisis regardless of whether an infectious disease, epidemic, pandemic or isolated to areas from which such labor and materials are supplied; (5) by adverse government actions, including without limitation embargoes and tariffs; (6) quarantine restrictions or government vaccine mandates; (7) by delay authorized by the Owner pending mediation and binding dispute resolution; or (8) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Sum shall be adjusted and the Contract Time shall be extended by Change Order for such reasonable time, and amounts as arise out of or relate to such cause.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

## ARTICLE 9 PAYMENTS AND COMPLETION

### § 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

### § 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

### § 9.3 Applications for Payment

§ 9.3.1 All payments will be made to the Construction Manager in accordance with the Fair Pay for Construction Act (61 O.S. § 221, et seq). To the extent that there is a conflict between anything herein and the Fair Pay for Construction Act, the provisions of the Fair Pay for Construction Act shall apply. At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner requires, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom

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the Contractor intends to pay. This provision does not prohibit Contractor from withholding payments to Subcontractors or suppliers pursuant to a provision or its agreements with such Subcontractors and suppliers providing for such withholding.

**§ 9.3.2** Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location provided that stored materials are properly insured. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

**§ 9.3.3** The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

#### **§ 9.4 Certificates for Payment**

**§ 9.4.1** The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

**§ 9.4.2** The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the 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 Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will 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 Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

#### **§ 9.5 Decisions to Withhold Certification**

**§ 9.5.1** The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner and notify the Contractor in writing of the particular reasons why such representations to the Owner cannot be made as to the remaining amount. The Architect may also withhold a Certificate for Payment to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor, provided such claims are not due to Owner's failure to pay Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors in accordance with the terms of the applicable subcontracts, or for properly performed/delivered, labor, materials or equipment;

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- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

However, in no event shall the Architect refuse to certify or shall the Owner withhold payment of an amount greater than that which is sufficient to pay the direct expenses the Owner reasonably expects to incur to correct any of the above reasons set forth by the Architect for withholding certification.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect properly withholds certification for payment under Section 9.5.1.3, the Owner may, upon providing ten (10) days' prior written notice to Contractor, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to properly make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Contractor agrees to reflect such payment on its next Application for Payment.

*(Paragraph deleted)*

**§ 9.6 Progress Payments**

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor no later than ten days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 *[Intentionally Omitted]*

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within fourteen days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 *[Intentionally Omitted]*

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

## § 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within fourteen days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received, or terminate the Contract. In the event the Work is stopped, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents. If the Contractor terminates the Contract, Owner shall pay Contractor for Work executed and for incurred costs related to materials, equipment, tools and construction equipment and machinery, including reasonable overhead, profit and damages.

§ 9.7.1 Upon execution of the Agreement, Contractor shall provide Owner with written payment instructions and all necessary forms required by Owner to effectuate payments to Contractor by wire transfer (the "Payment Information"). Contractor shall submit the initial Payment information to Owner by certified mail or hand delivery only. If Owner receives a request to change such Payment Information, Owner agrees that it will not modify or make change to this Payment Information without oral communication, followed by written confirmation, from Contractor's Controller. Owner shall make no changes to the Payment Information if it does not receive the oral and written confirmations as stated herein. If Owner makes any change to the Payment Information without first receiving the confirmations stated herein, it shall be solely responsible for any monies lost or stolen and not paid to Contractor as required under the terms of this Agreement.

## § 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. Substantial Completion will be achieved by Contractor when the last of the following occurs:

- .1 custody and control of the Work (or designated portion of the Work) is provided to the Owner ; and
- .2 inspections and approvals from government agencies required by the Work (or designated portion of the Work) have been completed and a certificate of occupancy, whether temporary or final, for the Work (or designated portion of the Work) has been issued;

If the Work (or designated portion of the Work) includes installation of items furnished by the Owner, completion of such installation will be considered punch list work and will not delay designation of Work as Substantially Complete.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment ("Punch List"). Failure to include an item on Punch List does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's Punch List, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's Punch List, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, property insurance, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the Punch List accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. Unless otherwise agreed in writing, the Owner shall become responsible for building security, property insurance, and for payment of all utilities associated with the Work upon Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

#### § 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld, provided if Contractor is delayed at any time in the progress or completion of the Work, or if Contractor's work is made more costly, by any cause or condition arising directly or indirectly from such partial occupancy or use, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs, plus reasonable overhead and profit thereon. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect. At the time Owner takes partial occupancy or use, the Owner shall reduce retainage proportionately.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents. Owner shall indemnify, defend, and hold Contractor harmless from any and all damages, losses, claims and expenses, including attorneys' fees arising out of or related to such partial occupancy or use, including, but not limited to claims for property damage and bodily injury.

#### § 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled. In no event shall the Architect unreasonably withhold the final Certificate for Payment.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied or will be promptly made upon receipt of final payment from the Owner, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties as required by the Contract Documents, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to

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the Owner all money that the Owner has been compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

**§ 9.10.3** If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor (including, but not limited to any cause identified in §8.3 above) or by issuance of Change Orders affecting final completion, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

**§ 9.10.4** The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

**§ 9.10.5** Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

**ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY**

**§ 10.1 Safety Precautions and Programs**

The Contractor and its Subcontractors shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

**§ 10.2 Safety of Persons and Property**

**§ 10.2.1** The Contractor and its Subcontractors shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

**§ 10.2.2** The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

**§ 10.2.3** The Contractor and its Subcontractors shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

**§ 10.2.4** When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor and its Subcontractors shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

**§ 10.2.5** The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 negligently caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to

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the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

**§ 10.2.6** The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

**§ 10.2.7** The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

**§ 10.2.8 Injury or Damage to Person or Property**

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

**§ 10.3 Hazardous Materials and Substances**

**§ 10.3.1** Without accepting any responsibility or liability for the remediation of hazardous materials that exist on or contiguous to the Project site as of the date of the Agreement, the Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable property damage, bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

**§ 10.3.2** Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. The Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

**§ 10.3.3** Contractor agrees to defend, indemnify, and hold the City harmless from any and all claims, causes of action, regulatory demands, liabilities, fines, penalties, losses and expenses, including without limitation clean up or other remedial costs (and including reasonable attorney's fees, costs, and other reasonable litigation expenses when incurred and whether incurred in defense or actual litigation or in reasonable anticipation of litigation), arising from the generation, manufacture, processing, use, release, or other spills or leaks of chemicals and products that are or may become hazardous materials, caused by the Contractor or its operations whether: (i) made, commenced, or incurred during this Agreement; provided however, Contractor's obligation to indemnify the City pursuant to this section shall not apply with respect to either: (i) any hazardous material released by the City; or anyone other than Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable or (ii) any hazardous material clearly demonstrated to be migrating onto project site from some other location through no fault of the Contractor.

**§ 10.3.4** The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances. Unless required by the Contract Documents, the Contractor shall not be required to perform without its consent any Work relating to a hazardous material or substance, provided that such Contractor consent shall not be unreasonably withheld.

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§ 10.3.5 The Contractor shall reimburse the Owner for the reasonable cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to requirements of the Contract Documents or the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable for the reasonable cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.3.7 Unless required by the Contract Documents, the Contractor shall not be required to perform, without consent, any Work relating to mold, asbestos or polychlorinated biphenyl ("PCB"). The Contractor shall perform no work involving toxic, contaminant, contaminated or hazardous material of any type, which removal or responsibility to render harmless is the Owner's obligation.

#### § 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

### ARTICLE 11 INSURANCE AND BONDS

#### § 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 **Notice of Cancellation or Expiration of Contractor's Required Insurance.** Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§11.1.5 Contractor may use a traditional insurance process, or it can use a Controlled Contractor Insurance Program ("CCIP").

#### § 11.2 Owner's Insurance

§ 11.2.1 [Intentionally Omitted]

*(Paragraph deleted)*

§ 11.2.2. [Intentionally Omitted]

§ 11.2.3 [Intentionally Omitted]

§ 11.3 [Intentionally Omitted]

*(Paragraph deleted)*

§ 11.3.2 [Intentionally Omitted]

*(Paragraphs deleted)*

§ 11.4 [Intentionally Omitted]

§11.5 [Intentionally Omitted]

## ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

### § 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's written request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents or contains an acceptable minor change in the Work, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate to compensate Contractor for its actual costs of uncovering and replacing the Work, plus reasonable overhead and profit. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

### § 12.2 Correction of Work

#### § 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect for failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections and the cost of uncovering and replacement shall be at the Contractor's expense. In the event Work is uncovered and determined as conforming to the Contract Documents the costs of recovering and replacement, including compensation for Contractor's service and expenses made necessary thereby, shall be at the Owner's expense.

#### § 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such written notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

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§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work prior to Substantial Completion that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 [Intentionally Omitted]

### § 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum may be reduced as appropriate and equitable. Such adjustment shall not be effected if final payment has been made.

## ARTICLE 13 MISCELLANEOUS PROVISIONS

### § 13.1 Governing Law

The Contract shall be governed by the law of the State where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

### § 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 [Intentionally Omitted]

### § 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

### § 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. In addition to the tests required by this Section 13.4, the Owner may at any time arrange for other tests, inspections, and specific approvals to be performed by others selected by the Owner, at the Owner's expense. The Contractor shall cooperate with the Owner and provide access to the Work for such tests, inspections, and approvals. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require, and Contractor may rely and act upon such test results, inspection reports, and approvals procured by the Owner.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

### § 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest as set forth in 61 O.S. § 113.3.

### § 13.6 Severability

If any term or provision of this Contract is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

### § 13.7 Document Retention and Audit Provisions

Contractor shall account for all materials, equipment, and labor entering into the Work and must keep such full and detailed records as may be necessary for proper financial management pursuant to the Contract Documents for a period of \_\_\_\_\_ three (3) years after final payment. Furthermore, the Owner has the right to examine the Contractor's and its Subcontractors' and suppliers' records directly or indirectly pertaining or relating to the Work of the Contract and the Contractor must grant the Owner access to and an opportunity to copy such records at all reasonable times during the Contract period and for three (3) years after final payment, or for such longer period as may be required by law.

### §13.8 Release and Indemnification

The Contractor hereby agrees to release, defend, indemnify, and save harmless the City and its officers and agents and employees from and against all loss of or damage to property or bodily injuries to or death of any person(s), and/or all claims, damages, suits, costs, expenses, liability, actions or proceedings of any kind or nature whatsoever in matters resulting from any such property damage, bodily injury, or death arising out of: (a) work, services, operations or activities under or in connection with this Agreement by the Contractor, the Contractor's project team, or the Subcontractor; or (b) the Contractor's use or occupancy of the project site, but only to the extent caused by acts or omissions of the Contractor, the Contractor's project team or any subcontractor. Provided, however, the Contractor shall not be liable or be required to release, defend, indemnify, or save harmless the City, its officers, agents and employees, for any loss, damage, claims, suits, costs, expense, or actions caused by the City, the City's officers, agents and employees.

## ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

### § 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may stop the Work, and may subsequently terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

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- .5 if the Owner suspends the Work for convenience in accordance with paragraph 14.3 herein; or
- .6 if Owner is responsible for providing the property insurance coverage required in Exhibit A to the Agreement herein and Contractor becomes aware that Owner did not procure and maintain such coverage.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 30 consecutive days or 60 cumulative days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

#### § 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make an undisputed payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or Suppliers, provided such nonpayment is not due to the Owner's failure to pay Contractor for Work performed;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, fourteen days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials owned by the Owner;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor or its surety, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work along with all supporting documentation.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Architect, upon application, and this obligation for payment shall survive termination of the Contract.

#### § 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall not include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

**§ 14.4 Termination by the Owner for Convenience**

§ 14.4.1 The Owner may, at any time, with written notice, terminate the Contract or any portion thereof for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

*(Paragraph deleted)*

**§ 14.4.3.**

In case of termination for the Owner's convenience, the Contractor will be entitled to compensation only for the following items:

- .1 Payment for acceptable Work performed up to the date of termination;
- .2 The costs of preservation and protection of the Work if requested to do so by the Owner;
- .3 The cost of terminating the following contracts including:
  - (i) Purchased materials but only if not returnable and provided to the Owner, or the restocking or return charge, if any, if returnable at the Owner's written election;
  - (ii) Equipment rental contracts if not terminable at no cost but not to exceed an amount equal to thirty (30) days rental;
- .4 Documented transportation costs associated with removing Contractor-owned equipment;
- .5 Documented demobilization and close-out costs; and
- .6 Overhead and profit on the foregoing not to exceed ten (10%) percent.

The Contractor's obligations surviving final payment under the Contract, including without limitation those with respect to insurance, indemnification, and correction of Work that has been completed at the time of termination, remains effective notwithstanding termination for convenience of the Owner.

**ARTICLE 15 CLAIMS AND DISPUTES**

**§ 15.1 Claims**

**§ 15.1.1 Definition**

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents; however, the Owner shall send advance written notice to the Contractor before imposing any liquidated damages.

**§ 15.1.2 Time Limits on Claims**

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the time period specified by applicable law.

**§ 15.1.3 Notice of Claims**

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party.

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§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party.

#### § 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with Article 15.2. The Architect will issue Certificates for Payment pursuant to the agreement of the parties unless the parties are unable to reach an agreement, in which case the procedures set in Articles 15.3 and 15.4 shall apply.

#### § 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.5.1 Where the price of labor, material, equipment or energy necessary to perform the Work increases significantly during the term of the Contract, through no fault of the Contractor, the Contract Sum shall be equitably adjusted by Change Order as provided in Section 7 of the General Conditions of the Contract. A significant price increase means a change in price occurring during the period of time between the date of Contract execution to the date of Substantial Completion by an amount exceeding five percent (5%). Such price increases shall be documented by available vendor quotes, estimates, invoices, catalogs, receipts or other documentation. Further, if material or equipment required by the Contract Documents are not available due to shortage or unavailability or if the price to procure such material or equipment increases as set forth in this Section, then an acceptable substitute may be found and an adjustment in the Contract Sum shall be made accordingly.

#### § 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the critical path of construction.

#### § 15.1.7 Waiver of Claims for Consequential Damages

*(Paragraph deleted)*

Neither Contractor nor Owner shall be liable to the other for any consequential losses or damages, whether arising in contract, warranty, tort (including negligence), strict liability or otherwise, including but not limited to losses of use, profits, business, reputation or financing.

*(Paragraph deleted)*

#### § 15.2 DIRECT DISCUSSIONS

§ 15.2.1 If the Parties cannot reach resolution on a Claim or matter relating to or arising out of the Agreement, the Parties shall endeavor to reach resolution through good faith, face-to-face direct discussions between the Parties' representatives, who shall possess the necessary authority to resolve such matter and who shall record the date of the first discussions. If the dispute remains unresolved after fifteen (15) days from the date of first discussion, the Parties shall endeavor to resolve the dispute by mediation before recourse to binding dispute resolution procedures selected herein. Mediation shall be subject to direct discussions under this Section 15.2.1 as a condition precedent to binding dispute resolution.

§ 15.2.2 *[Intentionally Omitted]*

§ 15.2.3 *[Intentionally Omitted]*

Init.

§ 15.2.4 [Intentionally Omitted]

§ 15.2.5 [Intentionally Omitted]

§ 15.2.6 [Intentionally Omitted]

§ 15.2.6.1 [Intentionally Omitted]

§ 15.2.6.2 All offers, promises, conduct and statements, whether oral or written, made in the course of the negotiation by any of the parties, their agents, employees, experts and attorneys are confidential, privileged and inadmissible for any purpose, including impeachment, in arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation.

§ 15.2.7 [Intentionally Omitted]

§ 15.2.8 [Intentionally Omitted]

(Paragraphs deleted)

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 If the parties' good faith direct discussions are unsuccessful in resolving any Claims, the parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association, unless otherwise agreed by the parties, in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 [Intentionally Omitted]

(Paragraph deleted)

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The parties will bear their own attorneys' fees, expert witnesses' fees, costs, and expenses in the mediation. The mediation shall be held in the State and city where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

ARTICLE 16 [Intentionally Omitted]

Accepted as of the last date entered below:

\_\_\_\_\_  
OWNER (Signature)

  
\_\_\_\_\_  
CONTRACTOR (Signature)

Init.

Brady Moore, City Manager

*(Printed name and title)*

**Dated**

Justin Woolverton, EVP Operations

*(Printed name and title)*

**Dated**

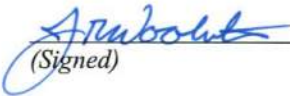
Init.

/

## **Certification of Document's Authenticity**

AIA® Document D401™ – 2003

I, Justin Woolverton, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 10:14:04 ET on 01/30/2026 under Order No. 2114446684 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ – 2017, General Conditions of the Contract for Construction, other than those additions and deletions shown in the associated Additions and Deletions Report.

  
(Signed)

*EVP of Operations*  
(Title)

*1-30-2026*  
(Dated)

REPORT TO: CITY COUNCIL

MEETING DATE: FEBRUARY 9, 2026



<b>Agenda Item:</b>	4.e. CC-26-19
<b>Previous/Related Action:</b>	
<b>Background/Issue:</b>	Annually, certain plans are adopted by the City Council demonstrating the City's compliance with federal regulations and initiatives. These plans are requirements for making applications for some federal grants.
<b>Proposal/Solution:</b>	Adopt the following plans for calendar year 2026: <ul style="list-style-type: none"><li>•Anti-displacement Plan</li><li>•Citizen Participation Plan</li><li>•Fair Housing Plan</li><li>•Minority/Women Business Enterprises Utilization Plan</li><li>•Section 3 Plan</li></ul>
<b>Financial Source/Impact:</b>	N/A
<b>Related Strategic Priority:</b>	#2 MOTIVATED MANAGEMENT #3 SAFE COMMUNITY
<b>Recommended Action/Motion:</b>	Motion to adopt Anti-displacement Plan, Citizen Participation Plan, Fair Housing Plan, Minority/Women Business Enterprises Plan, and Section 3 Plan as attached for calendar year 2026.
<b>Prepared By:</b>	Shelly Crynes, Grants Manager
<b>Reviewed By:</b>	Michelle Wilhelm Christy Cluck Teresa Kadavy
<b>Submitted By:</b>	Brady Moore, City Manager

**Attachments**

1. Antidisplacement and Relocation Plan 2026
2. Citizen Participation Plan 2026
3. Fair Housing Plan 2026
4. M-WBE Utilization Plan 2026
5. Section 3 Plan 2026

**City of Stillwater, OK**  
**Community Development Block Grant**  
**Residential Anti-Displacement and Relocation Assistance Plan 2026**

When the City of Stillwater undertakes any public facility improvements funded with federal funds, it will take all reasonable steps to minimize the need for displacement as a result of these projects. No demolition and/or conversion of low/moderate-income dwelling units are anticipated in conjunction with activities assisted with these funds. Subject to requirements contained in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), 42 U.S.C. 4601-4655; Section 104(d) of the Housing and Community Development Act of 1974, as amended, the City of Stillwater will certify that it is following a residential anti-displacement and relocation assistance plan which contains the following components:

1. A requirement to replace all occupied and vacant habitable low/moderate-income dwelling units that are demolished or converted to a use other than low/moderate-income housing; and
2. A requirement to provide certain relocation assistance to any lower income person displaced as a direct result of the demolition of any dwelling unit or the conversion of a low/moderate-income dwelling unit to a use other than a low/moderate-income dwelling unit.

If demolition or conversion occurs, the City of Stillwater will make public and submit to the appropriate funding agency the following information:

1. A description of the proposed assisted activity;
2. The location and number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than as low/moderate-income dwelling units as a direct result of the assisted activity;
3. A time schedule for the commencement and completion of the demolition or conversion;
4. The location and number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units;
5. The source of funding and a time schedule for the provision of the replacement dwelling units;
6. The basis for concluding that each replacement dwelling unit will remain a low/moderate-income dwelling unit for at least 10 years from the date of initial occupancy;

7. Information demonstrating that any proposed replacement of dwelling units with smaller dwelling units is consistent with the housing needs of low/moderate-income households in the jurisdiction.

If displacement of low-/moderate-income households occurs, the City of Stillwater will provide relocation assistance to each low/moderate income household displaced by the demolition or conversion of any dwelling unit as provided by the URA, Section 104(d) of the Housing and Community Development Act of 1974, as amended, 24 CFR 570.606(b) as follows:

1. Payment, including reimbursement for reasonable out-of-pocket expenses incurred in connection with the relocation, including the cost of moving to and from the housing and any increase in monthly rent or utilities; and
2. Relocation advisory services, including advance notice of the date and approximate duration of relocation, the location of suitable, decent, safe and sanitary dwellings, the terms and conditions under which the tenant may lease/occupy such dwelling, and the provisions for payment of reasonable expenses.

No displacement is anticipated; however, the City of Stillwater will work with the appropriate funding agency and implement the required procedures to address displacement and relocation if they occur.

Adopted this February 9, 2026, by the Stillwater City Council.

CITY OF STILLWATER, OKLAHOMA  
a Municipal Corporation

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WILLIAM H. JOYCE, MAYOR

(SEAL)

ATTEST:

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TERESA KADAVY, CITY CLERK

**City of Stillwater, OK**  
**Community Development Block Grant**  
**Citizen Participation Plan 2026**

The City of Stillwater intends to implement a citizen participation program for its CDBG application process to accomplish the following objectives:

- A. Provide for and encourage citizen participation particularly by low and moderate income persons who reside in areas where CDBG funds are proposed to be used. This will be accomplished by:
  - 1. Providing frequent and timely public notice of CDBG program activities in the local newspapers, City operated website and government access cable channel, and by posting at City Hall.
  - 2. Formulating a comprehensive CDBG Statement of Needs.
  - 3. Conducting a minimum of two (2) Neighborhood Input Meetings and a Public Hearing to inform citizens of the proposed CDBG project(s) and authorizing the Mayor to sign a CDBG application in a formal City Council meeting.
  
- B. Ensure that citizens will be given reasonable and timely access to local meetings, information, and records relating to proposed and actual use of funds including but not limited to:
  - 1. The amount of CDBG funds to be made available for the current fiscal year if the proposed project(s) is approved.
  - 2. The range of activities that may be undertaken with those funds.
  - 3. The estimated amount of those funds proposed to be used for activities that will benefit low and moderate income persons.
  - 4. The proposed CDBG activities likely to result in displacement and any anti-displacement and relocation plans developed by the City of Stillwater in accordance with Section 104(d)(1) and (2) of the Housing and Community Development Act of 1974, as amended.
  - 5. The basis on which the City of Stillwater may provide technical assistance to groups' representative of persons of low and moderate income that may request assistance in developing proposals. The level and type of assistance to be provided is at the discretion of the City of Stillwater and does not necessarily include providing funding to such groups.
  - 6. This requirement will be accomplished by discussing the CDBG proposal during regular City Council meeting, in one formal Public Hearing and a minimum of two (2) Neighborhood Input Sessions prior to the submittal of the City of Stillwater's CDBG application. During the initial public hearing and input sessions, the five (5) items listed above will be explained to the public. A brief summary of any proposed CDBG project or activity will be available for public review after the City Council has made its final selection. A second public hearing will be held at the end of the grant period that discusses Stillwater's accomplishments in relation to initial plan or activity. Records of the CDBG project(s) or activities will be maintained in the Municipal Building of the City of Stillwater and will be available upon request for review by the public.
  
- C. Provide for a minimum of two (2) public hearings: one (1) public hearing prior to submission of the application for funding of the project(s) or activity(ies) for the purpose of obtaining citizen views and formulating or responding to proposals and questions, and the second hearing at the end of the grant period that discusses Stillwater's accomplishments in relation to initial plan or activity. The application stage hearing will include discussion of CDBG needs and the development of projects or activities being proposed

for CDBG funding. There will be reasonable notice of all input meetings and public hearings, which will be scheduled for times and locations convenient to the potential and actual beneficiaries and which will accommodate the disabled and other persons with special needs. This will be accomplished by:

Scheduling one (1) Public Hearing to discuss the City of Stillwater's CDBG proposal or activity and a minimum of two (2) neighborhood input meetings. At the public hearing and the input meetings, the proposed project(s) or activity(ies) will be reviewed for the public and further citizen input will be solicited. Notice will be given seven (7) to ten (10) days in advance of this hearing and the input meetings in local newspapers and by posting at City Hall. The public hearing will be held on a weekday in the early evening so that citizens who work may attend and the input meetings will be held in the early evening during the weekday or on a Saturday. A second public hearing will be held at the end of the grant period if the City of Stillwater is funded.

- D. Meet the needs of non-English speaking residents in those instances where a significant number of non-English speaking residents can reasonably be expected to participate. The City of Stillwater does not currently have a significant population of non-English speaking citizens. However, every effort will be made to accommodate the needs of any non-English speaking citizens who wish to participate.
- E. Provide citizens with reasonable advance notice of, and opportunity to comment on, proposed activities not previously described in the City of Stillwater's funding request and on activities which are proposed to be deleted or substantially changed in terms of purpose, scope, location or beneficiaries.

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

- F. Provide the place, telephone number, and times when citizens are able to submit written complaints or grievances, and the process the City of Stillwater will use to provide a timely written response to such complaints or grievances.

Citizens with comments, complaints or grievances on the CDBG Program process may submit them in writing or in person to Community Development, City of Stillwater Municipal Building, 723 S. Lewis, P.O. Box 1449, Stillwater, OK, 74074 during regular business hours or may call 405-742-8213. The City of Stillwater will respond to such comments or grievances in writing within fifteen (15) working days where practicable.

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

Adopted this February 9, 2026, by the Stillwater City Council.

CITY OF STILLWATER, OKLAHOMA  
a Municipal Corporation

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WILLIAM H. JOYCE, MAYOR

(SEAL)

ATTEST:

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TERESA KADAVY, CITY CLERK

**City of Stillwater, OK**  
**Community Development Block Grant**  
**Fair Housing Plan 2026**

**Fair Housing Laws**

Fair Housing Amendments Act of 1988, Amends Title VIII of The Civil Rights Act of 1968 (to include prohibition against discrimination based on handicap and family status)

The Fair Housing Law provides protection against the following acts, if they are based on race, color, religion, sex, national origin, handicap or family status:

- Refusing to sell or rent to, deal or negotiate with any person.
- Discriminating in terms or conditions for buying or renting housing.
- Discriminating by advertising that housing is available to persons of a certain race, color, religion, sex, national origin, handicap or family status.
- Denying that housing is available for inspection, sale or rent when it really is available.
- Persuading owners to sell or rent housing by telling them that minority groups are moving into the neighborhood.
- Directing renters and prospective homebuyers to certain areas.

Title VI of the Civil Rights Act of 1964, 42 USC 2000D

Nondiscrimination in programs or activities receiving federal financial assistance. Extends to all federal departments and agencies empowered to extend financial assistance to any program or activity by way of grant, loan or contract other than contract of insurance guaranty. No person shall be excluded from participation in, be denied the benefits of, including employment or selection of contractors, or be subjected to discrimination on the basis of handicap, i.e. physically disabled, speech or hearing impaired, or visually handicapped.

Section 504 of the Rehabilitation Act of 1973, as Amended

No otherwise qualified individual shall, solely by reason of his or her handicap, be excluded from participation in (including employment), denied program benefits or subjected to discrimination under any program or activity receiving federal assistance funds.

Section 109 of Title I of the Housing and Community Development Act of 1992, as Amended; §570.602

Section 109 of the HCD Act of 1974, Title I, prohibits discrimination on the basis of race, color, national origin, disability, age, religion, and sex within Community Development Block Grant (CDBG) programs or activities. No person in the United States shall, on the ground of race, color or national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part under this title. Section 109 also directs that the prohibitions against discrimination on the basis of age under the Age Discrimination Act and the prohibitions against discrimination on the basis of disability under Section 504 shall apply to programs or activities receiving Federal financial assistance under Title I programs. The policies and procedures necessary to ensure enforcement of section 109 are codified in 24 CFR part 6.

#### Age Discrimination Act of 1975, as Amended

Provides that no person shall be excluded from participation in, denied program benefits or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance. No persons shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. Any prohibition against discrimination on the basis of age or with respect to an otherwise handicapped individual as provided in Section 504 of Rehabilitation Act of 1973 shall also apply to any such program or activity.

#### Vietnam Era Veterans Readjustment Assistance Act of 1974, Section 402

Provides that no person shall be discriminated against because he or she is a disabled veteran or a veteran of the Vietnam Era in regard to employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

#### Section 3 of the Housing and Community Development Act of 1968

The purpose of Section 3 is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

### **Fair Housing-Related Presidential Executive Orders**

#### Executive Order 11246: Equal Opportunity

Provides the grantee or any contractor or subcontractor must agree not to discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identify or national origin.

#### Executive Order 11063: Equal Opportunity in Housing, as Amended by Executive Order 12259

Directs the grantee to take all action necessary and appropriate to prevent discrimination because of race, color, religion, sex, familial status, national origin, and disability in the sale, leasing, rental and other disposition of real property and related facilities (including land to be developed for residential use), or the use or occupancy thereof if such property and related facilities are, among other things, provided in whole or in part with the aid of loans, advances, grants or contribution from the federal government.

### **Community Housing Status**

Based on the 2020 Census, the City of Stillwater's population was 48,394 persons, housing unit data is determined to be 22,150 units within the City of Stillwater. Using data from the 2020 U.S. Census, approximately 35% of housing units are owner-occupied and 48.4% of housing units are renter-occupied. The combined occupancy rate for the city is approximately 83.4%. The 2014 housing market analysis showed that safe and affordable owner-occupied housing is becoming

less available city-wide and the rental property percentage may be increasing. The majority of the renter-occupied housing is located in the proximity of Oklahoma State University and is utilized by students. However, safe and affordable renter-occupied housing can also be found throughout the city. In 2014 the Stillwater Community Housing and Affordability Study was completed and accepted by City Council.

**Review of Fair Housing Programs and Activities**

In 1966, the City of Stillwater approved a fair housing code intended to secure equal access to housing in all areas of the city for all residents and to preserve the public welfare, providing for the preservation of public peace, health and safety. As a part of the code a Fair Housing Council was created. The duties of the council are to review and, if necessary, act upon complaints regarding a violation of the fair housing code. The Fair Housing Council function is performed by the Stillwater Housing Authority.

**Action Plans**

Plans include articles in the local press and announcements on local radio that will advertise fair and affordable housing opportunities and provide fair housing information. The City makes every effort to provide emphasis on fair and affordable housing during Fair Housing Month in April with a Proclamation.

By formally adopting this Fair Housing Plan, the Stillwater City Council accepts the responsibility for implementing its provisions. The Council further charges all employees and contractors with the responsibility of implementing this plan and living up to the requirements of the Fair Housing Act Title VIII of the Civil Rights Act of 1968.

Adopted this February 9, 2026, by the Stillwater City Council.

CITY OF STILLWATER, OKLAHOMA  
a Municipal Corporation

\_\_\_\_\_  
WILLIAM H. JOYCE, MAYOR

(SEAL)

ATTEST:

\_\_\_\_\_  
TERESA KADAVY, CITY CLERK

**City of Stillwater, OK**  
**Community Development Block Grant**  
**Minority/Women Business Enterprises (M/WBE) Utilization Plan 2026**

Under Executive Orders 11625, 12432 and 12138, the City of Stillwater is committed to a good faith effort to ensure the inclusion, to the maximum extent permitted by law, of minorities and women, and minority and women owned business enterprises in its procurement process. The City of Stillwater shall endeavor to increase opportunities for Minority/Women Business Enterprises to provide materials, supplies, equipment and services needed to support the operations of the City.

In order to provide increased opportunities offered by the City of Stillwater, the following practices are to be utilized, as appropriate:

1. Actively solicit bids from minority and women owned business enterprises;
2. Provide bid solicitations to minority and women contractor associations;
3. Obtain a list of certified Disadvantaged Business Enterprises from the Oklahoma Department of Transportation and a list of certified Women-Owned Businesses from the Oklahoma Department of Commerce.
4. Ensure that plans, specifications, requests for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs;
5. Ensure payments to M/WBEs are made on a timely basis.
6. Document and maintain records of good faith efforts;

All procurement transactions for the City of Stillwater will be conducted in a manner that provides open and free competition consistent with all federal and state regulatory provisions. The City of Stillwater will not discriminate against any business because of an owner's race or gender.

Adopted this February 9, 2026, by the Stillwater City Council.

CITY OF STILLWATER, OKLAHOMA  
a Municipal Corporation

\_\_\_\_\_  
WILLIAM H. JOYCE, MAYOR

(SEAL)

ATTEST:

\_\_\_\_\_  
TERESA KADAVY, CITY CLERK

## SECTION 3 PLAN

City of Stillwater, OK agrees to implement affirmative steps to comply with the Section 3 requirements set forth at 24 CFR 75 directed at increasing the utilization of lower income residents and businesses within the Community Development Block Grant project site. Section 3 refers to Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

Section 3 projects include housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of \$200,000.

Safe Harbor Compliance: The City of Stillwater will be considered to have complied with the Section 3 requirements below and met the safe harbor, if they certify that they followed the required prioritization of effort and met or exceeded the applicable Section 3 benchmarks.

Prior to beginning work, contractors or subcontractors will be required to certify that they will follow the required prioritization of effort for Section 3 workers, Targeted Section 3 workers, and Section 3 Business Concerns as outlined in the certification of prioritization of effort for employment, training, and contracting.

HUD establishes and updates Section 3 benchmarks through a document published in the Federal Register. The City of Stillwater Grants Manager will review and update the Section 3 benchmarks as necessary.

- A. To implement Section 3 requirements by seeking the assistance of local officials in determining the exact boundaries of the applicable project area.
- B. To attempt to recruit from within the City the necessary number of lower income residents through local advertising media, signs placed at the proposed site for the project, and community organizations and public or private institutions operating within or serving the project area.
- C. To maintain a list of all lower income residents who have applied either on their own or on referral from any source, and to employ such persons, if otherwise eligible and if a vacancy exists.
- D. To insert this Section 3 plan in all bid documents, and to require all bidders to submit a Section 3 affirmative action plan including utilization goals and the specific steps planned to accomplish these goals.
- E. To ensure that all appropriate project area "business concerns" are notified of pending sub-contractual opportunities.
- F. To maintain records, including copies of correspondence, memoranda, etc., which document that all the above affirmative action steps have been taken.

- G. To appoint or recruit an executive official as Equal Opportunity Officer (EOO) to coordinate the implementation of this Section 3 plan.
- H. To list all permanent workforce for this project by job title.
- I. To list all projected workforce needs for this project by job classification and time frame for potential hire.

Adopted this February 9, 2026, by the Stillwater City Council.

CITY OF STILLWATER, OKLAHOMA  
a Municipal Corporation

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WILLIAM H. JOYCE, MAYOR

(SEAL)  
ATTEST:

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TERESA KADAVY, CITY CLERK

REPORT TO: CITY COUNCIL

MEETING DATE: FEBRUARY 9, 2026



<b>Agenda Item:</b>	4.f. CC-26-20
<b>Previous/Related Action:</b>	
<b>Background/Issue:</b>	The YMCA of greater OKC is proposing to build a new YMCA located at 799 W. 12th Avenue. Heritage Petroleum Inc. (Heritage) currently has a gas pipeline that divides the project site and will need to be relocated to support the proposed construction. The City of Stillwater owns several tracts of land immediately adjacent to the project site. The proposed location for the gas pipeline will cross portions of City owned property.
<b>Proposal/Solution:</b>	<p>Prior to relocating the pipeline, Heritage must acquire easements from the City to do so. Staff has evaluated the proposed pipeline location and is recommending the City grant a 15-foot wide easement across three City owned parcels. The easements attached to this report are summarized below.</p> <ul style="list-style-type: none"><li>• Gas Pipeline Easement - Parcel 1.A 1,500 square feet</li><li>• Gas Pipeline Easement - Parcel 2.A 2,372 square feet</li><li>• Gas Pipeline Easement - Parcel 3.A 2,127 square feet</li></ul>
<b>Financial Source/Impact:</b>	There is no additional financial impact
<b>Related Strategic Priority:</b>	#4 CONNECTED SPACES
<b>Recommended Action/Motion:</b>	Staff recommends City Council grant three gas pipeline easements across City owned parcels 1.A, 2.A and 3.A to Heritage Petroleum, Inc. for the purposes of relocating a gas pipeline to facilitate construction of a new YMCA for Stillwater.
<b>Prepared By:</b>	Henry Bibelheimer, Senior Planner
<b>Reviewed By:</b>	David Barth Brady Moore Teresa Kadavy
<b>Submitted By:</b>	Brady Moore, City Manager

**Attachments**

1. Gas Pipeline Easement 1.A
2. Gas Pipeline Easement 2.A
3. Gas Pipeline Easement 3.A

**GAS PIPELINE EASEMENT – PARCEL 1.A**

**KNOW ALL MEN BY THESE PRESENTS:**

That the undersigned, City of Stillwater, Oklahoma, a municipal corporation, (hereinafter "the grantor") certifies that it owns and possesses all rights, title, and interest to the following described real property situated in Payne County, State of Oklahoma, to-wit:

*Tract of land in the Northwest Quarter of the Southwest Quarter and part of the Northwest Quarter of Section 23, Township 19 North, Range 2 East of the Indian Meridian, City of Stillwater, Payne County, State of Oklahoma, according to the U.S. Government Survey; thereof being more particularly described as follows: Commencing at the Northwest Corner of said Southwest Quarter; thence, a distance of 273.41 feet, N88°35'42"E, along the North line of said Southwest Quarter, to a Point of Beginning; thence, N04°33'56"W, a distance of 70.10 feet, entering into the Northwest Quarter; thence, N88°35'42"E, parallel to the North Line, a distance of 100.15 feet; thence, S04°33'56"E, crossing into the Northwest Quarter of said Southwest Quarter, a distance of 80.35 feet, thence Southeasterly along a curve to the left with a radius of 595.00 feet, an arc length of 901.41 feet, the chord of which bears S47°57'59"E, a chord distance of 817.65; thence, N88°37'58"E, a distance of 341.70 feet, to a point on the East line of the Northwest Quarter of said Southwest Quarter; thence S00°40'31"E, along the East line of the Northwest Quarter of said Southwest Quarter, a distance of 50.00 feet; thence, S88°37'58"W, a distance 137.01 feet; thence, S00°40'31" E, parallel to the East line of the Northwest Quarter of said Southwest Quarter, a distance of 50.00 feet; thence, S88°37'58"W, a distance of 203.48 feet; thence, Northwesterly along a curve to the right with a radius of 695.00 feet, an arc length of 1052.91 feet, the chord of which bears N47°57'59"E, a chord distance of 817.65 feet; thence, N04°33'56"W, a distance of 15.77 feet, to the Point of Beginning; as filed in Book 2302 on Page 633.*

and further that the undersigned grantor, in consideration of the sum of One Dollar (\$1.00), in hand paid and other good and valuable consideration, for the grantor, its successors and assigns, does hereby grant, bargain, sell, and convey unto Heritage Petroleum, Inc., an Oklahoma corporation, its heirs, successors, executors, administrators, and assigns, (hereinafter "the grantee") an easement for the installation, operation and maintenance of an oil and gas pipeline through, over, under, and across the portions of the above-described property, together with the right of ingress and egress to and from same, for the purpose heretofore stated.

*A 15.00' gas pipeline easement located in the Northwest Quarter (NW/4) of the Southwest Quarter (SW/4) of Section Twenty-three (23), Township Nineteen (19) North, Range Two (2) East of the Indian Meridian, Payne County, State of Oklahoma, being more particularly described as follows.*

*Commencing at the Northwest corner of said Northwest Quarter of the Southwest Quarter; thence, a distance of 1316.15 feet, bearing N88°35'44"E along the North line of said Northwest Quarter of the Southwest Quarter, said line being the basis of bearing for this description, to the Northeast corner of said Northwest Quarter of the Southwest Quarter; thence, a distance of 572.67 feet, bearing S01°01'28"E along the East line of said Northwest Quarter of the Southwest Quarter to a point on a Northern line of the parent parcel described in Book 2302 on Page 633 as filed with the Payne County Clerk's office; thence, a distance of 136.99 feet, bearing S88°38'00"W along said Northern line to the Point of Beginning; thence, S01°01'28"E extending and along an Eastern line of said parent parcel, for a distance of 100.00 feet to a point on a Southern line of said parent parcel; thence, S88°38'00"W along said Southern line, for a distance of 15.00 feet; thence, N01°01'28"W parallel to said Eastern line, for a distance of 100.00 feet to a point on said Northern line; thence, N88°38'00"E along said Northern line, for a distance of 15.00 feet to the Point of Beginning.*

The easement contains 1,500 square feet or 0.03 acres more or less and is subject to all recorded easements and rights of way thereof.

Except as herein granted, the grantor shall continue to have the full use and enjoyment of the properties herein granted or described for appropriate purposes. At no time shall the grantor commit a use, occupation or enjoyment thereof that might cause a hazardous condition and no building, structure or obstruction shall be located or constructed on said easement by the grantor, its successors or assigns, nor shall the grantor allow said easement to be encumbered in any way so that the grantee shall not be afforded access to said oil and gas pipeline at any and all times.

STATE OF OKLAHOMA     )  
  ) ss.  
COUNTY OF PAYNE     )

NOW, on this \_\_\_\_\_ day of \_\_\_\_\_, 2026, the City Council of the City of Stillwater, State of Oklahoma, a municipal corporation, acting for and in behalf of said municipal corporation, during regular session, does hereby approve and accept the granting of this delivered easement to the named grantee and directs the Mayor and Clerk of said City of Stillwater to indicate the same by their signatures and seal of the City of Stillwater, State of Oklahoma.

\_\_\_\_\_  
GRANTOR  
CITY OF STILLWATER, OKLAHOMA  
WILLIAM H. JOYCE, MAYOR

(SEAL)

ATTEST:

\_\_\_\_\_  
TERESA KADAVY, CITY CLERK

CITY OF STILLWATER, OKLAHOMA

Approved as to form and legality this \_\_\_\_\_ day of \_\_\_\_\_, 2026.

\_\_\_\_\_  
KIMBERLY CARNLEY, CITY ATTORNEY  
CITY OF STILLWATER, OKLAHOMA

NOW, on this 28th day of January, 2026, Heritage Petroleum, Inc., an Oklahoma corporation, its successors and assigns, does hereby approve and accept from the named grantor this delivered easement.

Michael D. Smith

GRANTEE  
HERITAGE PETROLEUM, INC.  
MICHAEL D. SMITH, PRESIDENT

STATE OF OKLAHOMA     )  
  ) ss.  
COUNTY OF PAYNE     )

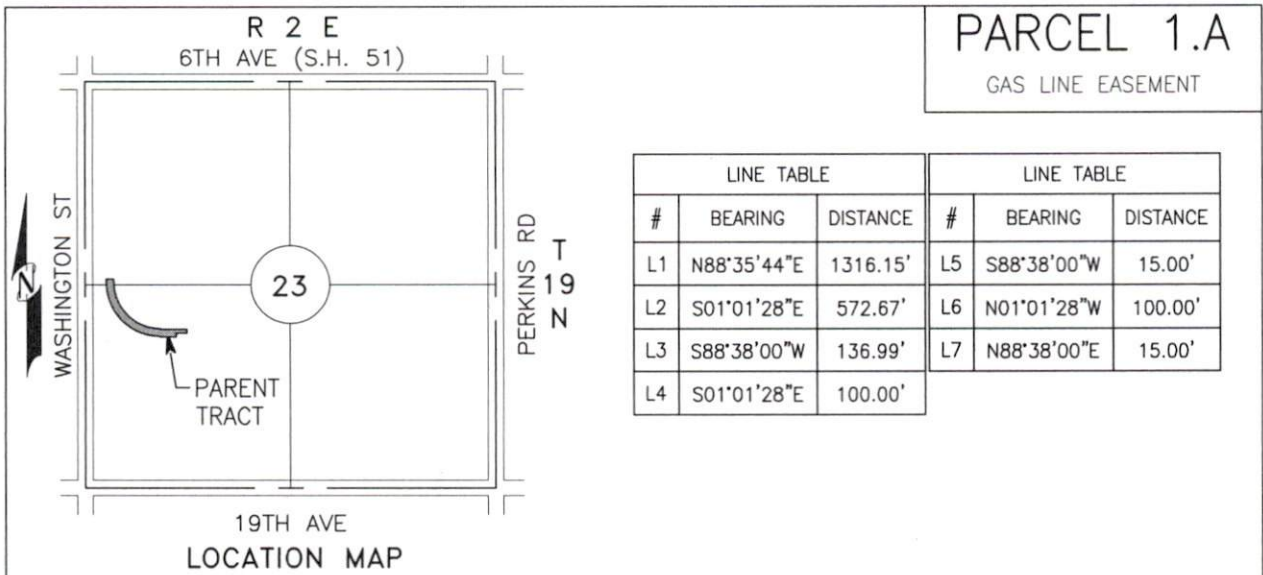
Before me, a Notary Public in and for said County and State on this 28 day of January, 2026, personally appeared, Michael D. Smith, to me known to be the identical person who subscribed the name of the maker thereof to the foregoing instrument and acknowledged to me that he/she executed the same as his/her free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

[Signature]  
NOTARY PUBLIC

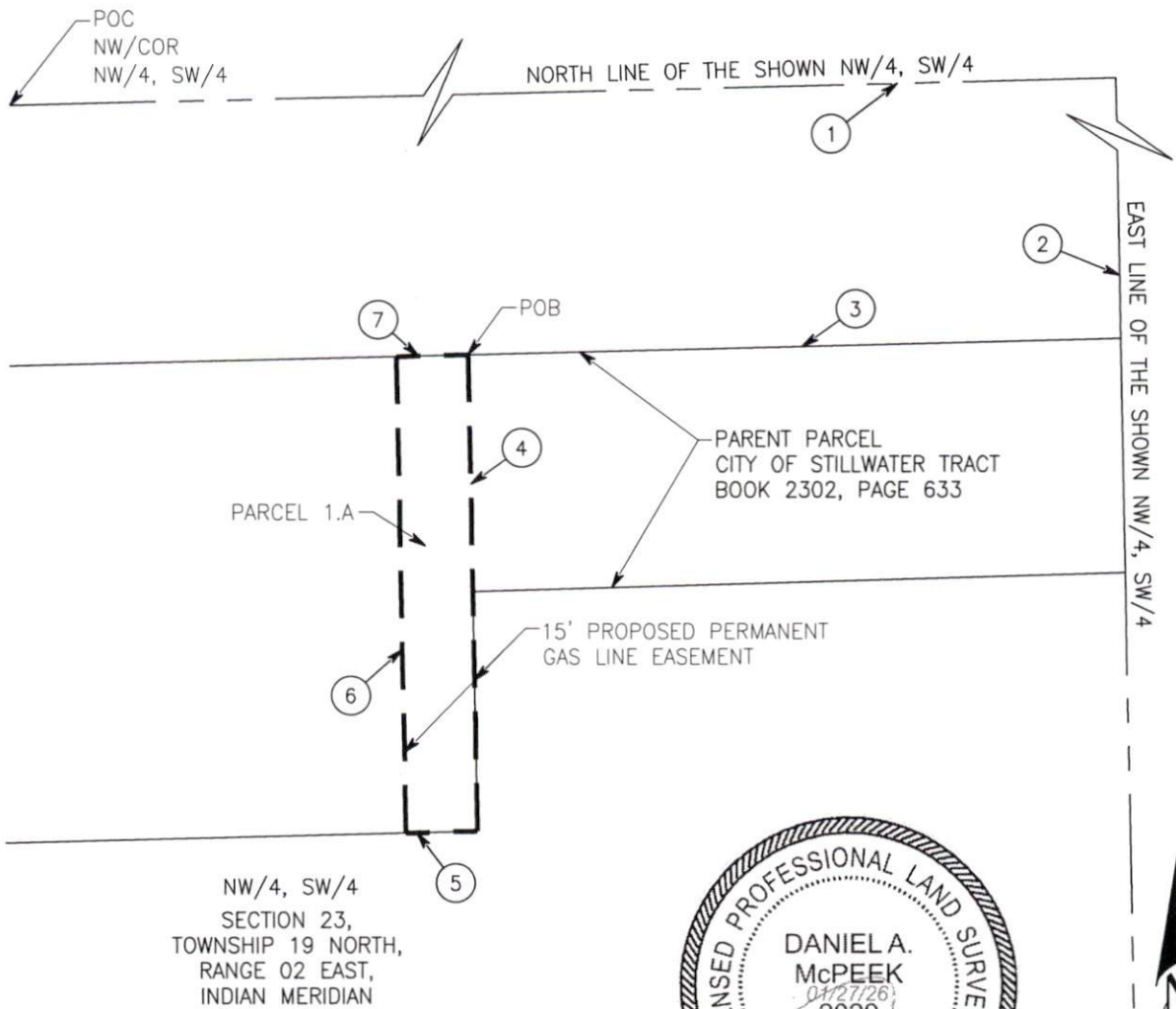
My Commission Expires: 10-05-2026  
My Commission Number: 22013513  
(SEAL)





**PARCEL 1.A**  
GAS LINE EASEMENT

LINE TABLE			LINE TABLE		
#	BEARING	DISTANCE	#	BEARING	DISTANCE
L1	N88°35'44"E	1316.15'	L5	S88°38'00"W	15.00'
L2	S01°01'28"E	572.67'	L6	N01°01'28"W	100.00'
L3	S88°38'00"W	136.99'	L7	N88°38'00"E	15.00'
L4	S01°01'28"E	100.00'			



1. SEE PARCEL 1.A PAGE 1 FOR EASEMENT DESCRIPTION.
2. ALL CALLS, LOCATIONS, AND INFORMATION SHOWN ARE DERIVED FROM DATA PROVIDED BY KIMLEY-HORN (THE CLIENT) BASED ON THE STILLWATER YMCA PROJECT.
3. PREPARED BY BANCROFT DESIGN, INC., LOCATED AT 923 SOUTH LOWRY STREET, STILLWATER, OKLAHOMA, CERTIFICATE OF AUTHORIZATION NUMBER 9205, EXPIRES JUNE 30, 2026, HAVING A PHONE NUMBER OF 405-743-3355.



STILLWATER YMCA  
STILLWATER, OK

01/26/2026

**GAS PIPELINE EASEMENT – PARCEL 2.A**

**KNOW ALL MEN BY THESE PRESENTS:**

That the undersigned, City of Stillwater, Oklahoma, a municipal corporation, (hereinafter "the grantor") certifies that it owns and possesses all rights, title, and interest to the following described real property situated in Payne County, State of Oklahoma, to-wit:

*A tract of land in the Southwest Quarter (SW/4) of the Southwest Quarter (SW/4) of Section Twenty-three (23), Township Nineteen (19) North, Range Two (2) East of Indian Meridian, in Payne County, Oklahoma, containing 0.99 acres, more or less, and described as follows: Beginning at a point 100 feet West of the Northeast Corner of the Southwest Quarter (SW/4) of the Southwest Quarter (SW/4) of Section Twenty-three (23) Township Nineteen (19) North, Range Two (2) East of the Indian Meridian, thence West 348.8 feet along the North line of the said Southwest Quarter (SW/4) of said Southwest Quarter (SW/4) of said section; thence South 123.7 feet to the Northwest Corner of the present City of Stillwater sewage disposal plant property; thence East 348.8 feet along the north line of the present City of Stillwater Sewage Disposal Plat property; thence North 123.7 feet to the point of beginning; as filed in Book DR172 on Page 393.*

and further that the undersigned grantor, in consideration of the sum of One Dollar (\$1.00), in hand paid and other good and valuable consideration, for the grantor, its successors and assigns, does hereby grant, bargain, sell, and convey unto Heritage Petroleum, Inc., an Oklahoma corporation, its heirs, successors, executors, administrators, and assigns, (hereinafter "the grantee") an easement for the installation, operation and maintenance of an oil and gas pipeline through, over, under, and across the portions of the above-described property, together with the right of ingress and egress to and from same, for the purpose heretofore stated.

*A 15.00' gas pipeline easement located in the Southwest Quarter (SW/4) of the Southwest Quarter (SW/4) of Section Twenty-three (23), Township Nineteen (19) North, Range Two (2) East of the Indian Meridian, Payne County, State of Oklahoma, being more particularly described as follows.*

*Commencing at the Northeast corner of said Southwest Quarter of the Southwest Quarter; thence, a distance of 100.00 feet, bearing S88°39'33"W along the North line of said Southwest Quarter of the Southwest Quarter, said line being the basis of bearing for this description, to the Northeast corner of the parent parcel described in Book DR172 on Page 393 as filed with the Payne County Clerk's office; thence, a distance of 234.91 feet, bearing S88°39'33"W along the North line of said parent parcel, to the Point of Beginning; thence, S01°10'55"E, for a distance of 45.24 feet; thence, S54°51'32"W, for a distance of 77.03 feet; thence, S07°03'23"W, for a distance of 36.09 feet to a point on the South line of said parent parcel; thence, S88°37'19"W along the South line of said parent parcel, for a distance of 15.16 feet to a point; thence, N07°03'23"E, for a distance of 44.96 feet; thence, N54°51'32"E, for a distance of 75.69 feet; thence, N01°10'55"W, for a distance of 37.21 feet to a point on the North line of said parent parcel; thence, N88°39'33"E along the North line of said parent parcel, for a distance of 15.00 feet to the Point of Beginning.*

The easement contains 2,372 square feet or 0.05 acres more or less and is subject to all recorded easements and rights of way thereof.

Except as herein granted, the grantor shall continue to have the full use and enjoyment of the properties herein granted or described for appropriate purposes. At no time shall the grantor commit a use, occupation or enjoyment thereof that might cause a hazardous condition and no building, structure or obstruction shall be located or constructed on said easement by the grantor, its successors or assigns, nor shall the grantor allow said easement to be encumbered in any way so that the grantee shall not be afforded access to said oil and gas pipeline at any and all times.



NOW, on this 28th day of January, 2026, Heritage Petroleum, Inc., an Oklahoma corporation, its successors and assigns, does hereby approve and accept from the named grantor this delivered easement.

*Michael D. Smith*

GRANTEE  
HERITAGE PETROLEUM, INC.  
MICHAEL D. SMITH, PRESIDENT

STATE OF OKLAHOMA     )  
  ) ss.  
COUNTY OF PAYNE     )

Before me, a Notary Public in and for said County and State on this 28 day of January, 2026, personally appeared, Michael D Smith, to me known to be the identical person who subscribed the name of the maker thereof to the foregoing instrument and acknowledged to me that he/she executed the same as his/her free and voluntary act and deed for the uses and purposes therein set forth.

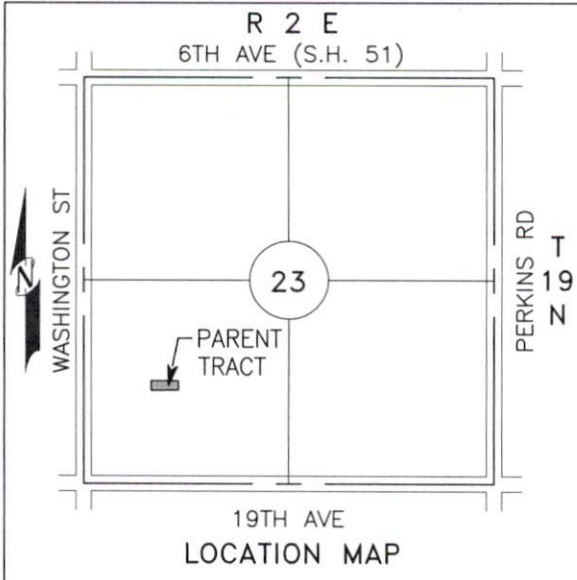
Given under my hand and seal the day and year last above written.

*[Signature]*  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: 10-05-2026  
My Commission Number: 22013513

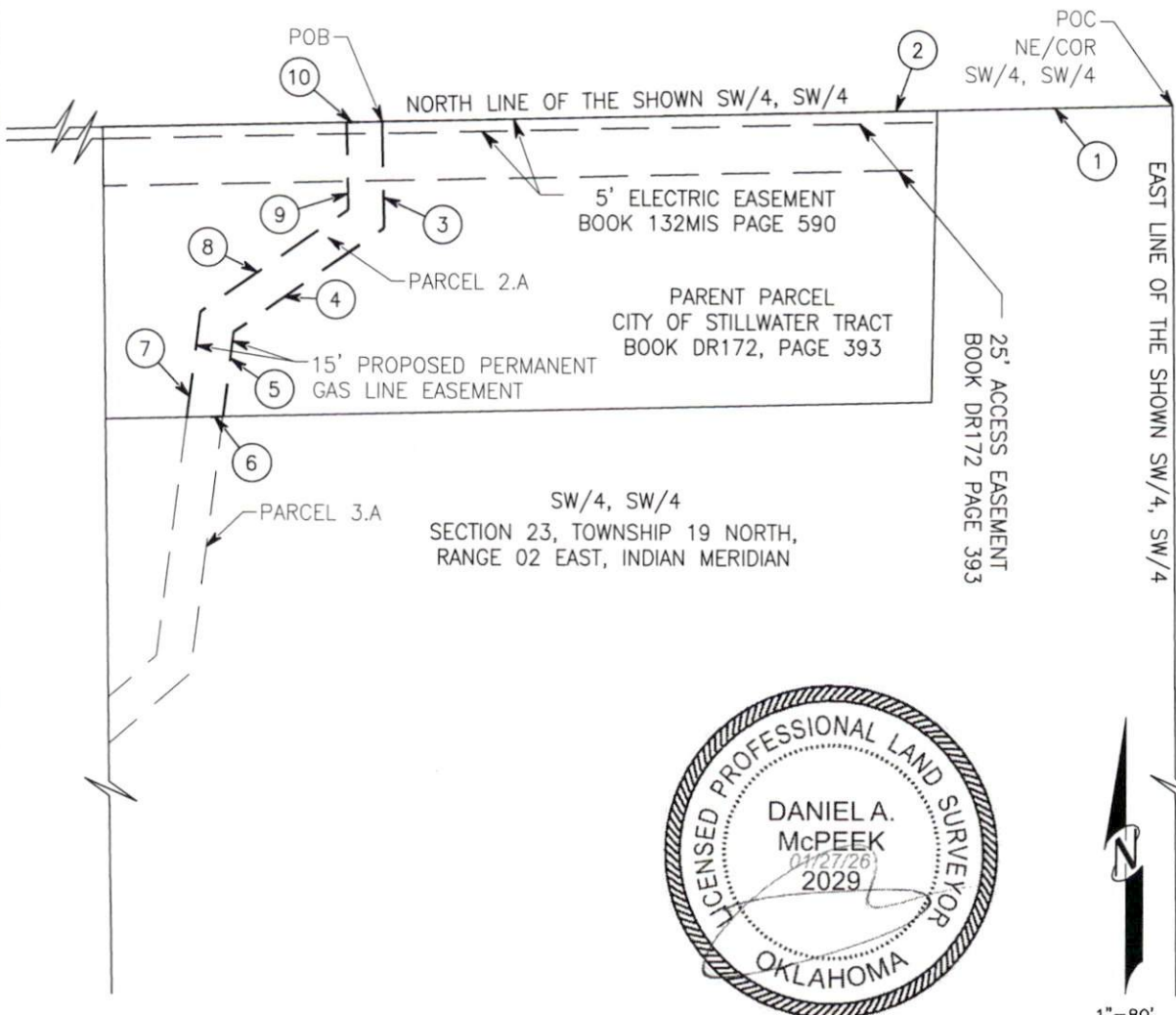
(SEAL)





**PARCEL 2.A**  
GAS LINE EASEMENT

LINE TABLE			LINE TABLE		
#	BEARING	DISTANCE	#	BEARING	DISTANCE
L1	S88°39'33"W	100.00'	L6	S88°37'19"W	15.16'
L2	S88°39'33"W	234.91'	L7	N07°03'23"E	44.96'
L3	S01°10'55"E	45.24'	L8	N54°51'32"E	75.69'
L4	S54°51'32"W	77.03'	L9	N01°10'55"W	37.21'
L5	S07°03'23"W	36.09'	L10	N88°39'33"E	15.00'



- SEE PARCEL 2.A PAGE 1 FOR EASEMENT DESCRIPTION.
- ALL CALLS, LOCATIONS, AND INFORMATION SHOWN ARE DERIVED FROM DATA PROVIDED BY KIMLEY-HORN (THE CLIENT) BASED ON THE STILLWATER YMCA PROJECT.
- PREPARED BY BANCROFT DESIGN, INC., LOCATED AT 923 SOUTH LOWRY STREET, STILLWATER, OKLAHOMA, CERTIFICATE OF AUTHORIZATION NUMBER 9205, EXPIRES JUNE 30, 2026, HAVING A PHONE NUMBER OF 405-743-3355.



STILLWATER YMCA  
STILLWATER, OK

01/26/2026

**GAS PIPELINE EASEMENT – PARCEL 3.A**

**KNOW ALL MEN BY THESE PRESENTS:**

That the undersigned, City of Stillwater, Oklahoma, a municipal corporation, (hereinafter "the grantor") certifies that it owns and possesses all rights, title, and interest to the following described real property situated in Payne County, State of Oklahoma, to-wit:

*Beginning at the Northeast corner of SW/4 SW/4, Section 23, 19N, 2E, thence West 100', thence South 123.7', thence West 348.8', thence South 501.3', thence East 448.8', thence North 625' to the point of beginning, Payne county, Oklahoma; as filed in Book DR162 on Page 241.*

and further that the undersigned grantor, in consideration of the sum of One Dollar (\$1.00), in hand paid and other good and valuable consideration, for the grantor, its successors and assigns, does hereby grant, bargain, sell, and convey unto Heritage Petroleum, Inc., an Oklahoma corporation, its heirs, successors, executors, administrators, and assigns, (hereinafter "the grantee") an easement for the installation, operation and maintenance of an oil and gas pipeline through, over, under, and across the portions of the above-described property, together with the right of ingress and egress to and from same, for the purpose heretofore stated.

*A 15.00' gas pipeline easement located in the Southwest Quarter (SW/4) of the Southwest Quarter (SW/4) of Section Twenty-three (23), Township Nineteen (19) North, Range Two (2) East of the Indian Meridian, Payne County, State of Oklahoma, being more particularly described as follows.*

*Commencing at the Northeast corner of said Southwest Quarter of the Southwest Quarter, said corner also being the Northeast corner of the parent parcel described in Book DR162 on Page 241 as filed with the Payne County Clerk's office; thence, a distance of 100.00 feet, bearing S88°39'33"W along the North line of said Southwest Quarter of the Southwest Quarter, said line being the basis of bearing for this description, also along the North line of said parent parcel; thence, a distance of 123.70 feet, bearing S00°57'56"W along a Western line of said parent parcel; thence, a distance of 299.33 feet, bearing S88°37'19"W along a Northern line of said parent parcel to the Point of Beginning; thence, S07°03'23"W, for a distance of 109.54 feet; thence, S49°11'26"W, for a distance of 45.42 feet to a point on the West line of said parent parcel; thence, N00°40'32"W along said West line, for a distance of 19.62 feet; thence, N49°11'26"E, for a distance of 26.99 feet; thence, N07°03'23"E, for a distance of 101.54 feet to a point on said Northern line of said parent parcel; thence, N88°37'19"E along said Northern line, for a distance of 15.16 feet to the Point of Beginning;*

The easement contains 2,127 square feet or 0.05 acres more or less and is subject to all recorded easements and rights of way thereof.

Except as herein granted, the grantor shall continue to have the full use and enjoyment of the properties herein granted or described for appropriate purposes. At no time shall the grantor commit a use, occupation or enjoyment thereof that might cause a hazardous condition and no building, structure or obstruction shall be located or constructed on said easement by the grantor, its successors or assigns, nor shall the grantor allow said easement to be encumbered in any way so that the grantee shall not be afforded access to said oil and gas pipeline at any and all times.



NOW, on this 28th day of January, 2026, Heritage Petroleum, Inc., an Oklahoma corporation, its successors and assigns, does hereby approve and accept from the named grantor this delivered easement.

*Michael D. Smith*

GRANTEE  
HERITAGE PETROLEUM, INC.  
MICHAEL D. SMITH, PRESIDENT

STATE OF OKLAHOMA     )  
  ) ss.  
COUNTY OF PAYNE     )

Before me, a Notary Public in and for said County and State on this 28 day of January, 2026, personally appeared, Michael D Smith, to me known to be the identical person who subscribed the name of the maker thereof to the foregoing instrument and acknowledged to me that he/she executed the same as his/her free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

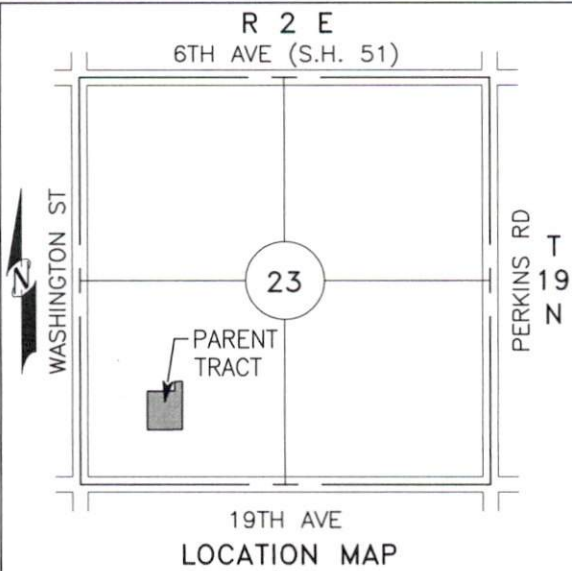
*[Signature]*  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: 10-05-2026  
My Commission Number: 22013513

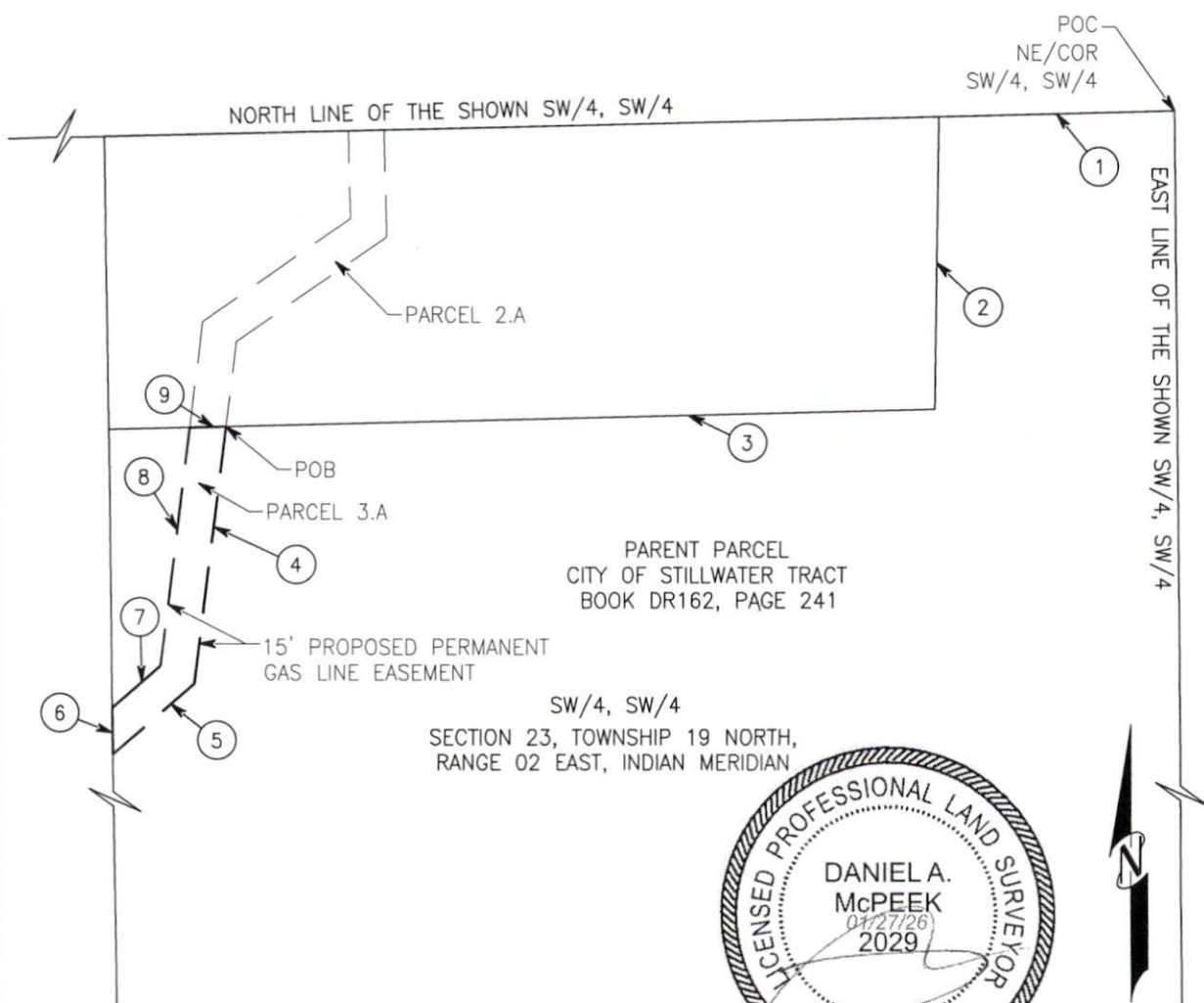
(SEAL)



**PARCEL 3.A**  
GAS LINE EASEMENT



LINE TABLE			LINE TABLE		
#	BEARING	DISTANCE	#	BEARING	DISTANCE
L1	S88°39'33"W	100.00'	L6	N00°40'32"W	19.62'
L2	S00°57'56"W	123.70'	L7	N49°11'26"E	26.99'
L3	S88°37'19"W	299.33'	L8	N07°03'23"E	101.54'
L4	S07°03'23"W	109.54'	L9	N88°37'19"E	15.16'
L5	S49°11'26"W	45.42'			



1. SEE PARCEL 3.A PAGE 1 FOR EASEMENT DESCRIPTION.
2. ALL CALLS, LOCATIONS, AND INFORMATION SHOWN ARE DERIVED FROM DATA PROVIDED BY KIMLEY-HORN (THE CLIENT) BASED ON THE STILLWATER YMCA PROJECT.
3. PREPARED BY BANCROFT DESIGN, INC., LOCATED AT 923 SOUTH LOWRY STREET, STILLWATER, OKLAHOMA, CERTIFICATE OF AUTHORIZATION NUMBER 9205, EXPIRES JUNE 30, 2026, HAVING A PHONE NUMBER OF 405-743-3355.

CITY OF **stillwater**

STILLWATER YMCA  
STILLWATER, OK

01/28/2026

REPORT TO: CITY COUNCIL

MEETING DATE: FEBRUARY 9, 2026



<b>Agenda Item:</b>	4.g. CC-26-21
<b>Previous/Related Action:</b>	
<b>Background/Issue:</b>	The library received \$5132.17 in donations, including \$132.17 from Stillwater Frontier Rotary for honor books and \$5,000 for mid-list fiction books and bookclub kits.
<b>Proposal/Solution:</b>	Approval of the attached budget amendments will allow the use of the donations for donor-directed projects.
<b>Financial Source/Impact:</b>	The budget amendment reflects an increase to the donation revenue account by \$5,132.17 and a corresponding increase to projects in the donation expenditure account.
<b>Related Strategic Priority:</b>	#1 EFFECTIVE SERVICES & ACCOUNTABLE GOVERNMENT
<b>Recommended Action/Motion:</b>	Motion to approve budget amendments reflecting receipt and appropriation of \$5,132.17 in donations to the Stillwater Public Library.
<b>Prepared By:</b>	Stacy Delano, Library Director
<b>Reviewed By:</b>	Stacy Delano Christy Driskel Teresa Kadavy
<b>Submitted By:</b>	Brady Moore, City Manager

**Attachments**

1. BA.donation.REV.2.9.26
2. BA.donation.EXP.2.9.26

Budget Amendment Request  
 For Budget Year \_\_\_\_\_

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

Office: 405.372.0025  
 Web: stillwater.org

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

Department: \_\_\_\_\_

Requested by: \_\_\_\_\_

Explanation:

Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:	-				
	-				
	-				
	-				
	-				
Decrease:	-				
	-				
	-				
	-				
	-				

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

Reviewed by Department Manager: Stacy DeJure

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--

Budget Amendment Request  
 For Budget Year \_\_\_\_\_

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

Office: 405.372.0025  
 Web: stillwater.org

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

Department: \_\_\_\_\_

Requested by: \_\_\_\_\_

Explanation:

Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:	-				
	-				
	-				
	-				
	-				
Decrease:	-				
	-				
	-				
	-				
	-				

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

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--

REPORT TO: CITY COUNCIL

MEETING DATE: FEBRUARY 9, 2026



<b>Agenda Item:</b>	4.h. CC-26-22
<b>Previous/Related Action:</b>	The Library Board accepted the funds at its 1/27/26 meeting.
<b>Background/Issue:</b>	The library received a \$350 Let's Talk About It grant from Oklahoma Humanities to hold a reading program during the library's partnership with Tulsa City County Libraries for the Americans and the Holocaust national exhibit.
<b>Proposal/Solution:</b>	Approval of the attached budget amendments will allow the use of the grant funds for a reading program in April in association with Tulsa's Americans and the Holocaust exhibit.
<b>Financial Source/Impact:</b>	The budget amendment reflects an increase to the general grant revenue account by \$350 and a corresponding increase to projects in the grant expenditure account.
<b>Related Strategic Priority:</b>	#1 EFFECTIVE SERVICES & ACCOUNTABLE GOVERNMENT
<b>Recommended Action/Motion:</b>	Motion to approve budget amendments reflecting receipt and appropriation of \$350 in grant funds to the Stillwater Public Library.
<b>Prepared By:</b>	Stacy Delano, Library Director
<b>Reviewed By:</b>	Stacy Delano Christy Driskel Teresa Kadavy
<b>Submitted By:</b>	Brady Moore, City Manager

**Attachments**

1. BA.grant.LTAI.REV.2.9.26
2. BA.grant.LTAI.EXP.2.9.26

Budget Amendment Request  
 For Budget Year \_\_\_\_\_

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

Office: 405.372.0025  
 Web: stillwater.org

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

Department: \_\_\_\_\_

Requested by: \_\_\_\_\_

Explanation:

Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:	-				
	-				
	-				
	-				
	-				
Decrease:	-				
	-				
	-				
	-				
	-				

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

Reviewed by Department Manager: Steve DeJure

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--

Budget Amendment Request  
 For Budget Year \_\_\_\_\_

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

Office: 405.372.0025  
 Web: stillwater.org

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

Department: \_\_\_\_\_

Requested by: \_\_\_\_\_

Explanation:

Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:	-				
	-				
	-				
	-				
	-				
Decrease:	-				
	-				
	-				
	-				
	-				

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

Reviewed by Department Manager: Steve DeJure

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--

REPORT TO: CITY COUNCIL

MEETING DATE: FEBRUARY 9, 2026



<b>Agenda Item:</b>	4.i. CC-26-23
<b>Previous/Related Action:</b>	The Library Board accepted the funds at its 1/27/26 meeting.
<b>Background/Issue:</b>	The library received a \$20,117 grant from Oklahoma Department of Libraries for meeting the requirements for a professional library during FY24-25.
<b>Proposal/Solution:</b>	Approval of the attached budget amendments will allow the use of the grant funds for an online newspaper service, an online magazine service, software for more efficient staff work, and non-functioning equipment that cannot feasibly be purchased through the library's operating budget.
<b>Financial Source/Impact:</b>	The budget amendment reflects an increase to the state grant revenue account by \$20,117 and a corresponding increase to projects in the grant expenditure account.
<b>Related Strategic Priority:</b>	#1 EFFECTIVE SERVICES & ACCOUNTABLE GOVERNMENT
<b>Recommended Action/Motion:</b>	Motion to approve budget amendments reflecting receipt and appropriation of \$20,117 in grant funds to the Stillwater Public Library.
<b>Prepared By:</b>	Stacy Delano, Library Director
<b>Reviewed By:</b>	Stacy Delano Christy Driskel Teresa Kadavy
<b>Submitted By:</b>	Brady Moore, City Manager

**Attachments**

1. BA.grant.StateAid.REV.2.9.26
2. BA.grant.StateAid.EXP.2.9.26

Budget Amendment Request  
 For Budget Year \_\_\_\_\_

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

Office: 405.372.0025  
 Web: stillwater.org

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

Department: \_\_\_\_\_

Requested by: \_\_\_\_\_

Explanation:

Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:	-				
	-				
	-				
	-				
	-				
Decrease:	-				
	-				
	-				
	-				
	-				

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

Reviewed by Department Manager: Steve DeJure

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--

Budget Amendment Request  
 For Budget Year \_\_\_\_\_

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

Office: 405.372.0025  
 Web: stillwater.org

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

Department: \_\_\_\_\_

Requested by: \_\_\_\_\_

Explanation:

Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:	-				
	-				
	-				
	-				
	-				
Decrease:	-				
	-				
	-				
	-				
	-				

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

Reviewed by Department Manager: Steve DeJure

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: \_\_\_\_\_

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REPORT TO: CITY COUNCIL

MEETING DATE: FEBRUARY 9, 2026



<b>Agenda Item:</b>	4.j. CC-26-24
<b>Previous/Related Action:</b>	The Stillwater Public Library Board accepted the funds at its 1/27/26 meeting.
<b>Background/Issue:</b>	<p>The Oklahoma Department of Libraries (ODL) granted \$100,000 in Institute for Museum and Library Services funds to the library for the purchase of downloadable material for the Oklahoma Virtual Library (OKVL) Consortium.</p> <p>OKVL is the platform created in 2011 and administered by the Stillwater Public Library for the purchase and sharing of downloadable material by small and mid-sized libraries across Oklahoma. The platform is powered by Overdrive, which also is the vendor for the material.</p>
<b>Proposal/Solution:</b>	Use the \$100,000 in grant funds to purchase downloadable materials from Overdrive for use on the Overdrive-powered OKVL platform.
<b>Financial Source/Impact:</b>	The budget amendments reflect an increase to the federal grant revenue account by \$100,000 and a corresponding increase to the grants expenditure account. Because OKVL platform is based on Overdrive and because the library administers the service, not approving the sole source authorization would result in not receiving the \$100,000 grant.
<b>Related Strategic Priority:</b>	#1 EFFECTIVE SERVICES & ACCOUNTABLE GOVERNMENT
<b>Recommended Action/Motion:</b>	Motion to approve contract with Oklahoma Department of Libraries for grant funds in the amount of \$100,000 for the Stillwater Public Library to purchase and provide eMedia resources on the Oklahoma Virtual Library Consortium; authorize the City Manager to execute the contract; approve budget amendments reflecting receipt and expenditure of the funds; and authorize a sole source purchase in the amount of \$100,000 of the downloadable content from Overdrive.
<b>Prepared By:</b>	Stacy Delano, Library Director
<b>Reviewed By:</b>	Stacy Delano Christy Driskel Teresa Kadavy
<b>Submitted By:</b>	Brady Moore, City Manager

**Attachments**

1. BA.grant.eMedia.REV.2.9.26
2. BA.grant.eMedia.EXP.2.9.26
3. Authorization-for-Sole-Source-Purchase-PDF Overdrive 2026 REVISED

Budget Amendment Request  
 For Budget Year \_\_\_\_\_

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

Office: 405.372.0025  
 Web: stillwater.org

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

Department: \_\_\_\_\_

Requested by: \_\_\_\_\_

Explanation:

Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:	-				
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	-				
Decrease:	-				
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	-				

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

Reviewed by Department Manager: Steve DeJure

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: \_\_\_\_\_

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Budget Amendment Request  
 For Budget Year \_\_\_\_\_

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

Office: 405.372.0025  
 Web: stillwater.org

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

Department: \_\_\_\_\_

Requested by: \_\_\_\_\_

Explanation:

Account Name	Account Number (xxxxxxx-xxxxx)	Project Number	Current Budget Amount	Amount of Change	New Budget Amount
Increase:	-				
	-				
	-				
	-				
	-				
Decrease:	-				
	-				
	-				
	-				
	-				

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

Reviewed by Department Manager: Steve DeJure

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: \_\_\_\_\_

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**Authorization for  
Sole Source Purchase**

\*\*\*attach approved form to requisition\*\*\*

City Department: Library

Select the most appropriate reason for the sole source request:

- Request for a specific make, model or brand
- Authorization for a singular vendor of supplies or services
- Proprietary supplier for parts or assemblies for a specific make and model of equipment
- The acquisition of supplies or services pursuant to a lawful agreement
- The purchase of brand name products for resale

Provide details that justify the sole source purchase along with product or service descriptions:

Describe the research methods used to determine that alternative vendors or products are not available in the open market:

Vendor's Name: \_\_\_\_\_

**Submitted By:**

Stacy Delano  
Printed Name

Stacy De Jan  
Signature

2/2/26  
Date

**Director Review:**

Stacy Delano  
Printed Name

Stacy De Jan  
Signature

2/2/26  
Date

**Procurement Specialist Review:**

Confirmed       Declined

John McClenny  
Signature

2/2/26  
Date

Review Comments:

City Council Approval Date (for purchases of \$100,000 or more): \_\_\_\_\_



<b>Agenda Item:</b>	4.k. CC-26-25
<b>Previous/Related Action:</b>	<ul style="list-style-type: none"> <li>• CC 24-54; Task Order Agreement with Black and Veatch for Engineering Services for FY25 Water and Sewer Capital Projects.</li> <li>• SUA-2025-5, CC-2025-21, SUA-2025-6 - authorizing a FAP loan from the Oklahoma Water Resources board (OWRB)</li> <li>• SUA – 25-36 – SUA authorizing easement acquisition expenditure</li> </ul>
<b>Background/Issue:</b>	<p>Project 25WL03 FY25 includes replacement of water lines along N Airport Industrial Access Road, W. Airport Road, Land Run Drive, and Wright Drive in the vicinity of Stillwater Regional Airport. The new waterlines are proposed outside existing Right-of-Way on City and some other private properties in this area. Staff have completed landowner negotiations for the property below:</p> <ol style="list-style-type: none"> <li>1. Parcel 4A - Airport Water line Project with AREC 28, LLC</li> </ol> <p>Funding and expenditures for the real estate acquisition for 25WL03 FY25 CIP Projects were authorized by SUA on 11/17/2025 Meeting.</p>
<b>Proposal/Solution:</b>	The above-mentioned easements are necessary for the project.
<b>Financial Source/Impact:</b>	No additional appropriations are necessary for this action.
<b>Related Strategic Priority:</b>	#4 CONNECTED SPACES
<b>Recommended Action/Motion:</b>	<p>Accept permanent easement and authorize the mayor to execute the easement documents for:</p> <ul style="list-style-type: none"> <li>• Parcels 4A - Airport Water line Project with AREC 28, LLC</li> </ul>
<b>Prepared By:</b>	Bill Millis, Director of Engineering
<b>Reviewed By:</b>	<p>Bill Millis                  Brady Moore                  Teresa Kadavy</p>
<b>Submitted By:</b>	Brady Moore, City Manager

**Attachments**

1. AREC 28, LLC Easement Docs

**WATER LINE EASEMENT**

**KNOW ALL MEN BY THESE PRESENTS:**

That the undersigned, AREC 28, LLC, a Delaware Limited Liability Company, certifies that it owns and possesses all rights, title, and interest to the following described real property situated in Payne County, State of Oklahoma, to-wit:

Lot Two (2), in Block Two (2), AIRPORT INDUSTRIAL/OFFICE PARK, FIRST SECTION, a part of the South half (S/2) of Section Thirty-four (34), Township Twenty (20) North, Range Two (2) East of the Indian Meridian, City of Stillwater, Payne County, State of Oklahoma, according to the recorded plat thereof.

and further that the undersigned, in consideration of the sum of One Dollar (\$1.00), in hand paid and other good and valuable consideration, for them, their heirs, successors, executors, administrators, and assigns do hereby grant, bargain, sell, and convey unto the City of Stillwater, Oklahoma, a Municipal Corporation, its successors and assigns, an easement for the installation, operation and maintenance of water lines through, over, under, and across the portions of the above-described property dedicated on said recorded plat or instrument, for the purpose heretofore stated as follows:

LEGAL DESCRIPTION PARCEL 4A

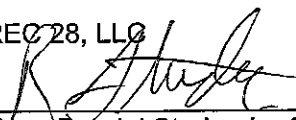
A PART OF LOT 2, BLOCK 2, AIRPORT INDUSTRIAL/OFFICE PARK FIRST SECTION, AN ADDITION TO THE CITY OF STILLWATER, PAYNE COUNTY, OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 2, BLOCK 2, AIRPORT INDUSTRIAL/OFFICE PARK FIRST SECTION; THENCE S01°01'20"E A DISTANCE OF 250.00 FEET; THENCE S89°30'25"W A DISTANCE OF 20.00 FEET; THENCE N01°01'20"W A DISTANCE OF 72.38 FEET; THENCE N88°58'40"E A DISTANCE OF 5.00 FEET; THENCE N01°01'20"W A DISTANCE OF 177.57 FEET; THENCE N89°30'25"E A DISTANCE OF 15.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.09 ACRES OR 4112 SQUARE FEET MORE OR LESS.

The above-described easement is subject to all recorded easements and rights of way thereof.

Except as herein granted, the Grantor shall continue to have the full use and enjoyment of the property herein granted or described for appropriate purposes. At no time shall the Grantor commit a use, occupation or enjoyment thereof that might cause a hazardous condition and no building, structure or obstruction shall be located or constructed on said easement by the Grantor, their successors or assigns, nor shall the Grantor allow said easement to be encumbered in any way so that the City of Stillwater shall not be afforded access to said water line(s) at any and all times.

AREC 28, LLC

  
BY: Randal Studer Jr., Secretary

Stillwater - Airport Water Line  
Parcel 4A

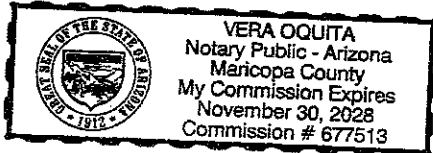
STATE OF Arizona )  
COUNTY OF Maricopa ) ss.

Before me, a Notary Public in and for said County and State on this 19<sup>th</sup> day of December, 2025, personally appeared, Randal Studer Jr., to me known to be the identical person who subscribed the name of the maker thereof to the foregoing instrument as its Secretary and acknowledged to me that he executed the same as his free and voluntary act and deed and as the free and voluntary act and deed of such LLC, for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

Vera Oquita  
NOTARY PUBLIC

My Commission Expires: 11/30/2028  
My Commission Number: 677513  
(SEAL)



Stillwater - Airport Water Line  
Parcel 4A



REPORT TO: CITY COUNCIL

MEETING DATE: FEBRUARY 9, 2026



<b>Agenda Item:</b>	4.I. CC-26-26
<b>Previous/Related Action:</b>	<ul style="list-style-type: none"><li>• CC 24-54; Task Order Agreement with Black and Veatch for Engineering Services for FY25 Water and Sewer Capital Projects.</li><li>• SUA-2025-5, CC-2025-21, SUA-2025-6 - authorizing a FAP loan from the Oklahoma Water Resources board (OWRB)</li><li>• SUA – 25-36 – SUA authorizing easement acquisition expenditure</li></ul>
<b>Background/Issue:</b>	<p>Project 25WL03 FY25, includes replacement of the waterline along Sangre Road adjacent to. The new waterline is proposed outside of existing Right-of-Way on Vicky G. Jerome AKA Victora G. Gerome and Todd L. Gerome property. Staff have completed landowner negotiations for the attached easement.</p> <ol style="list-style-type: none"><li>1. Parcel 1A – Sangre Waterline Project with Vicky G. Jerome AKA Victora G. Gerome and Todd L. Gerome</li></ol> <p>Funding and expenditures for the real estate acquisition for 25WL03 FY25 CIP Projects were authorized by SUA on 11/17/2025 Meeting.</p>
<b>Proposal/Solution:</b>	The above-mentioned easements are necessary for the project.
<b>Financial Source/Impact:</b>	No additional appropriations are necessary for this action.
<b>Related Strategic Priority:</b>	#4 CONNECTED SPACES
<b>Recommended Action/Motion:</b>	Accept permanent easement and authorize the mayor to execute the easement documents for: <ul style="list-style-type: none"><li>• Parcel 1A – Sangre Waterline Project with Vicky G. Jerome AKA Victora G. Gerome and Todd L. Gerome</li></ul>
<b>Prepared By:</b>	Bill Millis, Director of Engineering
<b>Reviewed By:</b>	Bill Millis Brady Moore Teresa Kadavy
<b>Submitted By:</b>	Brady Moore, City Manager

Attachments

1. Todd & Vicky Jerome Easement Docs

WATER LINE EASEMENT

**KNOW ALL MEN BY THESE PRESENTS:**

That the undersigned, Vicky G. Jerome AKA Victoria G. Jerome and Todd L. Jerome, wife and husband, certify that they own and possess all rights, title, and interest to the following described real property situated in Payne County, State of Oklahoma, to-wit:

A tract of land in the South Half of the North Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter of Section 28, Township 19 North, Range 2 East of the Indian Meridian, Payne County, State of Oklahoma, being more particularly described as follows: Commencing at the Southwest corner of Section 28, Township 19 North, Range 2 East, a distance of 1767.17 feet, on a bearing of North 00° 04' 00" West, along the West line of said Section 28, to the point of beginning; thence on a bearing of South 89° 51' 36" East a distance of 390 feet; thence on a bearing of South 00° 03' 45" East a distance of 129.44 feet to the South line of the South Half of the North Half of the Southwest Quarter of the Northwest Quarter of the Southwest Quarter; thence on a bearing of North 88° 56' 10" West a distance of 390.00 feet to a point on the West line of said Section 28; thence on a bearing of North 00° 04' 00" West along the West line of said Section 28 a distance of 128.33 feet to the Point of Beginning.

and further that the undersigned, in consideration of the sum of Ten Dollars & OVC (\$10.00 & OVC), in hand paid and other good and valuable consideration, for them, their heirs, successors, executors, administrators, and assigns do hereby grant, bargain, sell, and convey unto the City of Stillwater, Oklahoma, a Municipal Corporation, its successors and assigns, an easement for the installation, operation and maintenance of a water line(s) through, over, under, and across the portions of the above-described property, together with the right of ingress and egress to and from same, for the purpose heretofore stated.

SANGRE PARCEL 1A

A TRACT OF LAND IN THE SOUTHWEST QUARTER (SW/4) OF SECTION 28, T-19-N, R-2-E, IB&M, PAYNE COUNTY, OKLAHOMA, ACCORDING TO THE U.S. GOVERNMENT SURVEY THEREOF, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SW/4 OF SECTION 28, T-19-N, R-2-E; THENCE S0°48'41"E ALONG THE WEST LINE OF SAID SW/4 A DISTANCE OF 952.98 FEET; THENCE N89°57'00"E A DISTANCE OF 33.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY OF SOUTH SANGRE ROAD, SAID POINT BEING THE POINT OF BEGINNING; THENCE CONTINUING N89°57'00"E A DISTANCE OF 17.00 FEET; THENCE S0°48'41"E A DISTANCE OF 10.00 FEET; THENCE S89°57'00"W A DISTANCE OF 17.00 FEET TO A POINT ON SAID EASTERLY RIGHT-OF-WAY OF SOUTH SANGRE ROAD; THENCE N0°48'41"W A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING, CONTAINING 170 SQUARE FEET MORE OR LESS.

The above-described easement is subject to all recorded easements and rights of way thereof.

Except as herein granted, the grantors shall continue to have the full use and enjoyment of the properties herein granted or described for appropriate purposes. At no time shall the grantors commit a use, occupation or enjoyment thereof that might cause a hazardous condition and no building, structure or obstruction shall be located or constructed on said easement by the grantors, their successors or assigns, nor shall the grantors allow said easement to be encumbered in any way so that the City of Stillwater shall not be afforded access to said water line(s) at any and all times.

Stillwater - Sangre Water Line  
Parcel 1A



STATE OF OKLAHOMA     )  
                                  ) ss.  
COUNTY OF PAYNE     )

NOW, on this \_\_\_\_\_ day of \_\_\_\_\_, 2026, the City Council of the City of Stillwater, State of Oklahoma, a municipal corporation, acting for and in behalf of said municipal corporation, during regular session, does hereby approve and accept from the named Grantor this delivered water line easement and directs the Mayor and Clerk of said City of Stillwater to indicate the same by their signatures and seal of the City of Stillwater, State of Oklahoma.

\_\_\_\_\_  
WILLIAM H. JOYCE, MAYOR  
CITY OF STILLWATER, OKLAHOMA

(SEAL)

ATTEST:

\_\_\_\_\_  
TERESA KADAVY, CITY CLERK  
CITY OF STILLWATER, OKLAHOMA

Approved as to form and legality this \_\_\_\_\_ day of \_\_\_\_\_, 2026.

\_\_\_\_\_  
KIMBERLY CARNLEY, CITY ATTORNEY  
CITY OF STILLWATER, OKLAHOMA

Stillwater - Sangre Water Line  
Parcel 1A



<b>Agenda Item:</b>	7.b. CC-26-27
<b>Previous/Related Action:</b>	<a href="#">January 27<sup>th</sup>, 2026 Planning Commission Report</a>
<b>Background/Issue:</b>	<p>City Staff requests review and approval of a proposed text amendment to update the way we regulate fraternity or sorority houses. The proposed text amendment updates the definition for fraternity or sorority houses and moves the definition from the general definitions to the use definitions.</p> <p>The proposed text amendment decreases side setbacks for fraternity or sorority houses in the RMU zoning district, that do not have a common boundary with a property in any single-family residential district or use, to 5 feet. This mirrors the requirements of the RMI zoning district, and exception 23-141.e.1 will still apply, which increases the side setback three feet for each story above the first story.</p> <p>The proposed text amendment also modifies exception e.3 and adds in exceptions e.5, and e.6 into the RMI (23-140) and RMU (23-141) zoning district.</p> <ul style="list-style-type: none"><li>• e.3 provides the method for calculating density for residential structures not divided into dwelling units. Staff proposes to simplify this calculation to be each 4 beds = 1 dwelling unit.</li><li>• e.5 is intended to require a residential appearance and requires fraternity or sorority houses to include a front porch, incorporates requirements for the street facing facades, and increased landscaping.</li><li>• e.6 limits the height of any portion of a fraternity or sorority house that is within 30 feet of a single-family zoning district, or use, to 2 stories.</li></ul> <p>Section 23-230 (f) is also incorporated into the landscape requirements, which requires one tree and ten shrubs for each 30 lineal feet of frontage. This landscaping can be spread throughout the lot or clumped together, and for corner lots, landscaping will be required for the primary frontage.</p>
<b>Proposal/Solution:</b>	PC recommends council approve the text amendment as presented with changes made to 23-230 (f) regarding the primary

	front yard for corner lots landscape requirements with a 5-0 vote.
<b>Financial Source/Impact:</b>	None
<b>Related Strategic Priority:</b>	#4 CONNECTED SPACES #5 UNIQUE CULTURE
<b>Recommended Action/Motion:</b>	Motion to accept the Planning Commission recommendation to approve the text amendment as presented with changes made to 23-230 (f) regarding the primary front yard for corner lots landscape requirements.
<b>Prepared By:</b>	Henry Bibelheimer, Senior Planner
<b>Reviewed By:</b>	David Barth Brady Moore Teresa Kadavy
<b>Submitted By:</b>	Brady Moore, City Manager

**Attachments**

1. Draft Ordinance
2. PC Mtg Summary 01.27.2026 DRAFT

ORDINANCE NO. 3590

AN ORDINANCE AMENDING STILLWATER CITY CODE CHAPTER 23, LAND DEVELOPMENT CODE, ARTICLE I, GENERAL PROVISIONS, SECTION 23-7, DEFINITIONS; ARTICLE V, USE CATEGORIES AND LIMITATIONS, DIVISION 1, GENERALLY, SECTION 23-96, DEFINITIONS; ARTICLE VI, LAND USE CLASSIFICATIONS, DIVISION 3, RESIDENTIAL DISTRICTS, SECTION 23-140, RMI (MULTI-FAMILY INTERMEDIATE) DISTRICT, AND SECTION 23-141 RMU (MULTI-FAMILY URBAN) DISTRICT; AND ARTICLE IX, LANDSCAPING, SCREENING, AND ENVIRONMENTAL STANDARDS, SECTION 23-230, GENERALLY; 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 Stillwater City Code, Chapter 23, “Land Development Code”, Article I, “General Provisions”, Section 23-7, “Definitions”, be amended to remove the definition of “Fraternity or sorority house” as follows:

**Sec. 23-7. - Definitions. (general)**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abut* means the boundary of a parcel of land lies in immediate proximity to, or is contiguous with, another parcel, but does not physically touch or adjoin such parcel.

*Accessory building or structure* means a building or structure customarily incidental and secondary to, and located on the same lot as, the principal building or structure.

*Accessory use* means a use customarily incidental and secondary to, and located on the same lot as, the principal use of a building, structure, or land.

*Adjacent* means the boundary of a parcel of land actually touches the boundary of another parcel of land, exclusive of the area of any intervening right-of-way.

*Administrative officer* means an employee of the city.

*Adverse impact* means when the action of one property owner creates harm to another property owner by increasing flood peaks, flood stage, flood velocity or by causing erosion and/or sedimentation or other damage.

*Airport* means the city regional airport.

*Alley* means a public way which gives a secondary means of vehicular access to the rear or side of properties otherwise abutting a street, and which may be used for public utility purposes, but is not primarily intended for general traffic circulation and may be utilized in residential, commercial and industrial districts.

*Ambulatory surgical center or facility* means an establishment with an organized medical staff of physicians, with permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures, with continuous physician services available on call, and registered professional nursing services available on site, whenever a patient is in the facility, which provides services or other accommodations for patients to recover for a period of not to exceed 23 hours after surgery (as defined by the ambulatory surgical center regulations, title 310, chapter 615, Oklahoma Administrative Code, state department of human services).

*Animal clinic* means an establishment organized with a licensed medical staff to care for animals on an outpatient basis and which operations are conducted entirely within an enclosed building.

*Annexation* means the process of expanding or extending the corporate boundaries of the city.

*Appeal* means a request for review of a decision, action, or interpretation with respect to ordinances, regulations, or policies as adopted by the city.

*Awning* means a framed structure, supported from the exterior wall of a building, which can be retracted, folded, collapsed or remains stationary as a part of the building.

*Berm* means a mound or bank of earth covered with either grass or other plant material designed to provide a screen between incompatible uses and/or decrease noise intrusion.

*Block* means a continuous group of lots separated by street rights-of-way. Also, a continuous group of lots comprising a portion of a platted subdivision, used for identification purposes.

*Board of adjustment* means the city board of adjustment.

*Buffer* means land area used to:

1. Visibly separate one use from another through screening and distance;
2. Shield or block noise, light, glare, or visual or other conditions;
3. Minimize physical passage to nonsimilar areas;

4. Reduce air pollution, dust, dirt and litter.

*Buffer strip* means the landscaped portion of a lot or parcel of land between the developing/developed area and the property line.

*Buildable area* means all of that portion of a lot, tract, or parcel of land which remains after the minimum yard, easement, and open space requirements of this chapter have been met.

*Building* means any structure, having a roof supported by columns or walls, used or intended for support, enclosure, or shelter of any use or occupancy.

*Building code* means the various codes of building design, construction, and maintenance as adopted by ordinance.

*Building frontage* means the side of a building which contains a primary entrance and/or abuts a street, excluding an alley. When the entrance is located at an angle on the corner of the building, one side must be designated as the frontage.

*Building line* means a line representing the inner edge of any required yard or required setback and the corresponding outer edge of the buildable area beyond which a building shall not extend, except as specifically provided herein.

*Building official* means the officer or other designated authority charged with the administration and implementation of the applicable building codes of the city.

*Building site* means land occupied or intended to be occupied by a building, together with all open space required herein, which is located on a lot that has been lawfully created and meets all criteria for its intended use.

*Caliper* means the diameter of the tree trunk measured at a specified distance above ground.

*Canopy* means a functional rigid roof-like, multisided, shelter structure which is wholly or partially supported by a building structure and/or columns, braces, or poles extending to the ground.

*Canopy tree* means a tree that, under normal forest conditions, will compose the top layer of vegetation and generally will reach a mature height of greater than 40 feet.

*Car length* means, for the purposes of measuring, 19 feet.

*Carport* means a roofed structure providing space for the parking or storage of motor vehicles that is open on two or more sides.

*Cash escrow* means funds placed in escrow at a solvent state financial institution, which can be drawn on to complete the improvements for a subdivision of land or a land development project in case of default by the subdivider/developer.

*City drainage standards* means the stormwater management specifications and standards as adopted by the city council.

*City standards* means the engineering design criteria, construction standards, and standard details as approved by resolution of the city council.

*Commercial minor subdivision* means any resubdivision, reorganization, combination or division of nonresidential land.

*Common area or facility* means a portion of a development, subdivision, lot, or structure used in common by two or more owners or tenants of other portions of such development, subdivision, lot or structure.

*Common open space* means a common area which is not enclosed in a building.

*Comprehensive plan* means the city comprehensive community development plan.

*Corner lot* means a lot or parcel of land abutting upon two or more streets or rights-of-way at their intersection, or upon two parts of the same street or right-of-way forming an interior angle of less than 135 degrees.

*Corporation commission* means the corporation commission of the state.

*Cul-de-sac or cul-de-sac street* means a minor street having one end open to vehicular traffic and having one end terminated by a turnaround, of which design complies with the standards as adopted or referenced by the city.

*Deciduous* means a plant with foliage that is shed annually.

*Density* means the amount or quantity of something per unit measure. The number of units in a given land or building area.

*Gross density:* A units-per-acre (upa) density measurement that includes in the calculation all land occupied by use, right-of-way or easement, recreational activity, civic activity, building, parking, landscaping, and any other improvement necessary for the development.

*Net density:* A units-per-acre (upa) density measurement that includes in the calculation only land occupied by the use(s) and the improvements required for the development to occur. Typically 80 percent of the gross acreage remains available for development.

*Population density:* A persons-per-acre density measurement that calculates the number of persons residing within an area equal to one acre of land.

*Detached emergency shelter* means an accessory building not attached to or part of another building, and which is designed and intended for temporary human habitation during periods of violent storms or emergency situations.

*Detached solar collector* means an exterior accessory device not attached to or part of a building, which is specifically designed and intended to provide a net energy gain by transferring, storing or converting solar radiation for the purpose of heating or electricity generation.

*Detention* means the temporary storage and controlled release of stormwater runoff.

*Detention facility* means a facility that provides temporary storage of stormwater runoff and controlled release of such runoff.

*Developer* means any person, firm, or entity engaged in the development of property or planning of property for development.

*Development* means any manmade change to land including, but not limited to:

1. The addition of impervious surfaces, construction, mining, dredging, filling, excavation or drilling operations;
2. The installation of utility mains, buildings/structures or other improvements on any lot, parcel or tract of land.

*Development area* means the area of a lot or parcel that is utilized for the purpose of development.

*Development code or land development code* means this chapter.

*Development project or land development project* means any proposal for development within the jurisdictional boundaries of the city.

*Development services department* means a city department charged with the oversight of development.

*Disposal well* means any well drilled or actually used for injection of saltwater or other substances into the earth at a point other or different than the point of extraction or production thereof from the earth.

*District* means a zoning district or supplemental district, depending on the context.

*District regulations* means the provisions of this chapter contained in article VI of this chapter.

*Double frontage lot* means a lot which runs through a block from street to street and which abuts two or more streets, but not a corner lot.

*Drainage facilities* means all elements necessary to store, control, and/or convey stormwater runoff. Said drainage facilities shall consist of both public and private storm sewers (closed conduits), channels, watercourses, sedimentation facilities, areas covered by drainage easements for the purpose of providing overland flow, and all appurtenances to the foregoing, including inlets, manholes, junction boxes, headwalls, dissipaters, culverts, detention facilities and the like.

*Drainage plan* means final construction drawings with sufficient information related to the proposed stormwater facilities for a site to allow determination that the facilities will function as designed in the final drainage study for the proposed site.

*Drainage standards* means the criteria, standards and specifications for stormwater management, sediment and erosion control, and earth changes adopted by the city. The term "city drainage standards" includes all standards currently contained in the city standards.

*Drainage study* means an engineering analysis, prepared by a licensed professional engineer, of the hydrologic and hydraulic characteristics of a site or development.

*Drilling* means digging or boring a hole in the earth for purposes of exploring for, developing or producing oil, gas, and other hydrocarbons. The term "drilling" includes all operations through the completion of a well.

*Drilling site* means the premises used during the drilling, maintaining, operating, and producing of a well or wells located thereupon.

*Dwelling* means any building or portion thereof which is used as living quarters for one or more families.

*Dwelling unit* means one or more rooms in a residential building or residential portion of a building forming a single habitable unit with provisions for cooking, sleeping and sanitary facilities for the exclusive use of a single family maintaining a household.

*Earth change* means excavating, grading, regarding, landfilling, berming or diking of land within the jurisdictional area of the city.

*Easement* means a right of use over the property of another. A strip or portion of land wherein the public, the city, a corporation, or other persons, have been granted a right of use by a property owner for a public or specific purposes, such as, but not limited to, construction, installation and/or maintenance of streets, sidewalks or utilities.

**State Law reference—** Easement, 60 O.S. § 49.

*Enclosed parking* means off-street vehicle parking spaces located inside a garage or other building or portion thereof having at least 50 percent of the exterior facade on all sides constructed of opaque materials.

*Evergreen* means a plant with foliage that remains green yearround.

*Facility* means a structure or equipment built, installed, or established to serve a particular purpose.

*Family child care home.*

1. The term "family child care home" means one that is licensed to provide care and supervision for no more than seven children for any portion of a 24-hour period.
2. The term "family child care home" does not include:
  - a. Informal arrangements which parents make independently with neighbors, friends and others;
  - b. Caretakers in the child's own home; and
  - c. Nursery schools, kindergartens or other facilities of which the purpose is primarily educational, recreational or medical treatment.

*Final plat* means a map of land subdivision prepared in a form suitable for:

1. Filing of record with necessary affidavits, certifications, dedications and acceptances; and
2. Delineating the layout of such subdivision as required herein.

*Flag lot* means a lot in the approximate configuration of a flag pole or sign post, with a pole or post functioning primarily as an access way to the main body, or flag, of the lot from the street. All lot size, bulk standards, and lot coverage requirements apply only to the flag portion of the lot.

~~*Fraternity or sorority house* means any building occupied and maintained by a social association of college students and containing group living quarters wherein, for compensation and by prearrangement for definite periods, meals and/or lodging are provided exclusively for members of the organization and their guests.~~

*Front building line* means the front setback line or a point at which the lot reaches the required lot width in the case of a flag lot.

*Front lot line* means the property line separating the front yard of a lot from an abutting street right-of-way. The street, roadway or access easement line shall be considered the front lot line for lots located on private streets.

*Front yard* means a yard extending across a lot between the side lot lines, and measured as the minimum horizontal distance between a front lot line and the nearest portion of the principal building. Both yards abutting a street shall each be considered a front yard on corner and double frontage lots.

*Garage* means a roofed building, or other structure, or part thereof, used or intended to provide enclosed parking or storage spaces for vehicles.

*Grade* means the average level of the finished surface of the ground adjacent to the exterior of a building or structure.

*Gross floor area* means the sum of the gross horizontal areas of all floors of a building measured from the exterior face of exterior walls, or from the centerline of a common wall separating two buildings, but not including interior parking spaces, loading spaces for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.

*Gross leasable area* means the total floor area for which tenants pay rent that is designated for the tenants occupancy and exclusive use.

*Ground cover* means evergreen or deciduous planting less than 24 inches in height, excluding turf grass.

*Hardscape* means nonliving or hard materials used to augment the beauty and function of a landscaped area. The term "hardscape" may include, but is not limited to brick, stone or rock walls, fountains, ponds, pools, planters or retaining walls.

*Height* means, except as otherwise noted, the vertical distance from the average elevation of that portion of a lot covered by a building or other structure to the highest point of the building or structure, but not including all or portions of attached nonhabitable structures exempted herein.

*Home occupation* means an occupation, profession, activity, or use that is an incidental and secondary use of a residential dwelling unit, or accessory structure located on the same lot as the dwelling unit, that does not alter the exterior of the property or affect the residential character of the neighborhood.

*Homebuilder* means any person who engages in the construction of dwellings.

*Hospital* means any institution, place, building or agency, public or private whether organized for profit or not, devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care of patients admitted for overnight stay or longer in order to obtain medical care, surgical care, obstetrical care, or nursing care for illness, disease, injury, infirmity, or deformity. All places where pregnant females are admitted and receive care incident to pregnancy or delivery shall be considered to be a hospital within the meaning of this chapter, regardless of the number of patients received or the duration of their stay. The term "hospital" includes, but is not limited to,

general medical surgical hospitals, specialized hospitals, critical access and emergency hospitals, and birthing centers (as defined by hospital standards, title 310, Oklahoma Administrative Code, chapter 667, Oklahoma State Department of Human Services).

*Improvements* means permanent amenities that are required to serve a subdivision of land or a land development project including streets (both public and private), traffic control devices, sidewalks, water distribution systems, sanitary sewer collection systems, sanitary sewer pretreatment facilities, if required, and storm drainage collection and conveyance systems including stormwater detention or retention ponds. For the purpose of this definition, the term "streets" do not include private parking lots or private drive aisles that are located within or serve private parking lots.

*Intensity* means the degree of impact associated with one or more uses (e.g., noise, traffic, lighting, size of structures, etc.) such that greater degrees are considered higher intensity.

*Interior lot* means a lot other than a corner lot.

*Irrevocable letter of credit* means a commitment from a state or federally chartered financial institution, to provide funding to complete the improvements for a subdivision of land or a land development project in case of default by the subdivider/developer.

*Kennel* means the use of land or building for the purpose of breeding, boarding or training small animals such as cats and dogs.

*Land use* means a description of how land is or may be occupied or utilized.

*Land use application* means a formal request for approval of a land development project.

*Landscape plan* means the preparation of graphic and written criteria, specifications, and detailed landscape plans to arrange and modify natural features such as plantings, ground and water forms, circulation, walks, irrigation, landscape lighting, erosion control, on-site drainage and other features to comply with the provisions herein.

*Landscaping* means the use of softscape, such as any living organic plant material, that includes:

1. Trees, shrubs, flowers, ground cover, vegetation, vines or grass;
2. The use of hardscape such as planters, decorative pavings/sidewalks, brick, arbors/trellises, fountains; or
3. The combination of both softscape and hardscape.

*Large family child care home* means a family child care home licensed to provide care and supervision for eight to 12 children for any portion of a 24-hour period.

*Legally nonconforming lot/parcel* means a lot or parcel that lawfully existed prior to the adoption, revision or amendment of this chapter, but which fails by reason of such adoption, revision or amendment to conform to standards and/or requirements of the district wherein it is located.

*Legally nonconforming structure* means an existing structure that does not meet the applicable setback, lot coverage, or height requirements of the district wherein it is currently located, but did meet the applicable standards and/or requirements at the time it was constructed.

*Legally nonconforming use* means a legally existing use of a structure or land that is not permitted in the district in which it is currently located, but was permitted when it was established.

*Lot* means a parcel of land on a plat that is separately owned and capable of being separately conveyed.

*Lot area* means the total horizontal area bounded by the exterior lines of a lot.

*Lot combination* means the act of combining adjoining lots or a lot and an adjoining portion of a lot for the purpose of establishing one lot.

*Lot coverage* means the percentage of the lot area that is occupied by principal and accessory buildings.

*Lot depth* means the average horizontal distance between front and rear lot lines of a lot.

*Lot frontage* means the length of lot line adjacent to a right-of-way or right-of-way easement.

*Lot line* means a line of record bounding a lot which divides one lot from another lot, or from a public or private street.

*Lot of record* means a lot which exists as shown on a subdivision plat recorded in the office of the county clerk, or a lot or parcel described by metes and bounds or by aliquot, the description of which has been so recorded.

*Lot split* means a simple division of one lot that creates a lot and either a nonbuildable parcel or an outlot.

*Lot width* means the horizontal distance between the side lot lines of a lot located and measured at the front lot line.

*Manufactured home* means a residential dwelling unit constructed in one or more sections and built in accordance with National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC 5401 et seq.

*Minor amendment* means an alteration of an approved plan.

*Minor improvement* means changes or additions to an existing building, structure or site not involving structural alteration, enlarged floor area or increased occupancy, and not substantially affecting the existing use or exterior appearance.

*Minor structure* means any uninhabitable structure having dimensions not greater than 200 square feet that is not permanently affixed to the ground.

*Minor subdivision* means any resubdivision, reorganization, or division of land which shall contain not more than three lots and further shall not adversely affect the development of the remainder of the parcel or adjoining property and shall not be in conflict with any provision or portion of the comprehensive plan, land development code, or other applicable ordinance or regulation of the city.

*Mixed use* means the use of a lot or of a building with a variety of complementary and integrated uses such as, but not limited to, residential, office retail, public or entertainment.

*Mobile home* means a residential dwelling fabricated in an off-site manufacturing facility, designed to be a permanent residence, but which is still transportable, that was built prior to the enacting of the National Manufactured Housing Construction and Safety standards Act of 1974, 42 USC 5401.

*Mobile home park* means land or property that is used or intended to be used or rented for temporary occupancy by more than two mobile homes, including all necessary utilities, streets, and other common amenities.

*Mobile home space* means a platted parcel, lot, or tract of land within a mobile home park designed to accommodate an individual mobile home.

*Modular home* means a relocatable living unit manufactured off-site and transported, on an independent carrier unit, to a permanent site which has been constructed in accordance with an Engineering Bulletin issued by the Office of Technical Standards, Department of Housing and Urban Development, Washington, D.C.

*Net floor area* means the total of all floor areas of a building, excluding stairwells and elevator shafts, mechanical equipment rooms, incidental storage areas, interior vehicle parking or loading, and basement areas not used or intended to be used for human habitation or service to the public.

*Off-street parking* means a storage area for one or more vehicles, legally accessible from a street that is not located within a right-of-way or road easement.

*Oil or gas well* means any well drilled, operated, or maintained for the production of oil, gas, casing head gas, or any of them, or their byproducts or derivations.

*On-street parking* means a temporary storage area for one or more vehicles that is located, partially or wholly, within the right-of-way or road easement.

*Open space* means a parcel or area of land that is not enclosed in a building, and which is dedicated, designated, or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land neighboring such open space.

*Outlot* means a lot that does not meet the minimum zoning requirements and is specifically set aside for greenspace, common area, or drainage purposes only; a lot not meeting the minimum zoning requirements and being combined with an adjacent and adjoining lot.

*Parcel* means a part or portion of land.

*Parking area* means off-street parking spaces, together with required associated driveways, aisles and landscaping.

*Performance bond* means a bond issued by a surety or insurance company licensed to conduct business in the state and not rated less than "A" by the A.M. Best Company to ensure completion of the improvements for a subdivision of land or development project in case of default by the subdivider/developer.

*Performance guarantee* means a financial guarantee, in the form of an irrevocable letter of credit, a cash escrow, or a surety bond, that all of the required improvements for a subdivision of land or a development project will be completed in accordance with the provisions of this chapter.

*Permitted use* means a use permitted by right in a zoning district.

*Person* means an association, company, corporation, firm, or organization, as well as an individual, unless the context indicates that the term refers only to an individual. The term "person" includes an assignee, receiver, trustee, or similar authorized representative of any of the named entities.

*Planned unit development (PUD)* means a development as defined by 11 O.S. § 43-110 and article XV of this chapter.

*Planning commission* means the city planning commission.

*Point of service* means the first point in the forward vehicle flow at which a product consumer places a request for the service provided on site. The term "point of service" includes menu boards where consumers communicate with on-site employees through electronic communication or direct person-to-person service.

*Preliminary plat* means a map of a proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the relationship of the proposed subdivision to topography, existing streets, drainage facilities, and utilities, existing easements of record, the comprehensive plan, existing urban development and zoning, and to indicate the nature of the land planning design.

*Principal building* means the building wherein the principal use of the lot or parcel on which it is situated is conducted.

*Principal use* means the main or primary purpose for which a building, other structure, and/or lot or parcel is designed, arranged, or intended, or for which they may be used, occupied, or maintained.

*Private street or drive* means a street in a common area of a mobile home park, planned development or other development that serves more than one lot or parcel or facility, which is not located in a dedicated public right-of-way, but is constructed to the minimum standards of the city.

*Property* means any land legally owned by a person or entity.

*Property line* means the exterior boundary of a property.

*Public street* means any thoroughfare, other than an alley, located within a public way which affords the primary means of access to abutting property.

*Public way* means a parcel of land that has been deeded, dedicated or otherwise permanently appropriated to the public for public use.

*Queue* means the actual stacking of vehicles in a line for service.

*Rear lot line* means the property line which is on the opposite end of a lot from the front lot line that separates the rear yard of the lot from an abutting lot.

*Rear yard* means a yard extending across a lot between the side lot lines, measured as the minimum horizontal distance between a rear lot line and the nearest portion of the principal building. The rear yard shall be at the opposite end of the lot from the front yard, with the exception of corner or odd shaped lots.

*Record drawings* means drawings specifying the locations, dimensions, and elevations of improvements as constructed.

*Recreational vehicle* means any vehicular portable structure with an overall length not exceeding 32 feet, used as a temporary dwelling for travel, recreational, or vacation use, that is either self-propelled or built on a chassis and drawn by a motor vehicle. The term "recreational vehicle" includes those vehicles commonly known and referred to as travel trailers, campers, and motor homes.

*Recreational vehicle (RV) park* means the area of land used for the temporary accommodations for recreational vehicles including the sites and spaces for RVs, incidental services, and facilities intended for the convenience of guests.

*Redevelopment* means the reconstruction, alteration, preservation, or replacement of any or all structures and uses of an existing facility, development, subdivision, or portion thereof.

*Regional detention* means a stormwater detention facility that is designed to regulate the discharge of storm runoff from various drainage basins, multiple parcels of land or multiple land development projects throughout the community.

*Remodel* means structural and/or aesthetic alteration, but not enlargement or redevelopment, of a building.

*Residential design, manufactured home* means a manufactured home that is architecturally compatible in appearance to neighboring conventionally built dwellings.

*Right-of-way* means a strip of land, the ownership and/or maintenance of which is conveyed by dedication, prescription or condemnation for railroad, utility and/or public street purposes.

*Satellite TV dish antenna* means a device, commonly parabolic in shape, mounted at a fixed point on the ground or on a building for the purpose of receiving television signals transmitted via satellite communications facilities, and serving the same or similar function as the common television antenna.

*Screening* means a method of visually shielding or obscuring one abutting lot, structure or use from another by fencing, walls, berms, densely planted vegetation or the like.

*Setback* means the required minimum distance between a structure and any lot line of the lot on which the structure is located. Whenever a lot contains a right-of-way or an access easement, the setback measurement shall not include the area of the right-of-way or access easement.

*Shrub* means a woody plant of relatively low height distinguished from a tree by having several stems rather than a single trunk.

*Side lot line* means any property line other than a front or rear lot line.

*Side yard* means a yard extending across a lot between the front and rear lot lines, and measured as the minimum horizontal distance between a side lot line and the nearest portion of the principal building.

*Sidewalk cafe* means the use of a portion of a public right-of-way normally reserved for pedestrian use as a place for patrons of an eating establishment on the adjacent lot to sit and consume food and/or drink.

*Sight triangle* means an area described at the intersection of two streets, or a street and driveway or alley, which must remain clear of obstructions in order to facilitate vehicular safety.

*Single-family home* means a dwelling unit occupied by a single family.

*Special exception* means an exception to, or exemption from, certain provisions of this chapter.

*Specific use* means land use which is subject to review and approval procedures prior to establishment in a particular zoning district.

*Story* means that portion of a building, other than a basement, between the surface of any floor and the surface of the floor next above it or, if there is not a floor above it, the space between the floor and the ceiling next above it.

*Street* means any public or private thoroughfare other than an alley, which affords the primary means of access to abutting property.

*Street frontage* means the property line which abuts a street.

*Structural alteration* means any change in either the supporting members of a building, such as bearing walls, columns, beams and girders, or in the dimensions or configurations of the roof or exterior walls.

*Structurally sound* means any structure not considered dilapidated.

*Structure* means anything constructed or erected.

*Studio apartment* means a dwelling unit consisting of not more than one habitable room together with kitchen or kitchenette and sanitary facilities.

*Subdivider* means any person subdividing or proposing to subdivide land as herein defined.

*Subdivision* means the division of a lot, tract or parcel of land into two or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale or of building development. The term "subdivision" includes resubdivision and

when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

*Temporary structure* means a structure without any foundation or footings, which is removed when the designated time period, activity, or use, for which the temporary structure was erected, has ceased.

*Temporary use* means a use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

*Text amendment* means an amendment or change to the regulations or restrictions of this chapter.

*Through lot or double frontage lot* means a lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.

*Tree* means any self-supporting woody plant having one or more defined stems or trunks in a caliper of two inches or more and having a defined crown which customarily attains a mature height of eight feet or greater.

*Unenclosed parking* means off-street vehicle parking spaces located outside of any building or structure, or within a structure or portion thereof having less than 50 percent of the exterior facade on all sides constructed of opaque materials.

*Unit (condominium) ownership* means ownership of an individual unit located within a multiunit building or multibuilding development pursuant to the Unit Ownership Estate Act, 60 O.S. § 501 et seq.

*Use category* means the title assigned to a group of specific uses having similar characteristics for the purpose of determining in which districts the various land uses are permitted.

*Use condition* means a requirement imposed as a condition of approval as determined by the planning commission or the city council.

*Use permitted by right* means a use permitted in a zoning district without any special review and approval procedures, but subject to any restrictions or use standards which are applicable to that use and zoning district.

*Use, special or specific.* See *Specific use permit*.

*Utility, private,* means a nongovernmental body operating a utility.

*Utility, public,* means a governmental body operating a utility.

*Variance* means a grant of relief, by the appropriate body, from the requirements of this chapter when specific enforcement would result in an unnecessary hardship.

*Vet clinic/hospital* means an establishment operated by a licensed medical staff and used exclusively for the care and treatment of animals, including incidental overnight boarding facilities and incidental outdoor run areas.

*Visual screen* means a physical barrier consisting of live plant material, natural and manmade materials, or a combination thereof that is used to visually separate two areas or incompatible uses from one another.

*Wind energy electricity generator* means an electricity generator which operates by the force of the wind on mechanical components attached to the generator, and which is mounted on a tower or other structure to facilitate a proper orientation with respect to the wind.

*Yard* means an open space that lies between a building and adjoining lot lines, unoccupied and unobstructed from the ground upward except as otherwise provided in this chapter.

*Zoning district* means a specifically delineated area or district within which regulations and requirements uniformly govern the use, placement, spacing, and size of land, buildings, and other structures.

*Zoning map* means the map which is a part of the zoning regulations and delineates the boundaries of zoning districts and supplemental districts.

**SECTION 2:** That Stillwater City Code, Chapter 23, “Land Development Code”, Article V, “Use Categories and Limitations”, Division 1, “Generally”, Section 23-96, “Definitions”, be amended to add the definition of “Fraternity or sorority house” as follows:

**Sec. 23-96. - Definitions. (Principal use category classification)**

Individual uses are defined as follows:

*Accommodation* means establishments that provide customers with lodging on a transient basis, including hotels, motels, bed and breakfasts and shelters.

*Adult business* means a specific range of establishments that provide customers with products, services, materials, entertainment venues, or activities as set forth in section 23-145(a).

*Agriculture, forestry, fishing and hunting* means establishments primarily engaged in growing crops, raising animals, harvesting timber, and harvesting fish and other animals from a farm, ranch, or their natural habitats. These establishments are often described as farms, ranches, dairies, greenhouses, nurseries, orchards, or hatcheries.

*Animal and pet keeping services* means establishments that operate facilities to meet the needs of animals and pet keeping, such as animal clinics, vet hospitals, kennels, and stables.

*Arts and entertainment* means a wide range of establishments that operate facilities or provide services to meet varied cultural and entertainment interests of their patrons; this category is comprised of establishments that are involved in producing, promoting, or participating in live performances, events or exhibits intended for public viewing and those establishments that preserve and exhibit objects and sites of historical, cultural, or educational interest.

*Beverage services* means establishments that provide customers with beverages for immediate consumption; the primary revenue of such establishments is derived from the sale of beverages.

*Boardinghouse/roominghouse* means a building where, for compensation and by prearrangement for definite periods, sleeping and living quarters, and/or meals (but not individual cooking facilities) are provided to three or more, but not exceeding 40 persons.

*Chemical manufacturing* means establishments engaged in the transformation of organic and inorganic raw materials by a chemical process and the formulation of products.

*Child and adult care services* means licensed establishments engaged in providing day services and/or treatment for adults or children, but not residential service. These are more specifically identified as family child care home, large child care home, and child care centers.

*Churches and religious institutions* means establishments engaged in providing church and religious services and activities.

*Collocation* means the mounting or installation of transmission equipment on an existing telecommunications tower or other support structure for the purpose of transmitting and/or receiving radio frequency signals for providing telecommunications services.

*Communication services* mean businesses, facilities or establishments which house or operate networked computers and data and transaction processing equipment and support equipment, including, without limitation, power and cooling equipment, used to provide data and transaction processing services, including, without limitation, all activities described by category 518210 of the North American Industrial Classification System (NAICS), as published in 2002 and all subsequently published iterations; provided also that this category shall include all facilities for ancillary office, administrative, or utility service uses involved in or related to any services or activities described in this category, whether taking place in the same or appurtenant buildings, facilities, or structures, including without limitation electrical substations.

*Computer and electronic product manufacturing and electrical equipment, appliance, and component manufacturing* means establishments engaged in the manufacture of computers, computer peripherals, communications equipment, and similar electronic products and components for such similar electronic products, or the manufacture of products that generate, distribute and use electrical power.

*Construction* means establishments engaged in the residential and nonresidential construction of buildings, in heavy and civil engineering, and in specialty trade contracting such as building equipment contractors.

*Conventional single-family, detached or zero lot-line* means one dwelling unit, freestanding and structurally separated building, located on a lot or building site that is unoccupied by any other dwelling unit or principal structure.

*Educational services, establishments, educational institutions and educational facilities* mean establishments that provide instruction and training in a wide variety of subjects and by specialized establishments such as schools, colleges, universities, and training centers which may be privately owned and operated for profit or not for profit, or they may be publicly owned and operated.

*Financial institutions and services* means establishments engaged in financial transactions (transactions involving the creation, liquidation, or change in ownership of financial assets) and/or in facilitating financial transactions.

*Food, beverage and tobacco product manufacturing* means establishments that transform livestock and agricultural products into products for intermediate or final consumption and are distinguished by the raw materials processed into food products; manufacturing of beverages and tobacco products in the following establishments:

1. Those that manufacture nonalcoholic beverages;
2. Those that manufacture alcoholic beverages through the fermentation process;
3. Those that produce distilled alcoholic beverages;
4. Those engaged in redrying and stemming tobacco; and
5. Those that manufacture tobacco products such as cigarettes and cigars.

*Food services* means establishments that provide customers with meals or snacks for immediate consumption; the primary revenue of such establishments is derived from the sale of food.

*Fraternity or sorority house* means any building occupied and maintained by a social association of college students that is affiliated with a university-recognized chapter of a fraternity or sorority and containing group living quarters wherein, for compensation and by prearrangement for definite periods; meals and/or lodging are provided exclusively for members of the organization and their guests.

*Freestanding self-service facilities* means any self-service use including, but not limited to, automatic bank teller machines, postal vending and depository facilities, or newspaper vending machines, which are located in freestanding structures devoted solely to such use either on a separate lot or as an accessory use within a complex of buildings.

*Furniture and related product manufacturing* means establishments that make furniture and related articles such as mattresses, window blinds, cabinets, and fixtures using processes

such as cutting, bending, molding, laminating, and assembly of such materials as wood, metal, glass, plastics, and rattan.

*Health care and social assistance* means establishments providing health care and social assistance for individuals on a continuum starting with those establishments providing medical care exclusively, continuing with those providing health care and social assistance, and finally with those providing only social assistance; this category includes nursing and residential care facilities, ambulatory surgical care facilities, and hospitals.

*Information* means establishments engaged in printing and publishing industries and in telecommunications.

*Leather and allied product manufacturing* means establishments that transform hides into leather by tanning or curing and fabricating the leather into products for final consumption.

*Machinery part manufacturing* means establishments that create end products that apply mechanical force, such as the application of gears and levers, to perform work. Although processes are similar to fabricated metal products manufacturing, this machinery manufacturing typically employs multiple metal forming processes.

*Manufactured home* means that term as defined in section 23-7.

*Medical marijuana commercial grower* means a grower as defined in Title 63 Oklahoma Statutes and applicable Oklahoma Department of Health or other regulatory agency rules and regulations. Commercial grower operations can be either indoor or outdoor operations.

*Medical marijuana dispensary* means a retailer as defined in Title 63 Oklahoma Statutes and applicable Oklahoma Department of Health or other regulatory agency rules and regulations.

*Medical marijuana processing* means a process or processor as defined in Title 63 Oklahoma Statutes and applicable Oklahoma Department of Health or other regulatory agency rules and regulations.

*Mining establishments* means establishments that extract naturally occurring mineral solids, including but not limited to coal and ores; liquid minerals, including but not limited to crude petroleum; and gases, including but not limited to natural gas. The term "mining establishments" includes quarrying, well operations, beneficiating (e.g., crushing, screening, washing, and flotation), and other preparation customarily performed at the mine site, or as a part of mining activity.

*Miscellaneous manufacturing* means businesses that make a wide range of products not otherwise classified.

*Mixed use* means one or more dwelling units located, in the rear or second floor, in a building in which the first floor is utilized primarily by a commercial use at the building front or storefront, and where such commercial use is permitted in the zoning district.

*Modular home* means that term as defined in section 23-7.

*Mobile home* means that term as defined in section 23-7.

*Multifamily* means three or more dwelling units contained within one building that is freestanding and structurally separated from any other building or group of dwelling units but are located on the same lot.

*Nonmetallic mineral product manufacturing* means establishments that transform mined or quarried nonmetallic minerals, such as sand, gravel, stone, clay, and refractory materials, into products for intermediate or final consumption. Processes used include grinding, mixing, cutting, shaping, and honing; heat is often used in the process and chemicals are frequently mixed to change the composition, purity, and chemical properties for the intended product.

*Oil and gas industry services* means businesses which provide support to the oil and gas industry operations including offices, storage and repair of equipment and vehicles, parking of vehicles or equipment. Such uses shall not include drilling, refining and storage, transloading or transportation of petroleum or gas products, bi-products or waste.

*Paper manufacturing* means establishments that make pulp, paper, or converted paper products including:

1. The separating of the cellulose fibers from other impurities in wood or used paper;
2. Matting these fibers into a sheet;
3. Cutting and shaping techniques that includes coating and laminating activities.

*Parking lot/garage* means an open, hard-surfaced area, other than a street or public way, to be used for the storage, for limited periods of time, of operable passenger automobiles and commercial vehicles, and available to the public, whether for compensation, free, or as an accommodation to clients or customers.

*Personal and laundry services* means establishments engaged in providing personal and laundry services such as health and beauty parlors, massage parlors, dry-cleaning, and pet grooming (not boarding and/or training).

*Personal storage and warehousing* means facilities providing indoor personal storage and warehousing and as an accessory to such use, outdoor storage of personal vehicles, recreational vehicles and watercraft displaying current and valid registration, provided, such outdoor storage does not occupy an area larger than 30 percent of the indoor floor area provided for the primary use.

*Petroleum and coal products manufacturing* means establishments that transform crude petroleum and coal into usable products with the dominant process being petroleum refining that involves the separation of crude petroleum into component products through such techniques as cracking and distillation.

*Plastics and rubber products manufacturing* means establishments that make goods by processing plastics materials and raw rubber. The core technology employed is that of plastics or rubber product production.

*Primary metal manufacturing and fabricated metal products manufacturing* means establishments engaged in the smelting and/or refining of ferrous and nonferrous metals from ore, pig or scrap, using electrometallurgical and other process metallurgical techniques; the manufacture of metal alloys and super alloys by introducing other chemical elements to pure metals; or transforming metal into intermediate or end products, other than machinery, computers and electronics, and metal furniture or treating metals and metal formed products fabricated elsewhere. Processes include forging, stamping, bending, forming, and machining used to shape individual pieces of metal; and welding and assembling used to join separate parts together.

*Professional and administrative offices and services* means establishments that specialize in providing professional, scientific, administrative, management, employment, real estate, or technical activities or services.

*Public administration and service* means federal, state and local government agencies that administer, oversee, and manage public programs and have executive, legislative, or judicial authority over other institutions within a given area. The term includes police and fire services.

*Recreation* means a wide range of establishments that operate facilities or provide services to meet varied recreational interests of their patrons and establishments that operate facilities or provide services that enable patrons to participate in recreational activities or pursue amusement, hobby, and leisure-time interests.

*Research and development* means establishments engaged in the research or research and development of innovative ideas in technology-intensive fields. The term includes research and development of computer software, information systems, communications systems, transportation, geographic information systems, multi-media and video technology. Development and construction of prototypes may be associated with this use.

*Residential design manufactured home* means that term as defined in section 23-7.

*Retail trade* means establishments engaged in retailing merchandise, generally without transformation, and rendering services incidental to the sale of merchandise. Retailers are organized to sell merchandise in small quantities to the general public with extensive displays of merchandise and utilizing mass-media advertising to attract customers.

*Small cell facility* means a low-powered wireless base station which functions much in the same way as larger cells in a wide-area, mobile wireless network that are typically installed relatively high on a telecommunications tower, to provide signal coverage to a large geographic area. Small cells facilities cover a smaller, targeted, localized area to provide connectivity to wireless network subscribers in areas that typically present capacity and coverage challenges to traditional wide-area wireless networks. Small cell facilities are smaller in size and thus are more conducive to collocation on an existing support structure or installation on a private utility's, single-use utility pole erected for the sole or primary purpose of supporting a small cell facility.

*Telecommunications tower* means any freestanding structure, other than a utility pole, built or used for the sole or primary purpose of supporting antennas and their associated facilities, licensed or authorized by the Federal Communications Commission, particularly including structures that are constructed for wireless communications services and also including, but

not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

*Textile mills, textile product mills, and apparel manufacturing* means establishments that transform a basic fiber (natural or synthetic) into a product, such as yarn or fabric, that is further manufactured into usable items, such as apparel, sheets, towels, and textile bags for individual or industrial consumption. Main processes include preparation and spinning of fiber, knitting or weaving of fabric, and the finishing of the textile. The term includes establishments that make textile products (except apparel) by generally cutting and sewing (e.g., purchasing fabric and cutting and sewing to make nonapparel textile products such as sheets and towels). Processes include cutting and sewing and the manufacture of garments in establishments that first knit fabric and then cutting and sewing the fabric into a garment.

*Townhome* means a row or group of independent single-family units, located on individual lots or on a common building site. Each unit has independent access to the outside, is not located over another unit, and is separated from any other unit by one or more common fire walls along the common property boundary or unit boundary.

*Transportation activities* means establishments providing transportation of passengers and cargo, scenic and sightseeing transportation and support activities related to modes of transportation, whether by air, rail, water, road, or pipeline.

*Transportation and equipment manufacturing* means establishments that produce equipment for transporting people and goods.

*Two-family* means a building (duplex) located on a lot or building site that is unoccupied by any other principal structure, and which provides independent living facilities for occupancy by two families such that the two dwelling units are placed adjacent to one another with structural parts touching.

*Utility or utilities* means establishments engaged in the provision of the following utility services: electric power, natural gas, steam supply, water supply sewage removal and telecommunications services. Specific activities associated with the utility services provided by utilities include the following:

1. Electric power includes generation, transmission, and distribution;
2. Natural gas includes distribution;
3. Steam supply includes provision and/or distribution;
4. Water supply includes treatment and distribution
5. Sewage removal includes collection, treatment, and disposal of waste through sewer systems and sewage treatment facilities; and
6. Telecommunications includes the transmission of signs, signals, messages, words, writings, images and sounds or information of any nature by wire, radio, optical or other electromagnetic systems.

*Utility pole* means a long, slender, generally vertical and usually cylindrical object, other than a telecommunications tower, that is or may be used in whole or in part by a public or private utility for wireline, wireless or optical telecommunications, electrical distribution, lighting, traffic control, signage or similar functions.

*Vehicle/equipment sales, rental, and service* means establishments primarily engaged in the sale or rental of personal or commercial vehicles and equipment and which includes incidental maintenance and repair facilities; and establishments that sell, install, and service vehicle equipment and parts, including body repairs and painting.

*Warehousing and storage* means establishments engaged in operating warehousing and storage facilities for general merchandise, refrigerated goods, and other warehouse products. These industries do not sell the goods they handle but can provide logistical services related to the distribution of goods.

*Waste management and remediation services* means establishments engaged in the collection, treatment, and disposal of waster materials, including the local hauling of waster materials; operating materials recovery facilities; providing remediation services; and providing septic pumping and other miscellaneous waste management services.

*Wholesale trade* means establishments engaged in wholesaling merchandise, generally without transformation, and rendering services incidental to the sale of merchandise. Wholesalers are organized to sell or arrange the purchase or sale of:

1. Goods for resale;
2. Capital or durable nonconsumer goods;
3. Raw and intermediate materials and supplies used in production.

*Wood product manufacturing* means establishments that manufacture wood products such as lumber, plywood, veneers, wood containers, wood flooring, wood trusses, manufactured homes, and prefabricated wood buildings. The term includes sawing, planing, shaping, laminating, and assembling of wood products starting from logs that are cut into bolts, or lumber that then may be further cut, or shaped by lathes or other shaping tools.

**SECTION 3: That Stillwater City Code, Chapter 23, “Land Development Code”, Article VI, “Land Use Classifications”, Division 3, “Residential Districts”, Section 23-140, “RMI (Multi-Family Intermediate) District”, be amended as follows:**

**Sec. 23-140. - RMI (Multi-Family Intermediate) District.**

a) *Permitted uses.* The following uses are permitted in the RMI Multi-Family Intermediate District:

- 1) Boarding house/rooming house.
- 2) Churches and religious institutions.
- 3) Free-standing self service facilities.
- 4) Multiple-family with a maximum gross density of 30 units per acre.
- 5) Parking lot/garages.

- 6) Townhome.
- 7) Two-family (duplex).
- 7)8) Fraternity or sorority house
- b) Specific use permit. The following uses are permitted by specific use permit in the RMI district:
  - 1) Accommodation.
  - 2) Child and adult care services.
  - 3) Educational institutions.
  - 4) Health care and social assistance.
  - 5) Personal and laundry services.
  - 6) Telecommunications tower.
- c) Lot size requirements. The lot size requirements in the RMI district are as follows:
  - 1) Minimum lot area: 15,000 square feet.
  - 2) Minimum lot width: 75 feet.
  - 3) Minimum lot depth: 130 feet.
- d) Bulk regulations. Bulk regulation requirements in the RMI district are as follows:
  - 1) The maximum structure height as measured from the finished floor elevation of the first floor to the highest point of the roof: 50 feet.
  - 2) Setbacks. The following are the minimum required setbacks in the RMI district:
    - a) Minimum front yard:
      - (1) 20 feet from all property boundaries abutting a right-of-way or road/access easement.
      - (2) 10 feet from all property boundaries abutting an alley.
    - b) Minimum side yard:
      - (1) Residential structures: Five feet.
      - (2) All other permitted and specific use permit uses: 25 feet.
    - c) Minimum rear yard: 20 feet.
  - 3) Maximum lot coverage: 40 percent.
- e) Exceptions. The following are the exceptions in the RMI district.
  - 1) For all structures, the minimum side yard for this district shall be increased an additional three feet for each adjacent story above the first story.
  - 2) Townhomes are exempt from the lot size and lot coverage requirements; any exterior building(s) shall have a minimum side setback of eight feet.
  - 3) Residential structures not divided into dwelling units shall have densities determined as:
    - ~~a) Each two sleeping rooms for single or double occupancy shall be deemed to constitute one dwelling unit; and~~
    - b)a) Each four beds, in sleeping rooms that contain beds for more than two persons, shall be deemed to constitute one dwelling unit.
  - 4) More than one principal residential structure may be located on a lot.
  - 5) A structure being built for a fraternity or sorority house shall be built to have a residential appearance, which shall include:
    - a) Front porch
    - b) Street facing facades shall be constructed of masonry material (which can include brick, cast stone, stone, EIFS (Exterior Insulation Finishing Systems), and stucco) at least 50 percent of which shall be brick or stone
    - c) A landscape plan shall be submitted, which meets the requirements of 23-230 (f).
  - 6) All fraternity and sorority houses shall have a maximum height of 2 stories for any portion of a structure that is within 30 feet of a single-family residential zoning district or use.

(Ord. No. 3180, § 5, 5-21-2012; Ord. No. 3216, § 2, 12-6-2012; Ord. No. 3221, § 11, 2-21-2013)

**SECTION 4: That Stillwater City Code, Chapter 23, “Land Development Code”, Article VI, “Land Use Classifications”, Division 3, “Residential Districts”, Section 23-141, “RMU (Multi-Family Urban) District”, be amended as follows:**

**Sec. 23-141. - RMU (Multi-Family Urban) District.**

- a) *Permitted uses.* The following uses will be permitted by right in the RMU Multi-Family Urban District:
- 1) Boarding house/rooming house.
  - 2) Churches and religious institutions.
  - 3) Free-standing self service facilities.
  - 4) Mixed-use.
  - 5) Multiple-family with a maximum gross density of 50 units per acre.
  - 6) Parking lot/garages.
  - 6)7) Fraternity or sorority house
- b) *Specific use permit.* The following uses are permitted by specific use permit in the RMU district:
- 1) Accommodation.
  - 2) Child and adult care services.
  - 3) Educational institutions.
  - 4) Personal and laundry services.
  - 5) Telecommunications tower.
- c) *Lot size requirements.* Lot size requirements in the RMU district are as follows:
- 1) Minimum lot area: 10,000 square feet.
  - 2) Minimum lot width: 60 feet.
  - 3) Minimum lot depth: 130 feet.
- d) *Bulk regulations.* Bulk regulation requirements in the RMU district are as follows:
- 1) The maximum structure height as measured from the finished floor elevation of the first floor to the highest point of the roof: 50 feet.
  - 2) Setbacks. The following are the minimum required setbacks in the RMU district:
    - a) Minimum front yard:
      - (1) 20 feet from all property boundaries abutting a right-of-way or road/access easement.
      - (2) 10 feet from all property boundaries abutting an alley.
    - b) Minimum side yard:
      - (1) Residential structures: 15 feet.
      - (+)2) Fraternity or sorority houses: When a side yard has a common boundary with property in any single-family residential district or use, the minimum setback is 15 feet. When a side yard has a common boundary with property in any other district or use, the minimum setback is 5 feet.
      - (2)3) All other permitted and specific use permit uses: 25 feet.
    - c) Minimum rear yard: 30 feet.
  - 3) Maximum lot coverage: 60 percent.
- e) *Exceptions.* The following are the exceptions in the RMU district:
- 1) For all structures, the minimum side yard for this district shall be increased an additional three feet for each adjacent story above the first story.
  - 2) Townhomes are exempt from the lot size and lot coverage requirements; any exterior building(s) shall have a minimum side setback of eight feet.
  - 3) Residential structures not divided into dwelling units shall have densities determined as:

- ~~a) Each two sleeping rooms for single or double occupancy shall be deemed to constitute one dwelling unit; and~~
- ~~b)a) Each four beds, in sleeping rooms that contain beds for more than two persons, shall be deemed to constitute one dwelling unit.~~
- 4) More than one principal residential structure may be located on a lot.
- 5) A structure being built for a fraternity or sorority house shall be built to have a residential appearance, which shall include:
  - a) Front porch
  - b) Street facing facades shall be constructed of masonry material (which can include brick, cast stone, stone, EIFS (Exterior Insulation Finishing Systems), and stucco) at least 50 percent of which shall be brick or stone
  - c) A landscape plan shall be submitted, which meets the requirements of 23-230 (f).
- 6) All fraternity and sorority houses shall have a maximum height of 2 stories for any portion of a structure that is within 30 feet of a single-family residential zoning district or use.

**Sec. 23-230. - Generally.**

- a) *Purpose and intent.* These regulations have been adopted for the purpose and intent of:
  - 1) Ensuring minimal conflict between placement of trees and other landscaping, and both overhead and underground utility lines;
  - 2) Providing for landscaping and trees to shade buildings and paved surfaces and to reduce the amount of runoff, erosion, reflected heat, air pollution, wind, and noise;
  - 3) Improving the attractiveness of the city as a place for economic growth and the general safety of developments; and
  - 4) Providing screening between incompatible land uses.
- b) *Tree classification.* The planning commission shall establish classifications of trees by category of small, medium, and large based on growth characteristics for the purpose of implementing this chapter.
- c) *General planting and maintenance standards.* The following requirements set forth in this section are applicable to trees on both public and private property:
  - 1) The requirements for tree and other landscape material locations are:
    - a) Except for areas zoned CB, or in the case of P districts located immediately adjacent to a CB district, trees shall be planted no closer to any public curb or sidewalk than three feet for small trees, four feet for medium trees, and five feet for large trees;
    - b) Except for areas zoned CB, or in the case of P districts located immediately adjacent to a CB district, landscaping and trees shall be planted to maintain clear vision at intersections;
    - c) Trees planted in the public right-of-way must be of a type which will grow tall enough so that they will not block vision of drivers to see other traffic, pedestrians, signage and traffic control devices;
    - d) Landscape material shall be planted in such a way as to not obstruct access to a fire hydrant, utility meters or utility poles;
    - e) Only those trees listed as small trees may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water, sewer, electric, telephone, cable or natural gas line. Any tree which is planted within a dedicated easement will be subject to damage, pruning and removal, as necessary, to allow full utilization of the easement and maintenance of utilities contained therein;

- f) Plant materials being planted to meet landscape requirements of this chapter should be planted during the spring or fall months to improve chances of survival. If all other requirements are met, a certificate of occupancy will be issued for properties which are developed during the other times of the year without the landscape materials being installed, provided, however, that the plant materials must be planted within the first planting season to following completion of construction; and
- 2) The following shall be observed in the care of existing trees:
- a) The city shall have the right to prune, spray, or partially remove trees or shrubs that have originated within or have grown into public rights-of-way, public properties or public easements as may be necessary to protect persons and property, to provide access to public utilities, to provide needed clearances from public utility infrastructure, and to maintain visibility of traffic signals and traffic warning or directional signs. Franchised utilities operating within utility easements shall have the same rights to provide clearance and access to their equipment that is installed within dedicated easements. Whether the work is to be done by the city or a franchised utility, a property owner shall be notified by posted written notice three days prior to work on a tree located on their property or the adjacent street right-of-way, when the trimming involves removing any branch greater than 1½ inches diameter or more than five branches of less than one-half-inch diameter. Persons receiving notice under this section may appeal to the city manager provided that such appeal is taken within three days of posting said notice.
  - b) When plant material is causing an immediate public safety threat or preventing access to a utility that is in imminent danger or is failing, the tree or shrub, or any portion thereof, may be removed to eliminate the immediate threat for emergency and/or public safety purposes without notification to property owners. When such emergency work has been carried out, property owners shall be notified of the work that was done by posted written notice. In the case of major ice storms, tornadoes or other natural disasters, posted written notice will not be left.
  - c) If development plans include preservation of existing trees or other vegetation on site during construction, the building permit plans shall specify the method to be used to protect the trees or vegetation.
  - d) When, on the basis of citizen complaint or observation by the city manager, the city manager determines that a tree poses a safety threat to persons in public ways or adjacent private or public property, the city manager may order the tree, or any portion thereof, to be removed. When the city manager orders removal of a tree on private property, the owner of the property shall be given ten days' written notice to remove the tree. If the tree has not been removed in the specified time, the city shall proceed to have the tree removed and bill the property owner the cost of removal. A lien shall also be placed on the property to recover the cost of tree removal. For the purposes of this chapter, removal shall mean cutting the tree off at ground level. The property owner may appeal the decision to trim or remove the tree to the board of adjustment; provided that such appeal is taken within ten days from the date of notification by the city forester. If such an appeal is made, action to remove the tree shall be stayed until a decision is reached by the board of adjustment.

- e) For purposes of this section, time periods are exclusive of weekends and legal holidays.
- d) *Multiple-family, commercial, and industrial park landscape requirements.* Multiple-family uses shall be considered more than four dwelling units per lot. All new construction, expansion or redevelopment within the city for multiple-family, commercial and industrial park uses, except in the CB zoning district, shall include the provision of landscape areas to provide for the planting of trees and other landscape materials. In all cases, property within this category, including in the CB zoning district, not being used for a structure, parking space, driving aisle, open display area, sidewalk or outdoor storage area shall be maintained as landscape area. Designated or approved landscape areas shall not be used for display or storage of goods or materials.
  - 1) The actual minimum landscape area requirements for a development shall depend on the size of the associated parking area. For parking areas containing between six and 20 parking spaces, inclusive, the only landscape area required shall be the parking area setback requirement. For parking areas of more than 20 spaces, the required landscape area shall be equal to at least nine percent of the developed portion of the lot. Except as follows, the developed portion of the lot shall be considered the entire piece of property being developed:
    - a) The developed portion of the lot shall not include detention or compensatory storage areas when detention and/or compensatory storage requirements are met off of the parking surface.
    - b) When only a portion of a piece of property is being developed, that portion not being developed shall be so designated on the site plan and will not be included in the development area.
    - c) Property beyond any normal setback requirements which lies within a 100-year floodplain, or other drainage channels, and which will not be functioning as part of the detention or compensatory requirements of the site, may be designated, in whole or in part, as part of the developed area by the applicant provided that a sufficient amount of landscape area is distributed across the entire site. Because each site will be different, it will be up to the applicant and staff to agree on what is sufficient in a given case. In general, staff will be looking to see that the intent of this chapter is being met and that landscaping will not be concentrated away from public portions of the site. When an agreement cannot be reached, the planning commission shall make the final determination.
  - 2) Landscaping areas within the occupant, customer and/or employee parking area of a development, shall be located in such a way as to meet the requirements set forth in this subsection. The following requirements do not apply to areas designated for open display:
    - a) Landscape areas shall be located so that at least 60 percent of the trees planted to meet the point requirements on the site can be located within ten feet of the paved parking area.
    - b) When a parking area is to provide parking for more than 100 vehicles, landscape islands shall be provided at the ends of the rows of parking to separate the parked vehicles from an adjacent driving aisle.
    - c) Landscape areas shall be placed so that at least a portion of every parking space is within 59 feet of the parking area setback area or another landscape area meeting the minimum area requirement. The distance a parking space may be from a landscape area may be increased by one foot for each additional 30 square feet of area contained within a landscape area which is surrounded on all sides by paved

parking area; provided, however, that in no case shall the distance between a parking space and a landscape area exceed 80 feet.

- 3) Landscape area size requirements are described as follows:
  - a) The width of parking lot landscape areas shall be measured exclusive of any curbing or bumper blocks.
  - b) The standard, minimum width of a landscape area shall be four feet. At the end of a row of 90-degree parking spaces that are next to a setback area, the setback area may be reduced to two feet to facilitate backing out from a parking space. Also, specific points of other landscape areas may be reduced to as narrow as two feet to meet design requirements. Landscape areas placed parallel to a parking space, or at the end of a row of parking spaces shall be no less than two feet shorter than the paved length of the parking stall. Except for the buffer strip areas, landscape areas that have bumper overhang shall have a minimum of four feet of width in addition to the bumper overhang.
  - c) A landscape area placed parallel to a parking space, or at the end of a row of parking, shall be a minimum of 80 square feet, if one parking stall in length, and 165 square feet if two stalls in length. Any other landscape areas shall be a minimum of 80 square feet in size.
- 4) To provide flexibility in designing the best landscape plan for each site, no specific materials or locations are required for landscaping by these regulations.
  - a) Developments shall include landscape material from the following list, in any combination, such that the total points received for the development equal at least 50 points per 100 square feet in all areas:
    1. Berms, minimum 30 inches tall earn five points per ten linear feet.
    2. Turf shall earn ten points per 100 square feet.
    3. Vegetative ground cover (other than natural turf or sod) shall earn 25 points per 100 square feet of cover.
    4. Small shrubs (mature height of four feet) shall earn 25 points each.
    5. Large shrubs (mature height over four feet) shall earn 75 points each.
    6. Trees of one-inch caliper or greater at the time of planting which are classified as follows:
      - i. Small trees earn 100 points;
      - ii. Medium trees earn 150 points and shall be designated by a scaled 20-foot diameter circle;
      - iii. Large trees earn 200 points and shall be designated by a scaled 35-foot diameter circle;
      - iv. Evergreen trees shall be designated by a scaled 20-foot diameter circle.
    7. Preservation of existing trees will earn the same base points as new trees based on the size classification of tree. For trees over four-inch caliper, an additional 20 points will be awarded for each inch of caliper over four, up to double the point value of the tree. (For example: saving a tree which is classified in the large tree category will earn 200 points; if the tree measures to be eight-inch caliper, an additional 80 points will be awarded.) The diameter of the tree shall be measured at 4½ feet above the ground.
    8. Any plant materials installed to meet the requirements of this chapter which die, or are otherwise removed, must be replaced with plant materials which will earn at least the same number of points.

If the replacement materials are to be located more than 20 feet from where the previous materials had been, a revised landscape plan shall be submitted to the city planner for administrative review and approval.

- b) Site plan designation. Site plans shall be labeled with the number of square feet contained within each landscape area. The landscaping shown on site plans shall specify the vegetation according to the categories listed below. Symbols shall be used to identify planting sites for landscape materials as designated below, and standard sizes shall be used for trees. Landscaping in addition to that shown on the site plan is encouraged and will not be a violation of the site plan. The required site plan designations shall be:
  - 1. "Berm," and the contour thereof at 30 inches of height;
  - 2. "TF" for turf;
  - 3. "GC" for vegetative ground covers;
  - 4. "SS" for small shrubs;
  - 5. "LS" for large shrubs;
  - 6. "ST" for a small tree;
  - 7. "MT" for a medium tree;
  - 8. "LT" for a large tree; and
  - 9. "EV" for evergreen trees.
- 5) Plans submitted for building permits for these developments shall include the information required by this section in sufficient detail to evaluate compliance with these regulations. For those developments which require city council site plan approval prior to the issuance of a building permit, a conceptual landscape plan shall be included with the site plan. The minimum requirements for this conceptual landscape plan include:
  - a) The location of all landscape area;
  - b) The calculations showing compliance with the minimum landscape area requirements and what the minimum point requirements are for plan material;
  - c) An illustration of the concept which will be used in placement of landscape materials by area across the site (i.e., the approximate number and size as well as the general location of trees, shrubs, and ground covers); and
  - d) Existing trees which will be preserved.

In approving any site plan ~~reviewed by~~ the planning commission and/or city council, ~~they~~ may reserve the right to review the final landscape plan prior to the issuance of a building permit.

- e) *Visual barriers and transitional yards.* Visual barriers and/or transitional yards are to be provided as required in this subsection to help separate more intense land uses from less intense ones, and to screen some uses from view. The visual barrier may have openings of reasonable length to accommodate driveways and walkways.
  - 1) Certain districts of more intense use are to have visual barriers installed when they abut districts of less intense use.
    - a) In such cases, visual barriers are not required when parking lots abut one another, no matter what zoning district.
    - b) When the office district abuts an RSS, RSL, RT or RM district, a visual barrier is required on the property zoned office district.

- c) When CS, CB, CG, IL or IG district abuts an RSS, RSL, RMH, RT or RM district, a visual barrier is required on the property zoned CS, CB, CG, IL or IG district.
  - d) Separation of properties by an alley, right-of-way or road easement does not exempt such properties from these requirements.
- 2) Wherever any provision of his chapter requires the construction and maintenance of a visual barrier or transitional yard as a condition for initiating and subsequently continuing any use, such barrier or yard shall be constructed and maintained on the lot containing or proposed to contain such use, in accordance with the provisions of this section. When the area required to have a visual barrier is within a utility easement, the visual barrier shall be constructed as required in this subsection. When located within a dedicated easement, the materials used to construct the visual barriers may be removed without liability for replacement by a public utility, or private contractor representing a public utility, to gain access for the installation, removal, extension or repair of utility lines and equipment. Such barriers and yards shall also make provision for easy access to meters, transformers, junction boxes, and other utility equipment commonly found in utility easements. Visual barriers shall not impede access to dumpsters and access by emergency personnel. Locations and situations where visual barriers or transitional yards are required include the following:
  - a) As may be required as a condition of approval of a site plan for a specific use or planned unit development;
  - b) Along the frontage of a principal or minor arterial street where there is open storage of equipment, machinery, materials, products, supplies, vehicles or work in progress which is not otherwise screened from the street by building, except for temporary uses, and except for the display and sale or rental of operable motor vehicles, recreational vehicles, trailers, mobile homes, boats, aircraft, construction equipment and farm machinery in the districts where permitted; and
  - c) Along certain portions of district boundaries, provided also that where a lot falls within the provisions of this subsection, no part of such lot that is within 100 feet of the abutting property shall be developed, used, or subsequently maintained for any use that is not a use of right in the district in which the abutting property is located or in an RM district, unless and until there is provided on such lot a visual barrier meeting the requirements of this section.
- 3) The purpose of visual barriers and transitional yards is to provide separation between uses and screen potentially unsightly areas. These goals can be met in a variety of ways described as follows:
  - a) When a visual barrier is required for the purpose of screening outdoor storage areas, the provided barrier shall be at least 80 percent opaque, and not less than six feet high above the highest point within ten feet of either side of the property line, exclusive of any earth berms created to satisfy this requirement.
  - b) When a visual barrier or transitional yard is required to provide separation between land uses, the design of the barrier or yard shall follow the guidelines set forth in this subsection. The type of materials used to provide the visual barrier will vary depending upon the width of the transitional yard.
    - 1. A yard width up to five feet shall require a visual barrier that is at least 75 percent opaque up to four feet, and 60 percent opaque

between four and six feet above the height of the highest point within ten feet of either side of the property line, exclusive of any earth berms created to satisfy this requirement.

2. A yard width over five feet and up to ten feet wide shall require a visual barrier that is at least 70 percent opaque up to three feet, and 50 percent opaque between three and six feet tall above the height of the highest point within ten feet of either side of the property line, exclusive of any earth berms created to satisfy this requirement.
  3. A yard width over ten feet shall require a visual barrier that is at least 70 percent opaque up to three feet, and 40 percent opaque up to five feet tall above the height of the highest point within ten feet of either side of the property line, exclusive of any earth berms created to satisfy this requirement.
- c) Visual barriers may consist of any combination of earth berms, shrubs, trees, fences, and other natural and decorative man made materials. Where vegetation is used to provide the visual barrier it shall immediately provide at least 50 percent of the required screening and will be given two years from the date of installation to achieve the height and coverage designated for the given screen or transitional yard. When vegetation is proposed to provide the required visual barrier, the plans for the development shall specify the types of plant material to be used in order to evaluate whether or not the proposed plant material can meet the screening requirement.

d) All properties within the city shall be required to meet these requirements within one year of April 15, 2008.

f) Fraternity or Sorority House. A landscape plan with at least one (1) tree and ten (10) shrubs per 30 feet of lineal frontage

1) Corner lots shall provide landscaping for both front yards.

4)2) The landscaping shall be a minimum requirement for the lot, which can be clumped or spread throughout the parcel.

**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, sentence, 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 \_\_\_\_ DAY OF \_\_\_\_\_, 2026.

\_\_\_\_\_  
WILLIAM H. JOYCE, MAYOR

(SEAL)  
ATTEST:

\_\_\_\_\_  
TERESA KADAVY, CITY CLERK

APPROVED AS TO FORM AND LEGALITY THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2026.

\_\_\_\_\_  
KIMBERLY CARNLEY, CITY ATTORNEY

First Reading:  
Second Reading:

STILLWATER PLANNING COMMISSION SUMMARY  
REGULAR MEETING OF JANUARY 27<sup>TH</sup>, 2026  
IN ACCORDANCE WITH THE OKLAHOMA OPEN MEETING  
LAW, THE AGENDA WAS POSTED January 21<sup>ST</sup>, 2026 IN THE  
MUNICIPAL BUILDING AT 723 SOUTH LEWIS STREET

MEMBERS PRESENT

Jana Phillips, Chair  
Riley Williams, Vice Chair  
Mark Prather, Member  
Mike Shanahan, Member  
David Peters, Member

STAFF PRESENT

Ashlyn Garis, Assistant City Attorney  
David Barth, Development Services Director  
Henry Bibelheimer, Senior City Planner  
Alexandria Holle-Maged, Administrative Assistant

MEMBERS ABSENT

Staff Absent

1. CALL MEETING TO ORDER.

Chair Phillips called the meeting to order at 5:30 pm.

3. PUBLIC HEARING

- a. Receive public comment regarding a Text Amendment to Stillwater City Code Chapter 23, Land Development Code, Article I General Provisions, Section 23-7, Definitions; Article V, Use Categories and Limitations, Division 1, Generally, Section 23-96, Definitions; Article VI, Land Use Classifications, Division 3, Residential Districts, Section 23-140, RMI (Multi-Family Intermediate) District, and Section 23-141 RMU (Multi-Family Urban) District; and Article IX, Landscaping, Screening, and Environmental Standards, Section 23-230, Generally; Repealing all ordinances to the contrary; and providing for severability.

Mr. Bibelheimer presents staff's report and noted the item was tabled previously to incorporate changes, including additional feedback from the Greek Neighborhood Association. Mr. Bibelheimer highlights the following:

- Definition and Classification: Explained moving the definition of "fraternity or sorority house" to Section 23-96 (Use Definitions) and requiring affiliation with a university-recognized chapter.
- Zoning and Setbacks: Identified the addition of these houses as allowed uses in RMI and RMU districts. He detailed a proposed 5-foot side yard setback when abutting other Greek houses, noting that a 15-foot setback remains if the property abuts a single-family residential use. He added that for every story above the first, the setback increases by 3 feet.
- Density and Design: Proposed a density calculation where four beds equal one dwelling unit. He outlined design standards requiring a residential appearance, front porches, and street-facing facades composed of at least 50% brick or stone.
- Height Restrictions: Clarified that any portion of a structure within 30 feet of a single-family district is limited to two stories.
- Landscaping (Section 23-230F): Proposed a requirement of one tree and 10 shrubs per 30 feet of frontage.

Mr. Bibelheimer also introduced a "redline" change for corner lots that instead of providing landscaping for *both* front yards on a corner lot, the requirement is now based only on the primary front yard (defined as the frontage from which the property is addressed); and this requirement would only be calculated based on the primary front yard (address street) to accommodate "house decorations" and homecoming displays.

Chair Phillips inquired about the definition of "portion" regarding the height restriction. Mr. Bibelheimer explained that the code does not explicitly define "portion," but the intent is to apply the height limit specifically to the physical area of the building footprint located within the 30-foot buffer from a single-family property line.

Chair Phillips asked for clarification on landscape requirements for corner lots, specifically if a house on University and Monroe would only be required to landscape based on the University frontage. Mr. Bibelheimer confirmed this, noting that while the *requirement* is calculated by the primary frontage, the plants could be placed anywhere on the parcel.

Chair Phillips asked if the Greek Neighborhood Association deemed the original landscape requirement a "hardship." Mr. Bibelheimer clarified it was a "concern" rather than a legal hardship,

Vice Chair Williams says he can see how this would make sense referencing how some of the houses are angled and questioned the definitions of trees versus shrubs, specifically regarding species like Crepe Myrtles. Mr. Bibelheimer noted the code defines small, medium, and large trees but admitted there is no "approved tree list" currently in the code.

Chair Phillips asked how the proposed landscaping compares to the current "point system." David Barth, Development Services Director, explained that they do have a comparative analysis of landscaping codes in other towns done by the City's Consultant; continues to explain that the requirement of one tree and 10 shrubs per 30 feet of frontage does not specify that they be put in the front yard. Under the current system, developers can often meet requirements using only grass (sod); the amendment ensures "vertical landscaping" (trees and shrubs) to soften the visual impact of higher-density buildings with reduced setbacks and noted sororities typically maintain high-quality landscaping, while some fraternities currently have almost zero.

Chair Phillips asks for clarification on what the front yard set back is. Mr. Bibelheimer says 20 ft.

Commissioner Prather asked how staff ensures reduced setbacks remain limited to Greek housing and do not create pressure to lower standards for other high-occupancy residential uses. Mr. Bibelheimer stated the definition is tightened up to require university affiliation, which excludes standard apartments and acknowledged it might create future pressure for code updates but confirmed this specific amendment is limited in scope.

Chair Phillips opens the public hearing and asks if anyone would like to speak in favor of the item; none respond. Chair Phillips asks if there is anyone that wishes to speak in to speak in opposition; none respond. Chair Phillips asks for findings and alternatives.

Mr. Bibelheimer presents findings and alternatives.

Findings:

1. The proposed text amendment updates how the City regulates fraternity or sorority houses.
2. The proposed text amendment updates the definition of fraternity or sorority house and moves the definition to the use categories.
3. The side setback for fraternity and sorority houses in the RMU zoning district is proposed to be reduced to align with the side yard setback requirements in RMI.
4. Design standards for fraternity and sorority houses are proposed to be incorporated into the RMI and RMU district, to ensure a quality residential design.
5. Increased landscaping requirements for fraternity or sorority houses.

Alternatives:

1. Accept findings and recommend that the City Council approve the proposed Text Amendment as presented.
2. Accept findings and recommend that the City Council conditionally approve the proposed Text Amendment
3. Find that additional information or discussion is needed prior to making a recommendation and table the request to a future Planning Commission meeting.
4. Find that the Text Amendment is not needed and do not recommend that the City Council approve the request.

Mr. Bibelheimer recommends option 2, to conditionally approve the text amendment with the last-minute changes to Section 23-230.f regarding primary frontage for corner lots.

Ms. Ashlyn Garis, Assistant City Attorney, clarifies the Commissioners will need to include the specific wording if they motion to approve it with the recommended changes.

**Vice Chair Williams moved to approve the text amendment as presented, with the specific change to Section 23-230.f to apply landscaping requirements to the primary front yard, only for corner lots. Commissioner Prather seconds the motion.**

Roll Call:	Phillips	Williams	Prather	Shanahan	Peters
	Yes	Yes	Yes	Yes	Yes

*Time: 26 minutes*

REPORT TO: CITY COUNCIL

MEETING DATE: FEBRUARY 9, 2026



<b>Agenda Item:</b>	8.a. CC-26-28
<b>Previous/Related Action:</b>	
<b>Background/Issue:</b>	<p>The Stillwater Public Library received a grant from the Oklahoma Historical Society to digitize the Stillwater Fire Department Collection comprised of over 2,000 historic items. Over the year, the library's Technical Services team digitized, edited the metadata for, and uploaded these items to the library's online archive platform, Past Perfect. The collection is now available for researchers and the public at <a href="https://stillwateroklibrary.catalogaccess.com/home">https://stillwateroklibrary.catalogaccess.com/home</a>. The Oklahoma Historic Society is also hosting 100 photos representative of the collection on the Gateway to Oklahoma History.</p>
<b>Proposal/Solution:</b>	NA
<b>Financial Source/Impact:</b>	NA
<b>Related Strategic Priority:</b>	#1 EFFECTIVE SERVICES & ACCOUNTABLE GOVERNMENT #5 UNIQUE CULTURE
<b>Recommended Action/Motion:</b>	NA
<b>Prepared By:</b>	Stacy Delano, Library Director
<b>Reviewed By:</b>	Stacy Delano Christy Driskel Teresa Kadavy
<b>Submitted By:</b>	Brady Moore, City Manager

**Attachments**

None

**RESOLUTION NO. CC-2026-2**

**A RESOLUTION OF THE STILLWATER CITY COUNCIL DECLARING THE APARTMENTS LOCATED AT 1815 NORTH BOOMER ROAD, STILLWATER, OKLAHOMA, A PUBLIC NUISANCE DETRIMENTAL TO THE HEALTH, SAFETY, AND WELFARE OF THE GENERAL PUBLIC AND THE COMMUNITY; ORDERING THE NUISANCE TO BE ABATED IN ACCORDANCE WITH 50 O.S. § 11 AND SECTION 18-69 OF THE CITY OF STILLWATER CODE OF ORDINANCES; AUTHORIZING THE FILING OF A DISTRICT COURT ACTION SEEKING A JUDICIAL DECLARATION THAT THE APARTMENTS CONSTITUTE A PUBLIC NUISANCE AND ENTERING AN ORDER AUTHORIZING THE CITY OF STILLWATER TO ABATE THE PUBLIC NUISANCES ON THESE PROPERTIES WITH COSTS TO BE PAID BY THE OWNER OF THE PROPERTIES; AND AUTHORIZING THE CITY MANAGER TO TAKE ALL ACTIONS REASONABLY NECESSARY TO PROCEED WITH THE ABATEMENT AND DISTRICT COURT CAUSE OF ACTION**

**WHEREAS**, 11 O.S. §22-121 provides that municipal governing bodies may declare what constitutes a nuisance and provide for the prevention, removal and abatement of nuisances; and

**WHEREAS**, City of Stillwater Code Enforcement Officers received numerous complaints about numerous issues with Remington Ranch Apartments, including no water service, no hot water, no heat, and issues with significant amounts of trash; and

**WHEREAS**, Remington Ranch Apartments are located at 1815 North Boomer Road, Stillwater, Oklahoma 74074, and legally described on the attached Exhibit “A;” (the “Subject Property”); and

**WHEREAS**, notice was provided to REMINGTON RANCHS BEST LIVING, LLC, REMINGTON RANCH, VESTA CAPITAL, AND VESTA CAPITAL, A FOREIGN LIMITED LIABILITY COMPANY (the “Property Owners”), as shown by the current year’s tax rolls in the Office of the Payne County Treasurer and Payne County Assessor, regarding the Subject Property of a Public Hearing to be held by the Stillwater City Council (the “Council”) on January 12, 2026, at 5:30 p.m.; and

**WHEREAS**, the Notice of Public Hearing (the “Notice”) alleged that the apartments on the Subject Property (the “Apartments”) constitute a public nuisance in accordance with 11 O.S. § 22-121, and Sections 18-71, 18-152, 18-153, and 10-111 of the Stillwater Code of Ordinances, because of the following:

1. The Apartments, which through neglect or injury lack necessary repairs or otherwise are in a state of decay or partial ruin to such an extent that it is a hazard to the health, safety, or welfare of the general public and, in particular, the residents of the Apartments.
2. The Apartments are unfit for human occupancy due to the lack of hot water which is a hazard to the health, safety, and welfare of the public, including the residents and visitors.

3. With regard to the foregoing, said Apartments are presently maintained in violation of the following sections of the 2018 International Property Maintenance Code: IPMC 505.1, 505.3, and 505.4; and

**WHEREAS**, the Notice of Public Hearing (the “Notice”) regarding the Apartments was sent by certified mailed to the Property Owners on December 17, 2025; and

**WHEREAS**, in order to provide maximum notice and transparency, the Notice was posted on several of the Apartment buildings on December 17, 2025, advising the Property Owners and others of the Public Hearing scheduled for January 12, 2026; and

**WHEREAS**, on January 12, 2026, the City Council received comments from the public, but ultimately tabled the public hearing to February 9, 2026; and

**WHEREAS**, an Amended Notice (the “Amended Notice”) was provided to the Property Owners and FANNIE MAE, AS ASSIGNEE FROM BERKELEY POINT CAPITAL LLC C/O BERKELEY POINT CAPITAL LLC, D/B/A NEWMARK, and YSA INVESTMENTS 1, LLC (the “Mortgage Holders”) as identified in a title opinion obtained by the City of Stillwater, regarding the issues with the Apartments on the Subject Property set forth in the original Notice plus the additional issue of no heat as set forth in Section IPMC 602.3; and

**WHEREAS**, the Amended Notice advised the Property Owners and the Mortgage Holders of a Public Hearing to be held by the Stillwater City Council (the “Council”) on February 9, 2026, at 5:30 p.m.; and

**WHEREAS**, the Amended Notice regarding the Apartments was sent by certified mailed to the Property Owners and the Mortgage Holders on January 26, 2026; and

**WHEREAS**, in order to provide maximum notice and transparency, the Amended Notice was posted advising the Property Owners, Mortgage Holders, and others of the Public Hearing scheduled for February 9, 2026; and

**WHEREAS**, due to the provision by mail and posting of the notice, no publication was effectuated by the City of Stillwater; and

**WHEREAS**, Section 18-71 of the Stillwater Code of Ordinances provides that:

“In addition to other public nuisances declared by other provisions of this Code or state law, the following are hereby declared to be a public nuisance:

- (16) Any building or structure which is dangerous to the public health or safety because of damage, decay or other condition...
- (19) Any occupation or activity which endangers the public peace, health, morals, safety, or welfare...

**WHEREAS**, as of the final date of inspection prior to preparation of the Amended Notice, the Apartments constitute a public nuisance as set forth in state statute and the City of Stillwater Code of Ordinances and are unfit for human occupancy due to the lack of water, hot water and heat, which is a hazard to the health, safety, and welfare of the public, including the residents and visitors and are being maintained in violation of Sections 505.1, 505.3, 505.4, and 602.3 of the International Property Management Code, as adopted by the City of Stillwater in Section 10-111 of the Code of Ordinances (the “Property Condition”); and

**WHEREAS**, current and past documentation of the condition of the Apartments and the state of the Subject Property is contained in the Written Official Record attached hereto as Exhibit “B;” and

**WHEREAS**, the Property Condition as set forth above, demonstrates that the Apartments, through neglect or injury, are devoid of the necessary repairs and is in a state of decay and partial ruin to such an extent that the Apartments are a hazard to the health, safety, and welfare of the general public; and

**WHEREAS**, the Property Condition as set forth above, as well as the attached Written Official Record, demonstrates that the Apartments and the Subject Property should be declared a public nuisance.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STILLWATER, OKLAHOMA, THAT** a Public Hearing regarding the Subject Property was held on this 9<sup>th</sup> day of February, 2026.

**NOW, THEREFORE, BE IT FURTHER RESOLVED THAT** the Written Official Record accompanying this Resolution is hereby formally accepted and adopted herein.

**NOW, THEREFORE, BE IT FURTHER RESOLVED THAT** based upon the Written Official Record provided to the City Council and the Property Owners and adopted herein, as well as the information presented at the Public Hearing, the City Council hereby finds that the Apartments on the Subject Property are a public nuisance and detrimental to the health, safety, and welfare of the general public and the community.

**NOW, THEREFORE, BE IT FURTHER RESOLVED THAT** based upon the Written Official Record presented to the City Council and approved herein, as well as the information presented at the Public Hearing, the City Council hereby orders abatement of the nuisance in accordance with state statute and the City of Stillwater Code of Ordinances.

**NOW, THEREFORE, BE IT FURTHER RESOLVED THAT** employees of the City of Stillwater and its agents are expressly authorized to enter the Subject Property for the performance of their necessary duties and governmental functions, including inspections authorized by law and consent and to effectuate the directives of the City Manager regarding the plumbing and other issues.

**NOW, THEREFORE, BE IT FURTHER RESOLVED THAT** the City Attorney is authorized to file an action to abate the public nuisance and for any and all other causes of action available to the City to address the nuisance on the Subject Property; provided that, the City Attorney is authorized to use outside counsel if deemed necessary for this cause of action.

**NOW, THEREFORE, BE IT FURTHER RESOLVED THAT** all actions taken and authorized herein are appropriate and necessary for the health, safety, and welfare of the residents of the City of Stillwater, Oklahoma.

ADOPTED by the City Council of the City of Stillwater, Oklahoma, on this 9<sup>th</sup> day of February, 2026, after full compliance with the Oklahoma Open Meeting Act.

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WILLIAM H. JOYCE, MAYOR

ATTEST:

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TERESA KADAVY, CITY CLERK

Approved as to form and legality:

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KIMBERLY CARNLEY, CITY ATTORNEY

ORDINANCE NO. 3590

AN ORDINANCE AMENDING STILLWATER CITY CODE CHAPTER 23, LAND DEVELOPMENT CODE, ARTICLE I, GENERAL PROVISIONS, SECTION 23-7, DEFINITIONS; ARTICLE V, USE CATEGORIES AND LIMITATIONS, DIVISION 1, GENERALLY, SECTION 23-96, DEFINITIONS; ARTICLE VI, LAND USE CLASSIFICATIONS, DIVISION 3, RESIDENTIAL DISTRICTS, SECTION 23-140, RMI (MULTI-FAMILY INTERMEDIATE) DISTRICT, AND SECTION 23-141 RMU (MULTI-FAMILY URBAN) DISTRICT; AND ARTICLE IX, LANDSCAPING, SCREENING, AND ENVIRONMENTAL STANDARDS, SECTION 23-230, GENERALLY; 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 Stillwater City Code, Chapter 23, “Land Development Code”, Article I, “General Provisions”, Section 23-7, “Definitions”, be amended to remove the definition of “Fraternity or sorority house” as follows:

**Sec. 23-7. - Definitions. (general)**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abut* means the boundary of a parcel of land lies in immediate proximity to, or is contiguous with, another parcel, but does not physically touch or adjoin such parcel.

*Accessory building or structure* means a building or structure customarily incidental and secondary to, and located on the same lot as, the principal building or structure.

*Accessory use* means a use customarily incidental and secondary to, and located on the same lot as, the principal use of a building, structure, or land.

*Adjacent* means the boundary of a parcel of land actually touches the boundary of another parcel of land, exclusive of the area of any intervening right-of-way.

*Administrative officer* means an employee of the city.

*Adverse impact* means when the action of one property owner creates harm to another property owner by increasing flood peaks, flood stage, flood velocity or by causing erosion and/or sedimentation or other damage.

*Airport* means the city regional airport.

*Alley* means a public way which gives a secondary means of vehicular access to the rear or side of properties otherwise abutting a street, and which may be used for public utility purposes, but is not primarily intended for general traffic circulation and may be utilized in residential, commercial and industrial districts.

*Ambulatory surgical center or facility* means an establishment with an organized medical staff of physicians, with permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures, with continuous physician services available on call, and registered professional nursing services available on site, whenever a patient is in the facility, which provides services or other accommodations for patients to recover for a period of not to exceed 23 hours after surgery (as defined by the ambulatory surgical center regulations, title 310, chapter 615, Oklahoma Administrative Code, state department of human services).

*Animal clinic* means an establishment organized with a licensed medical staff to care for animals on an outpatient basis and which operations are conducted entirely within an enclosed building.

*Annexation* means the process of expanding or extending the corporate boundaries of the city.

*Appeal* means a request for review of a decision, action, or interpretation with respect to ordinances, regulations, or policies as adopted by the city.

*Awning* means a framed structure, supported from the exterior wall of a building, which can be retracted, folded, collapsed or remains stationary as a part of the building.

*Berm* means a mound or bank of earth covered with either grass or other plant material designed to provide a screen between incompatible uses and/or decrease noise intrusion.

*Block* means a continuous group of lots separated by street rights-of-way. Also, a continuous group of lots comprising a portion of a platted subdivision, used for identification purposes.

*Board of adjustment* means the city board of adjustment.

*Buffer* means land area used to:

1. Visibly separate one use from another through screening and distance;
2. Shield or block noise, light, glare, or visual or other conditions;
3. Minimize physical passage to nonsimilar areas;

4. Reduce air pollution, dust, dirt and litter.

*Buffer strip* means the landscaped portion of a lot or parcel of land between the developing/developed area and the property line.

*Buildable area* means all of that portion of a lot, tract, or parcel of land which remains after the minimum yard, easement, and open space requirements of this chapter have been met.

*Building* means any structure, having a roof supported by columns or walls, used or intended for support, enclosure, or shelter of any use or occupancy.

*Building code* means the various codes of building design, construction, and maintenance as adopted by ordinance.

*Building frontage* means the side of a building which contains a primary entrance and/or abuts a street, excluding an alley. When the entrance is located at an angle on the corner of the building, one side must be designated as the frontage.

*Building line* means a line representing the inner edge of any required yard or required setback and the corresponding outer edge of the buildable area beyond which a building shall not extend, except as specifically provided herein.

*Building official* means the officer or other designated authority charged with the administration and implementation of the applicable building codes of the city.

*Building site* means land occupied or intended to be occupied by a building, together with all open space required herein, which is located on a lot that has been lawfully created and meets all criteria for its intended use.

*Caliper* means the diameter of the tree trunk measured at a specified distance above ground.

*Canopy* means a functional rigid roof-like, multisided, shelter structure which is wholly or partially supported by a building structure and/or columns, braces, or poles extending to the ground.

*Canopy tree* means a tree that, under normal forest conditions, will compose the top layer of vegetation and generally will reach a mature height of greater than 40 feet.

*Car length* means, for the purposes of measuring, 19 feet.

*Carport* means a roofed structure providing space for the parking or storage of motor vehicles that is open on two or more sides.

*Cash escrow* means funds placed in escrow at a solvent state financial institution, which can be drawn on to complete the improvements for a subdivision of land or a land development project in case of default by the subdivider/developer.

*City drainage standards* means the stormwater management specifications and standards as adopted by the city council.

*City standards* means the engineering design criteria, construction standards, and standard details as approved by resolution of the city council.

*Commercial minor subdivision* means any resubdivision, reorganization, combination or division of nonresidential land.

*Common area* or *facility* means a portion of a development, subdivision, lot, or structure used in common by two or more owners or tenants of other portions of such development, subdivision, lot or structure.

*Common open space* means a common area which is not enclosed in a building.

*Comprehensive plan* means the city comprehensive community development plan.

*Corner lot* means a lot or parcel of land abutting upon two or more streets or rights-of-way at their intersection, or upon two parts of the same street or right-of-way forming an interior angle of less than 135 degrees.

*Corporation commission* means the corporation commission of the state.

*Cul-de-sac* or *cul-de-sac street* means a minor street having one end open to vehicular traffic and having one end terminated by a turnaround, of which design complies with the standards as adopted or referenced by the city.

*Deciduous* means a plant with foliage that is shed annually.

*Density* means the amount or quantity of something per unit measure. The number of units in a given land or building area.

*Gross density:* A units-per-acre (upa) density measurement that includes in the calculation all land occupied by use, right-of-way or easement, recreational activity, civic activity, building, parking, landscaping, and any other improvement necessary for the development.

*Net density:* A units-per-acre (upa) density measurement that includes in the calculation only land occupied by the use(s) and the improvements required for the development to occur. Typically 80 percent of the gross acreage remains available for development.

*Population density:* A persons-per-acre density measurement that calculates the number of persons residing within an area equal to one acre of land.

*Detached emergency shelter* means an accessory building not attached to or part of another building, and which is designed and intended for temporary human habitation during periods of violent storms or emergency situations.

*Detached solar collector* means an exterior accessory device not attached to or part of a building, which is specifically designed and intended to provide a net energy gain by transferring, storing or converting solar radiation for the purpose of heating or electricity generation.

*Detention* means the temporary storage and controlled release of stormwater runoff.

*Detention facility* means a facility that provides temporary storage of stormwater runoff and controlled release of such runoff.

*Developer* means any person, firm, or entity engaged in the development of property or planning of property for development.

*Development* means any manmade change to land including, but not limited to:

1. The addition of impervious surfaces, construction, mining, dredging, filling, excavation or drilling operations;
2. The installation of utility mains, buildings/structures or other improvements on any lot, parcel or tract of land.

*Development area* means the area of a lot or parcel that is utilized for the purpose of development.

*Development code or land development code* means this chapter.

*Development project or land development project* means any proposal for development within the jurisdictional boundaries of the city.

*Development services department* means a city department charged with the oversight of development.

*Disposal well* means any well drilled or actually used for injection of saltwater or other substances into the earth at a point other or different than the point of extraction or production thereof from the earth.

*District* means a zoning district or supplemental district, depending on the context.

*District regulations* means the provisions of this chapter contained in article VI of this chapter.

*Double frontage lot* means a lot which runs through a block from street to street and which abuts two or more streets, but not a corner lot.

*Drainage facilities* means all elements necessary to store, control, and/or convey stormwater runoff. Said drainage facilities shall consist of both public and private storm sewers (closed conduits), channels, watercourses, sedimentation facilities, areas covered by drainage easements for the purpose of providing overland flow, and all appurtenances to the foregoing, including inlets, manholes, junction boxes, headwalls, dissipaters, culverts, detention facilities and the like.

*Drainage plan* means final construction drawings with sufficient information related to the proposed stormwater facilities for a site to allow determination that the facilities will function as designed in the final drainage study for the proposed site.

*Drainage standards* means the criteria, standards and specifications for stormwater management, sediment and erosion control, and earth changes adopted by the city. The term "city drainage standards" includes all standards currently contained in the city standards.

*Drainage study* means an engineering analysis, prepared by a licensed professional engineer, of the hydrologic and hydraulic characteristics of a site or development.

*Drilling* means digging or boring a hole in the earth for purposes of exploring for, developing or producing oil, gas, and other hydrocarbons. The term "drilling" includes all operations through the completion of a well.

*Drilling site* means the premises used during the drilling, maintaining, operating, and producing of a well or wells located thereupon.

*Dwelling* means any building or portion thereof which is used as living quarters for one or more families.

*Dwelling unit* means one or more rooms in a residential building or residential portion of a building forming a single habitable unit with provisions for cooking, sleeping and sanitary facilities for the exclusive use of a single family maintaining a household.

*Earth change* means excavating, grading, regarding, landfilling, berming or diking of land within the jurisdictional area of the city.

*Easement* means a right of use over the property of another. A strip or portion of land wherein the public, the city, a corporation, or other persons, have been granted a right of use by a property owner for a public or specific purposes, such as, but not limited to, construction, installation and/or maintenance of streets, sidewalks or utilities.

**State Law reference—** Easement, 60 O.S. § 49.

*Enclosed parking* means off-street vehicle parking spaces located inside a garage or other building or portion thereof having at least 50 percent of the exterior facade on all sides constructed of opaque materials.

*Evergreen* means a plant with foliage that remains green yearround.

*Facility* means a structure or equipment built, installed, or established to serve a particular purpose.

*Family child care home.*

1. The term "family child care home" means one that is licensed to provide care and supervision for no more than seven children for any portion of a 24-hour period.
2. The term "family child care home" does not include:
  - a. Informal arrangements which parents make independently with neighbors, friends and others;
  - b. Caretakers in the child's own home; and
  - c. Nursery schools, kindergartens or other facilities of which the purpose is primarily educational, recreational or medical treatment.

*Final plat* means a map of land subdivision prepared in a form suitable for:

1. Filing of record with necessary affidavits, certifications, dedications and acceptances; and
2. Delineating the layout of such subdivision as required herein.

*Flag lot* means a lot in the approximate configuration of a flag pole or sign post, with a pole or post functioning primarily as an access way to the main body, or flag, of the lot from the street. All lot size, bulk standards, and lot coverage requirements apply only to the flag portion of the lot.

~~*Fraternity or sorority house* means any building occupied and maintained by a social association of college students and containing group living quarters wherein, for compensation and by prearrangement for definite periods, meals and/or lodging are provided exclusively for members of the organization and their guests.~~

*Front building line* means the front setback line or a point at which the lot reaches the required lot width in the case of a flag lot.

*Front lot line* means the property line separating the front yard of a lot from an abutting street right-of-way. The street, roadway or access easement line shall be considered the front lot line for lots located on private streets.

*Front yard* means a yard extending across a lot between the side lot lines, and measured as the minimum horizontal distance between a front lot line and the nearest portion of the principal building. Both yards abutting a street shall each be considered a front yard on corner and double frontage lots.

*Garage* means a roofed building, or other structure, or part thereof, used or intended to provide enclosed parking or storage spaces for vehicles.

*Grade* means the average level of the finished surface of the ground adjacent to the exterior of a building or structure.

*Gross floor area* means the sum of the gross horizontal areas of all floors of a building measured from the exterior face of exterior walls, or from the centerline of a common wall separating two buildings, but not including interior parking spaces, loading spaces for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.

*Gross leasable area* means the total floor area for which tenants pay rent that is designated for the tenants occupancy and exclusive use.

*Ground cover* means evergreen or deciduous planting less than 24 inches in height, excluding turf grass.

*Hardscape* means nonliving or hard materials used to augment the beauty and function of a landscaped area. The term "hardscape" may include, but is not limited to brick, stone or rock walls, fountains, ponds, pools, planters or retaining walls.

*Height* means, except as otherwise noted, the vertical distance from the average elevation of that portion of a lot covered by a building or other structure to the highest point of the building or structure, but not including all or portions of attached nonhabitable structures exempted herein.

*Home occupation* means an occupation, profession, activity, or use that is an incidental and secondary use of a residential dwelling unit, or accessory structure located on the same lot as the dwelling unit, that does not alter the exterior of the property or affect the residential character of the neighborhood.

*Homebuilder* means any person who engages in the construction of dwellings.

*Hospital* means any institution, place, building or agency, public or private whether organized for profit or not, devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care of patients admitted for overnight stay or longer in order to obtain medical care, surgical care, obstetrical care, or nursing care for illness, disease, injury, infirmity, or deformity. All places where pregnant females are admitted and receive care incident to pregnancy or delivery shall be considered to be a hospital within the meaning of this chapter, regardless of the number of patients received or the duration of their stay. The term "hospital" includes, but is not limited to,

general medical surgical hospitals, specialized hospitals, critical access and emergency hospitals, and birthing centers (as defined by hospital standards, title 310, Oklahoma Administrative Code, chapter 667, Oklahoma State Department of Human Services).

*Improvements* means permanent amenities that are required to serve a subdivision of land or a land development project including streets (both public and private), traffic control devices, sidewalks, water distribution systems, sanitary sewer collection systems, sanitary sewer pretreatment facilities, if required, and storm drainage collection and conveyance systems including stormwater detention or retention ponds. For the purpose of this definition, the term "streets" do not include private parking lots or private drive aisles that are located within or serve private parking lots.

*Intensity* means the degree of impact associated with one or more uses (e.g., noise, traffic, lighting, size of structures, etc.) such that greater degrees are considered higher intensity.

*Interior lot* means a lot other than a corner lot.

*Irrevocable letter of credit* means a commitment from a state or federally chartered financial institution, to provide funding to complete the improvements for a subdivision of land or a land development project in case of default by the subdivider/developer.

*Kennel* means the use of land or building for the purpose of breeding, boarding or training small animals such as cats and dogs.

*Land use* means a description of how land is or may be occupied or utilized.

*Land use application* means a formal request for approval of a land development project.

*Landscape plan* means the preparation of graphic and written criteria, specifications, and detailed landscape plans to arrange and modify natural features such as plantings, ground and water forms, circulation, walks, irrigation, landscape lighting, erosion control, on-site drainage and other features to comply with the provisions herein.

*Landscaping* means the use of softscape, such as any living organic plant material, that includes:

1. Trees, shrubs, flowers, ground cover, vegetation, vines or grass;
2. The use of hardscape such as planters, decorative pavings/sidewalks, brick, arbors/trellises, fountains; or
3. The combination of both softscape and hardscape.

*Large family child care home* means a family child care home licensed to provide care and supervision for eight to 12 children for any portion of a 24-hour period.

*Legally nonconforming lot/parcel* means a lot or parcel that lawfully existed prior to the adoption, revision or amendment of this chapter, but which fails by reason of such adoption, revision or amendment to conform to standards and/or requirements of the district wherein it is located.

*Legally nonconforming structure* means an existing structure that does not meet the applicable setback, lot coverage, or height requirements of the district wherein it is currently located, but did meet the applicable standards and/or requirements at the time it was constructed.

*Legally nonconforming use* means a legally existing use of a structure or land that is not permitted in the district in which it is currently located, but was permitted when it was established.

*Lot* means a parcel of land on a plat that is separately owned and capable of being separately conveyed.

*Lot area* means the total horizontal area bounded by the exterior lines of a lot.

*Lot combination* means the act of combining adjoining lots or a lot and an adjoining portion of a lot for the purpose of establishing one lot.

*Lot coverage* means the percentage of the lot area that is occupied by principal and accessory buildings.

*Lot depth* means the average horizontal distance between front and rear lot lines of a lot.

*Lot frontage* means the length of lot line adjacent to a right-of-way or right-of-way easement.

*Lot line* means a line of record bounding a lot which divides one lot from another lot, or from a public or private street.

*Lot of record* means a lot which exists as shown on a subdivision plat recorded in the office of the county clerk, or a lot or parcel described by metes and bounds or by aliquot, the description of which has been so recorded.

*Lot split* means a simple division of one lot that creates a lot and either a nonbuildable parcel or an outlot.

*Lot width* means the horizontal distance between the side lot lines of a lot located and measured at the front lot line.

*Manufactured home* means a residential dwelling unit constructed in one or more sections and built in accordance with National Manufactured Housing Construction and Safety Standards Act of 1974, 42 USC 5401 et seq.

*Minor amendment* means an alteration of an approved plan.

*Minor improvement* means changes or additions to an existing building, structure or site not involving structural alteration, enlarged floor area or increased occupancy, and not substantially affecting the existing use or exterior appearance.

*Minor structure* means any uninhabitable structure having dimensions not greater than 200 square feet that is not permanently affixed to the ground.

*Minor subdivision* means any resubdivision, reorganization, or division of land which shall contain not more than three lots and further shall not adversely affect the development of the remainder of the parcel or adjoining property and shall not be in conflict with any provision or portion of the comprehensive plan, land development code, or other applicable ordinance or regulation of the city.

*Mixed use* means the use of a lot or of a building with a variety of complementary and integrated uses such as, but not limited to, residential, office retail, public or entertainment.

*Mobile home* means a residential dwelling fabricated in an off-site manufacturing facility, designed to be a permanent residence, but which is still transportable, that was built prior to the enacting of the National Manufactured Housing Construction and Safety standards Act of 1974, 42 USC 5401.

*Mobile home park* means land or property that is used or intended to be used or rented for temporary occupancy by more than two mobile homes, including all necessary utilities, streets, and other common amenities.

*Mobile home space* means a platted parcel, lot, or tract of land within a mobile home park designed to accommodate an individual mobile home.

*Modular home* means a relocatable living unit manufactured off-site and transported, on an independent carrier unit, to a permanent site which has been constructed in accordance with an Engineering Bulletin issued by the Office of Technical Standards, Department of Housing and Urban Development, Washington, D.C.

*Net floor area* means the total of all floor areas of a building, excluding stairwells and elevator shafts, mechanical equipment rooms, incidental storage areas, interior vehicle parking or loading, and basement areas not used or intended to be used for human habitation or service to the public.

*Off-street parking* means a storage area for one or more vehicles, legally accessible from a street that is not located within a right-of-way or road easement.

*Oil or gas well* means any well drilled, operated, or maintained for the production of oil, gas, casing head gas, or any of them, or their byproducts or derivations.

*On-street parking* means a temporary storage area for one or more vehicles that is located, partially or wholly, within the right-of-way or road easement.

*Open space* means a parcel or area of land that is not enclosed in a building, and which is dedicated, designated, or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land neighboring such open space.

*Outlot* means a lot that does not meet the minimum zoning requirements and is specifically set aside for greenspace, common area, or drainage purposes only; a lot not meeting the minimum zoning requirements and being combined with an adjacent and adjoining lot.

*Parcel* means a part or portion of land.

*Parking area* means off-street parking spaces, together with required associated driveways, aisles and landscaping.

*Performance bond* means a bond issued by a surety or insurance company licensed to conduct business in the state and not rated less than "A" by the A.M. Best Company to ensure completion of the improvements for a subdivision of land or development project in case of default by the subdivider/developer.

*Performance guarantee* means a financial guarantee, in the form of an irrevocable letter of credit, a cash escrow, or a surety bond, that all of the required improvements for a subdivision of land or a development project will be completed in accordance with the provisions of this chapter.

*Permitted use* means a use permitted by right in a zoning district.

*Person* means an association, company, corporation, firm, or organization, as well as an individual, unless the context indicates that the term refers only to an individual. The term "person" includes an assignee, receiver, trustee, or similar authorized representative of any of the named entities.

*Planned unit development (PUD)* means a development as defined by 11 O.S. § 43-110 and article XV of this chapter.

*Planning commission* means the city planning commission.

*Point of service* means the first point in the forward vehicle flow at which a product consumer places a request for the service provided on site. The term "point of service" includes menu boards where consumers communicate with on-site employees through electronic communication or direct person-to-person service.

*Preliminary plat* means a map of a proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the relationship of the proposed subdivision to topography, existing streets, drainage facilities, and utilities, existing easements of record, the comprehensive plan, existing urban development and zoning, and to indicate the nature of the land planning design.

*Principal building* means the building wherein the principal use of the lot or parcel on which it is situated is conducted.

*Principal use* means the main or primary purpose for which a building, other structure, and/or lot or parcel is designed, arranged, or intended, or for which they may be used, occupied, or maintained.

*Private street or drive* means a street in a common area of a mobile home park, planned development or other development that serves more than one lot or parcel or facility, which is not located in a dedicated public right-of-way, but is constructed to the minimum standards of the city.

*Property* means any land legally owned by a person or entity.

*Property line* means the exterior boundary of a property.

*Public street* means any thoroughfare, other than an alley, located within a public way which affords the primary means of access to abutting property.

*Public way* means a parcel of land that has been deeded, dedicated or otherwise permanently appropriated to the public for public use.

*Queue* means the actual stacking of vehicles in a line for service.

*Rear lot line* means the property line which is on the opposite end of a lot from the front lot line that separates the rear yard of the lot from an abutting lot.

*Rear yard* means a yard extending across a lot between the side lot lines, measured as the minimum horizontal distance between a rear lot line and the nearest portion of the principal building. The rear yard shall be at the opposite end of the lot from the front yard, with the exception of corner or odd shaped lots.

*Record drawings* means drawings specifying the locations, dimensions, and elevations of improvements as constructed.

*Recreational vehicle* means any vehicular portable structure with an overall length not exceeding 32 feet, used as a temporary dwelling for travel, recreational, or vacation use, that is either self-propelled or built on a chassis and drawn by a motor vehicle. The term "recreational vehicle" includes those vehicles commonly known and referred to as travel trailers, campers, and motor homes.

*Recreational vehicle (RV) park* means the area of land used for the temporary accommodations for recreational vehicles including the sites and spaces for RVs, incidental services, and facilities intended for the convenience of guests.

*Redevelopment* means the reconstruction, alteration, preservation, or replacement of any or all structures and uses of an existing facility, development, subdivision, or portion thereof.

*Regional detention* means a stormwater detention facility that is designed to regulate the discharge of storm runoff from various drainage basins, multiple parcels of land or multiple land development projects throughout the community.

*Remodel* means structural and/or aesthetic alteration, but not enlargement or redevelopment, of a building.

*Residential design, manufactured home* means a manufactured home that is architecturally compatible in appearance to neighboring conventionally built dwellings.

*Right-of-way* means a strip of land, the ownership and/or maintenance of which is conveyed by dedication, prescription or condemnation for railroad, utility and/or public street purposes.

*Satellite TV dish antenna* means a device, commonly parabolic in shape, mounted at a fixed point on the ground or on a building for the purpose of receiving television signals transmitted via satellite communications facilities, and serving the same or similar function as the common television antenna.

*Screening* means a method of visually shielding or obscuring one abutting lot, structure or use from another by fencing, walls, berms, densely planted vegetation or the like.

*Setback* means the required minimum distance between a structure and any lot line of the lot on which the structure is located. Whenever a lot contains a right-of-way or an access easement, the setback measurement shall not include the area of the right-of-way or access easement.

*Shrub* means a woody plant of relatively low height distinguished from a tree by having several stems rather than a single trunk.

*Side lot line* means any property line other than a front or rear lot line.

*Side yard* means a yard extending across a lot between the front and rear lot lines, and measured as the minimum horizontal distance between a side lot line and the nearest portion of the principal building.

*Sidewalk cafe* means the use of a portion of a public right-of-way normally reserved for pedestrian use as a place for patrons of an eating establishment on the adjacent lot to sit and consume food and/or drink.

*Sight triangle* means an area described at the intersection of two streets, or a street and driveway or alley, which must remain clear of obstructions in order to facilitate vehicular safety.

*Single-family home* means a dwelling unit occupied by a single family.

*Special exception* means an exception to, or exemption from, certain provisions of this chapter.

*Specific use* means land use which is subject to review and approval procedures prior to establishment in a particular zoning district.

*Story* means that portion of a building, other than a basement, between the surface of any floor and the surface of the floor next above it or, if there is not a floor above it, the space between the floor and the ceiling next above it.

*Street* means any public or private thoroughfare other than an alley, which affords the primary means of access to abutting property.

*Street frontage* means the property line which abuts a street.

*Structural alteration* means any change in either the supporting members of a building, such as bearing walls, columns, beams and girders, or in the dimensions or configurations of the roof or exterior walls.

*Structurally sound* means any structure not considered dilapidated.

*Structure* means anything constructed or erected.

*Studio apartment* means a dwelling unit consisting of not more than one habitable room together with kitchen or kitchenette and sanitary facilities.

*Subdivider* means any person subdividing or proposing to subdivide land as herein defined.

*Subdivision* means the division of a lot, tract or parcel of land into two or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale or of building development. The term "subdivision" includes resubdivision and

when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

*Temporary structure* means a structure without any foundation or footings, which is removed when the designated time period, activity, or use, for which the temporary structure was erected, has ceased.

*Temporary use* means a use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

*Text amendment* means an amendment or change to the regulations or restrictions of this chapter.

*Through lot or double frontage lot* means a lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.

*Tree* means any self-supporting woody plant having one or more defined stems or trunks in a caliper of two inches or more and having a defined crown which customarily attains a mature height of eight feet or greater.

*Unenclosed parking* means off-street vehicle parking spaces located outside of any building or structure, or within a structure or portion thereof having less than 50 percent of the exterior facade on all sides constructed of opaque materials.

*Unit (condominium) ownership* means ownership of an individual unit located within a multiunit building or multibuilding development pursuant to the Unit Ownership Estate Act, 60 O.S. § 501 et seq.

*Use category* means the title assigned to a group of specific uses having similar characteristics for the purpose of determining in which districts the various land uses are permitted.

*Use condition* means a requirement imposed as a condition of approval as determined by the planning commission or the city council.

*Use permitted by right* means a use permitted in a zoning district without any special review and approval procedures, but subject to any restrictions or use standards which are applicable to that use and zoning district.

*Use, special or specific.* See *Specific use permit*.

*Utility, private,* means a nongovernmental body operating a utility.

*Utility, public,* means a governmental body operating a utility.

*Variance* means a grant of relief, by the appropriate body, from the requirements of this chapter when specific enforcement would result in an unnecessary hardship.

*Vet clinic/hospital* means an establishment operated by a licensed medical staff and used exclusively for the care and treatment of animals, including incidental overnight boarding facilities and incidental outdoor run areas.

*Visual screen* means a physical barrier consisting of live plant material, natural and manmade materials, or a combination thereof that is used to visually separate two areas or incompatible uses from one another.

*Wind energy electricity generator* means an electricity generator which operates by the force of the wind on mechanical components attached to the generator, and which is mounted on a tower or other structure to facilitate a proper orientation with respect to the wind.

*Yard* means an open space that lies between a building and adjoining lot lines, unoccupied and unobstructed from the ground upward except as otherwise provided in this chapter.

*Zoning district* means a specifically delineated area or district within which regulations and requirements uniformly govern the use, placement, spacing, and size of land, buildings, and other structures.

*Zoning map* means the map which is a part of the zoning regulations and delineates the boundaries of zoning districts and supplemental districts.

**SECTION 2:** That Stillwater City Code, Chapter 23, “Land Development Code”, Article V, “Use Categories and Limitations”, Division 1, “Generally”, Section 23-96, “Definitions”, be amended to add the definition of “Fraternity or sorority house” as follows:

**Sec. 23-96. - Definitions. (Principal use category classification)**

Individual uses are defined as follows:

*Accommodation* means establishments that provide customers with lodging on a transient basis, including hotels, motels, bed and breakfasts and shelters.

*Adult business* means a specific range of establishments that provide customers with products, services, materials, entertainment venues, or activities as set forth in section 23-145(a).

*Agriculture, forestry, fishing and hunting* means establishments primarily engaged in growing crops, raising animals, harvesting timber, and harvesting fish and other animals from a farm, ranch, or their natural habitats. These establishments are often described as farms, ranches, dairies, greenhouses, nurseries, orchards, or hatcheries.

*Animal and pet keeping services* means establishments that operate facilities to meet the needs of animals and pet keeping, such as animal clinics, vet hospitals, kennels, and stables.

*Arts and entertainment* means a wide range of establishments that operate facilities or provide services to meet varied cultural and entertainment interests of their patrons; this category is comprised of establishments that are involved in producing, promoting, or participating in live performances, events or exhibits intended for public viewing and those establishments that preserve and exhibit objects and sites of historical, cultural, or educational interest.

*Beverage services* means establishments that provide customers with beverages for immediate consumption; the primary revenue of such establishments is derived from the sale of beverages.

*Boardinghouse/roominghouse* means a building where, for compensation and by prearrangement for definite periods, sleeping and living quarters, and/or meals (but not individual cooking facilities) are provided to three or more, but not exceeding 40 persons.

*Chemical manufacturing* means establishments engaged in the transformation of organic and inorganic raw materials by a chemical process and the formulation of products.

*Child and adult care services* means licensed establishments engaged in providing day services and/or treatment for adults or children, but not residential service. These are more specifically identified as family child care home, large child care home, and child care centers.

*Churches and religious institutions* means establishments engaged in providing church and religious services and activities.

*Collocation* means the mounting or installation of transmission equipment on an existing telecommunications tower or other support structure for the purpose of transmitting and/or receiving radio frequency signals for providing telecommunications services.

*Communication services* mean businesses, facilities or establishments which house or operate networked computers and data and transaction processing equipment and support equipment, including, without limitation, power and cooling equipment, used to provide data and transaction processing services, including, without limitation, all activities described by category 518210 of the North American Industrial Classification System (NAICS), as published in 2002 and all subsequently published iterations; provided also that this category shall include all facilities for ancillary office, administrative, or utility service uses involved in or related to any services or activities described in this category, whether taking place in the same or appurtenant buildings, facilities, or structures, including without limitation electrical substations.

*Computer and electronic product manufacturing and electrical equipment, appliance, and component manufacturing* means establishments engaged in the manufacture of computers, computer peripherals, communications equipment, and similar electronic products and components for such similar electronic products, or the manufacture of products that generate, distribute and use electrical power.

*Construction* means establishments engaged in the residential and nonresidential construction of buildings, in heavy and civil engineering, and in specialty trade contracting such as building equipment contractors.

*Conventional single-family, detached or zero lot-line* means one dwelling unit, freestanding and structurally separated building, located on a lot or building site that is unoccupied by any other dwelling unit or principal structure.

*Educational services, establishments, educational institutions and educational facilities* mean establishments that provide instruction and training in a wide variety of subjects and by specialized establishments such as schools, colleges, universities, and training centers which may be privately owned and operated for profit or not for profit, or they may be publicly owned and operated.

*Financial institutions and services* means establishments engaged in financial transactions (transactions involving the creation, liquidation, or change in ownership of financial assets) and/or in facilitating financial transactions.

*Food, beverage and tobacco product manufacturing* means establishments that transform livestock and agricultural products into products for intermediate or final consumption and are distinguished by the raw materials processed into food products; manufacturing of beverages and tobacco products in the following establishments:

1. Those that manufacture nonalcoholic beverages;
2. Those that manufacture alcoholic beverages through the fermentation process;
3. Those that produce distilled alcoholic beverages;
4. Those engaged in redrying and stemming tobacco; and
5. Those that manufacture tobacco products such as cigarettes and cigars.

*Food services* means establishments that provide customers with meals or snacks for immediate consumption; the primary revenue of such establishments is derived from the sale of food.

*Fraternity or sorority house* means any building occupied and maintained by a social association of college students that is affiliated with a university-recognized chapter of a fraternity or sorority and containing group living quarters wherein, for compensation and by prearrangement for definite periods; meals and/or lodging are provided exclusively for members of the organization and their guests.

*Freestanding self-service facilities* means any self-service use including, but not limited to, automatic bank teller machines, postal vending and depository facilities, or newspaper vending machines, which are located in freestanding structures devoted solely to such use either on a separate lot or as an accessory use within a complex of buildings.

*Furniture and related product manufacturing* means establishments that make furniture and related articles such as mattresses, window blinds, cabinets, and fixtures using processes

such as cutting, bending, molding, laminating, and assembly of such materials as wood, metal, glass, plastics, and rattan.

*Health care and social assistance* means establishments providing health care and social assistance for individuals on a continuum starting with those establishments providing medical care exclusively, continuing with those providing health care and social assistance, and finally with those providing only social assistance; this category includes nursing and residential care facilities, ambulatory surgical care facilities, and hospitals.

*Information* means establishments engaged in printing and publishing industries and in telecommunications.

*Leather and allied product manufacturing* means establishments that transform hides into leather by tanning or curing and fabricating the leather into products for final consumption.

*Machinery part manufacturing* means establishments that create end products that apply mechanical force, such as the application of gears and levers, to perform work. Although processes are similar to fabricated metal products manufacturing, this machinery manufacturing typically employs multiple metal forming processes.

*Manufactured home* means that term as defined in section 23-7.

*Medical marijuana commercial grower* means a grower as defined in Title 63 Oklahoma Statutes and applicable Oklahoma Department of Health or other regulatory agency rules and regulations. Commercial grower operations can be either indoor or outdoor operations.

*Medical marijuana dispensary* means a retailer as defined in Title 63 Oklahoma Statutes and applicable Oklahoma Department of Health or other regulatory agency rules and regulations.

*Medical marijuana processing* means a process or processor as defined in Title 63 Oklahoma Statutes and applicable Oklahoma Department of Health or other regulatory agency rules and regulations.

*Mining establishments* means establishments that extract naturally occurring mineral solids, including but not limited to coal and ores; liquid minerals, including but not limited to crude petroleum; and gases, including but not limited to natural gas. The term "mining establishments" includes quarrying, well operations, beneficiating (e.g., crushing, screening, washing, and flotation), and other preparation customarily performed at the mine site, or as a part of mining activity.

*Miscellaneous manufacturing* means businesses that make a wide range of products not otherwise classified.

*Mixed use* means one or more dwelling units located, in the rear or second floor, in a building in which the first floor is utilized primarily by a commercial use at the building front or storefront, and where such commercial use is permitted in the zoning district.

*Modular home* means that term as defined in section 23-7.

*Mobile home* means that term as defined in section 23-7.

*Multifamily* means three or more dwelling units contained within one building that is freestanding and structurally separated from any other building or group of dwelling units but are located on the same lot.

*Nonmetallic mineral product manufacturing* means establishments that transform mined or quarried nonmetallic minerals, such as sand, gravel, stone, clay, and refractory materials, into products for intermediate or final consumption. Processes used include grinding, mixing, cutting, shaping, and honing; heat is often used in the process and chemicals are frequently mixed to change the composition, purity, and chemical properties for the intended product.

*Oil and gas industry services* means businesses which provide support to the oil and gas industry operations including offices, storage and repair of equipment and vehicles, parking of vehicles or equipment. Such uses shall not include drilling, refining and storage, transloading or transportation of petroleum or gas products, bi-products or waste.

*Paper manufacturing* means establishments that make pulp, paper, or converted paper products including:

1. The separating of the cellulose fibers from other impurities in wood or used paper;
2. Matting these fibers into a sheet;
3. Cutting and shaping techniques that includes coating and laminating activities.

*Parking lot/garage* means an open, hard-surfaced area, other than a street or public way, to be used for the storage, for limited periods of time, of operable passenger automobiles and commercial vehicles, and available to the public, whether for compensation, free, or as an accommodation to clients or customers.

*Personal and laundry services* means establishments engaged in providing personal and laundry services such as health and beauty parlors, massage parlors, dry-cleaning, and pet grooming (not boarding and/or training).

*Personal storage and warehousing* means facilities providing indoor personal storage and warehousing and as an accessory to such use, outdoor storage of personal vehicles, recreational vehicles and watercraft displaying current and valid registration, provided, such outdoor storage does not occupy an area larger than 30 percent of the indoor floor area provided for the primary use.

*Petroleum and coal products manufacturing* means establishments that transform crude petroleum and coal into usable products with the dominant process being petroleum refining that involves the separation of crude petroleum into component products through such techniques as cracking and distillation.

*Plastics and rubber products manufacturing* means establishments that make goods by processing plastics materials and raw rubber. The core technology employed is that of plastics or rubber product production.

*Primary metal manufacturing and fabricated metal products manufacturing* means establishments engaged in the smelting and/or refining of ferrous and nonferrous metals from ore, pig or scrap, using electrometallurgical and other process metallurgical techniques; the manufacture of metal alloys and super alloys by introducing other chemical elements to pure metals; or transforming metal into intermediate or end products, other than machinery, computers and electronics, and metal furniture or treating metals and metal formed products fabricated elsewhere. Processes include forging, stamping, bending, forming, and machining used to shape individual pieces of metal; and welding and assembling used to join separate parts together.

*Professional and administrative offices and services* means establishments that specialize in providing professional, scientific, administrative, management, employment, real estate, or technical activities or services.

*Public administration and service* means federal, state and local government agencies that administer, oversee, and manage public programs and have executive, legislative, or judicial authority over other institutions within a given area. The term includes police and fire services.

*Recreation* means a wide range of establishments that operate facilities or provide services to meet varied recreational interests of their patrons and establishments that operate facilities or provide services that enable patrons to participate in recreational activities or pursue amusement, hobby, and leisure-time interests.

*Research and development* means establishments engaged in the research or research and development of innovative ideas in technology-intensive fields. The term includes research and development of computer software, information systems, communications systems, transportation, geographic information systems, multi-media and video technology. Development and construction of prototypes may be associated with this use.

*Residential design manufactured home* means that term as defined in section 23-7.

*Retail trade* means establishments engaged in retailing merchandise, generally without transformation, and rendering services incidental to the sale of merchandise. Retailers are organized to sell merchandise in small quantities to the general public with extensive displays of merchandise and utilizing mass-media advertising to attract customers.

*Small cell facility* means a low-powered wireless base station which functions much in the same way as larger cells in a wide-area, mobile wireless network that are typically installed relatively high on a telecommunications tower, to provide signal coverage to a large geographic area. Small cells facilities cover a smaller, targeted, localized area to provide connectivity to wireless network subscribers in areas that typically present capacity and coverage challenges to traditional wide-area wireless networks. Small cell facilities are smaller in size and thus are more conducive to collocation on an existing support structure or installation on a private utility's, single-use utility pole erected for the sole or primary purpose of supporting a small cell facility.

*Telecommunications tower* means any freestanding structure, other than a utility pole, built or used for the sole or primary purpose of supporting antennas and their associated facilities, licensed or authorized by the Federal Communications Commission, particularly including structures that are constructed for wireless communications services and also including, but

not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

*Textile mills, textile product mills, and apparel manufacturing* means establishments that transform a basic fiber (natural or synthetic) into a product, such as yarn or fabric, that is further manufactured into usable items, such as apparel, sheets, towels, and textile bags for individual or industrial consumption. Main processes include preparation and spinning of fiber, knitting or weaving of fabric, and the finishing of the textile. The term includes establishments that make textile products (except apparel) by generally cutting and sewing (e.g., purchasing fabric and cutting and sewing to make nonapparel textile products such as sheets and towels). Processes include cutting and sewing and the manufacture of garments in establishments that first knit fabric and then cutting and sewing the fabric into a garment.

*Townhome* means a row or group of independent single-family units, located on individual lots or on a common building site. Each unit has independent access to the outside, is not located over another unit, and is separated from any other unit by one or more common fire walls along the common property boundary or unit boundary.

*Transportation activities* means establishments providing transportation of passengers and cargo, scenic and sightseeing transportation and support activities related to modes of transportation, whether by air, rail, water, road, or pipeline.

*Transportation and equipment manufacturing* means establishments that produce equipment for transporting people and goods.

*Two-family* means a building (duplex) located on a lot or building site that is unoccupied by any other principal structure, and which provides independent living facilities for occupancy by two families such that the two dwelling units are placed adjacent to one another with structural parts touching.

*Utility or utilities* means establishments engaged in the provision of the following utility services: electric power, natural gas, steam supply, water supply sewage removal and telecommunications services. Specific activities associated with the utility services provided by utilities include the following:

1. Electric power includes generation, transmission, and distribution;
2. Natural gas includes distribution;
3. Steam supply includes provision and/or distribution;
4. Water supply includes treatment and distribution
5. Sewage removal includes collection, treatment, and disposal of waste through sewer systems and sewage treatment facilities; and
6. Telecommunications includes the transmission of signs, signals, messages, words, writings, images and sounds or information of any nature by wire, radio, optical or other electromagnetic systems.

*Utility pole* means a long, slender, generally vertical and usually cylindrical object, other than a telecommunications tower, that is or may be used in whole or in part by a public or private utility for wireline, wireless or optical telecommunications, electrical distribution, lighting, traffic control, signage or similar functions.

*Vehicle/equipment sales, rental, and service* means establishments primarily engaged in the sale or rental of personal or commercial vehicles and equipment and which includes incidental maintenance and repair facilities; and establishments that sell, install, and service vehicle equipment and parts, including body repairs and painting.

*Warehousing and storage* means establishments engaged in operating warehousing and storage facilities for general merchandise, refrigerated goods, and other warehouse products. These industries do not sell the goods they handle but can provide logistical services related to the distribution of goods.

*Waste management and remediation services* means establishments engaged in the collection, treatment, and disposal of waster materials, including the local hauling of waster materials; operating materials recovery facilities; providing remediation services; and providing septic pumping and other miscellaneous waste management services.

*Wholesale trade* means establishments engaged in wholesaling merchandise, generally without transformation, and rendering services incidental to the sale of merchandise. Wholesalers are organized to sell or arrange the purchase or sale of:

1. Goods for resale;
2. Capital or durable nonconsumer goods;
3. Raw and intermediate materials and supplies used in production.

*Wood product manufacturing* means establishments that manufacture wood products such as lumber, plywood, veneers, wood containers, wood flooring, wood trusses, manufactured homes, and prefabricated wood buildings. The term includes sawing, planing, shaping, laminating, and assembling of wood products starting from logs that are cut into bolts, or lumber that then may be further cut, or shaped by lathes or other shaping tools.

**SECTION 3: That Stillwater City Code, Chapter 23, “Land Development Code”, Article VI, “Land Use Classifications”, Division 3, “Residential Districts”, Section 23-140, “RMI (Multi-Family Intermediate) District”, be amended as follows:**

**Sec. 23-140. - RMI (Multi-Family Intermediate) District.**

a) *Permitted uses.* The following uses are permitted in the RMI Multi-Family Intermediate District:

- 1) Boarding house/rooming house.
- 2) Churches and religious institutions.
- 3) Free-standing self service facilities.
- 4) Multiple-family with a maximum gross density of 30 units per acre.
- 5) Parking lot/garages.

6) Townhome.

7) Two-family (duplex).

7)8) Fraternity or sorority house

- b) Specific use permit. The following uses are permitted by specific use permit in the RMI district:
- 1) Accommodation.
  - 2) Child and adult care services.
  - 3) Educational institutions.
  - 4) Health care and social assistance.
  - 5) Personal and laundry services.
  - 6) Telecommunications tower.
- c) Lot size requirements. The lot size requirements in the RMI district are as follows:
- 1) Minimum lot area: 15,000 square feet.
  - 2) Minimum lot width: 75 feet.
  - 3) Minimum lot depth: 130 feet.
- d) Bulk regulations. Bulk regulation requirements in the RMI district are as follows:
- 1) The maximum structure height as measured from the finished floor elevation of the first floor to the highest point of the roof: 50 feet.
  - 2) Setbacks. The following are the minimum required setbacks in the RMI district:
    - a) Minimum front yard:
      - (1) 20 feet from all property boundaries abutting a right-of-way or road/access easement.
      - (2) 10 feet from all property boundaries abutting an alley.
    - b) Minimum side yard:
      - (1) Residential structures: Five feet.
      - (2) All other permitted and specific use permit uses: 25 feet.
    - c) Minimum rear yard: 20 feet.
  - 3) Maximum lot coverage: 40 percent.
- e) Exceptions. The following are the exceptions in the RMI district.
- 1) For all structures, the minimum side yard for this district shall be increased an additional three feet for each adjacent story above the first story.
  - 2) Townhomes are exempt from the lot size and lot coverage requirements; any exterior building(s) shall have a minimum side setback of eight feet.
  - 3) Residential structures not divided into dwelling units shall have densities determined as:
    - ~~a) Each two sleeping rooms for single or double occupancy shall be deemed to constitute one dwelling unit; and~~
    - b)a) Each four beds, in sleeping rooms that contain beds for more than two persons, shall be deemed to constitute one dwelling unit.
- 4) More than one principal residential structure may be located on a lot.
- 5) A structure being built for a fraternity or sorority house shall be built to have a residential appearance, which shall include:
- a) Front porch
  - b) Street facing facades shall be constructed of masonry material (which can include brick, cast stone, stone, EIFS (Exterior Insulation Finishing Systems), and stucco) at least 50 percent of which shall be brick or stone
  - c) A landscape plan shall be submitted, which meets the requirements of 23-230 (f).
- 6) All fraternity and sorority houses shall have a maximum height of 2 stories for any portion of a structure that is within 30 feet of a single-family residential zoning district or use.

(Ord. No. 3180, § 5, 5-21-2012; Ord. No. 3216, § 2, 12-6-2012; Ord. No. 3221, § 11, 2-21-2013)

**SECTION 4: That Stillwater City Code, Chapter 23, “Land Development Code”, Article VI, “Land Use Classifications”, Division 3, “Residential Districts”, Section 23-141, “RMU (Multi-Family Urban) District”, be amended as follows:**

**Sec. 23-141. - RMU (Multi-Family Urban) District.**

- a) *Permitted uses.* The following uses will be permitted by right in the RMU Multi-Family Urban District:
- 1) Boarding house/rooming house.
  - 2) Churches and religious institutions.
  - 3) Free-standing self service facilities.
  - 4) Mixed-use.
  - 5) Multiple-family with a maximum gross density of 50 units per acre.
  - 6) Parking lot/garages.
  - 6)7) Fraternity or sorority house
- b) *Specific use permit.* The following uses are permitted by specific use permit in the RMU district:
- 1) Accommodation.
  - 2) Child and adult care services.
  - 3) Educational institutions.
  - 4) Personal and laundry services.
  - 5) Telecommunications tower.
- c) *Lot size requirements.* Lot size requirements in the RMU district are as follows:
- 1) Minimum lot area: 10,000 square feet.
  - 2) Minimum lot width: 60 feet.
  - 3) Minimum lot depth: 130 feet.
- d) *Bulk regulations.* Bulk regulation requirements in the RMU district are as follows:
- 1) The maximum structure height as measured from the finished floor elevation of the first floor to the highest point of the roof: 50 feet.
  - 2) Setbacks. The following are the minimum required setbacks in the RMU district:
    - a) Minimum front yard:
      - (1) 20 feet from all property boundaries abutting a right-of-way or road/access easement.
      - (2) 10 feet from all property boundaries abutting an alley.
    - b) Minimum side yard:
      - (1) Residential structures: 15 feet.
      - (4)2) Fraternity or sorority houses: When a side yard has a common boundary with property in any single-family residential district or use, the minimum setback is 15 feet. When a side yard has a common boundary with property in any other district or use, the minimum setback is 5 feet.
      - (2)3) All other permitted and specific use permit uses: 25 feet.
    - c) Minimum rear yard: 30 feet.
- 3) Maximum lot coverage: 60 percent.
- e) *Exceptions.* The following are the exceptions in the RMU district:
- 1) For all structures, the minimum side yard for this district shall be increased an additional three feet for each adjacent story above the first story.
  - 2) Townhomes are exempt from the lot size and lot coverage requirements; any exterior building(s) shall have a minimum side setback of eight feet.
  - 3) Residential structures not divided into dwelling units shall have densities determined as:

- ~~a) Each two sleeping rooms for single or double occupancy shall be deemed to constitute one dwelling unit; and~~
- ~~b)a) Each four beds, in sleeping rooms that contain beds for more than two persons, shall be deemed to constitute one dwelling unit.~~
- 4) More than one principal residential structure may be located on a lot.
- 5) A structure being built for a fraternity or sorority house shall be built to have a residential appearance, which shall include:
  - a) Front porch
  - b) Street facing facades shall be constructed of masonry material (which can include brick, cast stone, stone, EIFS (Exterior Insulation Finishing Systems), and stucco) at least 50 percent of which shall be brick or stone
  - c) A landscape plan shall be submitted, which meets the requirements of 23-230 (f).
- 6) All fraternity and sorority houses shall have a maximum height of 2 stories for any portion of a structure that is within 30 feet of a single-family residential zoning district or use.

**Sec. 23-230. - Generally.**

- a) *Purpose and intent.* These regulations have been adopted for the purpose and intent of:
  - 1) Ensuring minimal conflict between placement of trees and other landscaping, and both overhead and underground utility lines;
  - 2) Providing for landscaping and trees to shade buildings and paved surfaces and to reduce the amount of runoff, erosion, reflected heat, air pollution, wind, and noise;
  - 3) Improving the attractiveness of the city as a place for economic growth and the general safety of developments; and
  - 4) Providing screening between incompatible land uses.
- b) *Tree classification.* The planning commission shall establish classifications of trees by category of small, medium, and large based on growth characteristics for the purpose of implementing this chapter.
- c) *General planting and maintenance standards.* The following requirements set forth in this section are applicable to trees on both public and private property:
  - 1) The requirements for tree and other landscape material locations are:
    - a) Except for areas zoned CB, or in the case of P districts located immediately adjacent to a CB district, trees shall be planted no closer to any public curb or sidewalk than three feet for small trees, four feet for medium trees, and five feet for large trees;
    - b) Except for areas zoned CB, or in the case of P districts located immediately adjacent to a CB district, landscaping and trees shall be planted to maintain clear vision at intersections;
    - c) Trees planted in the public right-of-way must be of a type which will grow tall enough so that they will not block vision of drivers to see other traffic, pedestrians, signage and traffic control devices;
    - d) Landscape material shall be planted in such a way as to not obstruct access to a fire hydrant, utility meters or utility poles;
    - e) Only those trees listed as small trees may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water, sewer, electric, telephone, cable or natural gas line. Any tree which is planted within a dedicated easement will be subject to damage, pruning and removal, as necessary, to allow full utilization of the easement and maintenance of utilities contained therein;

- f) Plant materials being planted to meet landscape requirements of this chapter should be planted during the spring or fall months to improve chances of survival. If all other requirements are met, a certificate of occupancy will be issued for properties which are developed during the other times of the year without the landscape materials being installed, provided, however, that the plant materials must be planted within the first planting season to following completion of construction; and
- 2) The following shall be observed in the care of existing trees:
- a) The city shall have the right to prune, spray, or partially remove trees or shrubs that have originated within or have grown into public rights-of-way, public properties or public easements as may be necessary to protect persons and property, to provide access to public utilities, to provide needed clearances from public utility infrastructure, and to maintain visibility of traffic signals and traffic warning or directional signs. Franchised utilities operating within utility easements shall have the same rights to provide clearance and access to their equipment that is installed within dedicated easements. Whether the work is to be done by the city or a franchised utility, a property owner shall be notified by posted written notice three days prior to work on a tree located on their property or the adjacent street right-of-way, when the trimming involves removing any branch greater than 1½ inches diameter or more than five branches of less than one-half-inch diameter. Persons receiving notice under this section may appeal to the city manager provided that such appeal is taken within three days of posting said notice.
  - b) When plant material is causing an immediate public safety threat or preventing access to a utility that is in imminent danger or is failing, the tree or shrub, or any portion thereof, may be removed to eliminate the immediate threat for emergency and/or public safety purposes without notification to property owners. When such emergency work has been carried out, property owners shall be notified of the work that was done by posted written notice. In the case of major ice storms, tornadoes or other natural disasters, posted written notice will not be left.
  - c) If development plans include preservation of existing trees or other vegetation on site during construction, the building permit plans shall specify the method to be used to protect the trees or vegetation.
  - d) When, on the basis of citizen complaint or observation by the city manager, the city manager determines that a tree poses a safety threat to persons in public ways or adjacent private or public property, the city manager may order the tree, or any portion thereof, to be removed. When the city manager orders removal of a tree on private property, the owner of the property shall be given ten days' written notice to remove the tree. If the tree has not been removed in the specified time, the city shall proceed to have the tree removed and bill the property owner the cost of removal. A lien shall also be placed on the property to recover the cost of tree removal. For the purposes of this chapter, removal shall mean cutting the tree off at ground level. The property owner may appeal the decision to trim or remove the tree to the board of adjustment; provided that such appeal is taken within ten days from the date of notification by the city forester. If such an appeal is made, action to remove the tree shall be stayed until a decision is reached by the board of adjustment.

- e) For purposes of this section, time periods are exclusive of weekends and legal holidays.
- d) *Multiple-family, commercial, and industrial park landscape requirements.* Multiple-family uses shall be considered more than four dwelling units per lot. All new construction, expansion or redevelopment within the city for multiple-family, commercial and industrial park uses, except in the CB zoning district, shall include the provision of landscape areas to provide for the planting of trees and other landscape materials. In all cases, property within this category, including in the CB zoning district, not being used for a structure, parking space, driving aisle, open display area, sidewalk or outdoor storage area shall be maintained as landscape area. Designated or approved landscape areas shall not be used for display or storage of goods or materials.
  - 1) The actual minimum landscape area requirements for a development shall depend on the size of the associated parking area. For parking areas containing between six and 20 parking spaces, inclusive, the only landscape area required shall be the parking area setback requirement. For parking areas of more than 20 spaces, the required landscape area shall be equal to at least nine percent of the developed portion of the lot. Except as follows, the developed portion of the lot shall be considered the entire piece of property being developed:
    - a) The developed portion of the lot shall not include detention or compensatory storage areas when detention and/or compensatory storage requirements are met off of the parking surface.
    - b) When only a portion of a piece of property is being developed, that portion not being developed shall be so designated on the site plan and will not be included in the development area.
    - c) Property beyond any normal setback requirements which lies within a 100-year floodplain, or other drainage channels, and which will not be functioning as part of the detention or compensatory requirements of the site, may be designated, in whole or in part, as part of the developed area by the applicant provided that a sufficient amount of landscape area is distributed across the entire site. Because each site will be different, it will be up to the applicant and staff to agree on what is sufficient in a given case. In general, staff will be looking to see that the intent of this chapter is being met and that landscaping will not be concentrated away from public portions of the site. When an agreement cannot be reached, the planning commission shall make the final determination.
  - 2) Landscaping areas within the occupant, customer and/or employee parking area of a development, shall be located in such a way as to meet the requirements set forth in this subsection. The following requirements do not apply to areas designated for open display:
    - a) Landscape areas shall be located so that at least 60 percent of the trees planted to meet the point requirements on the site can be located within ten feet of the paved parking area.
    - b) When a parking area is to provide parking for more than 100 vehicles, landscape islands shall be provided at the ends of the rows of parking to separate the parked vehicles from an adjacent driving aisle.
    - c) Landscape areas shall be placed so that at least a portion of every parking space is within 59 feet of the parking area setback area or another landscape area meeting the minimum area requirement. The distance a parking space may be from a landscape area may be increased by one foot for each additional 30 square feet of area contained within a landscape area which is surrounded on all sides by paved

parking area; provided, however, that in no case shall the distance between a parking space and a landscape area exceed 80 feet.

- 3) Landscape area size requirements are described as follows:
  - a) The width of parking lot landscape areas shall be measured exclusive of any curbing or bumper blocks.
  - b) The standard, minimum width of a landscape area shall be four feet. At the end of a row of 90-degree parking spaces that are next to a setback area, the setback area may be reduced to two feet to facilitate backing out from a parking space. Also, specific points of other landscape areas may be reduced to as narrow as two feet to meet design requirements. Landscape areas placed parallel to a parking space, or at the end of a row of parking spaces shall be no less than two feet shorter than the paved length of the parking stall. Except for the buffer strip areas, landscape areas that have bumper overhang shall have a minimum of four feet of width in addition to the bumper overhang.
  - c) A landscape area placed parallel to a parking space, or at the end of a row of parking, shall be a minimum of 80 square feet, if one parking stall in length, and 165 square feet if two stalls in length. Any other landscape areas shall be a minimum of 80 square feet in size.
- 4) To provide flexibility in designing the best landscape plan for each site, no specific materials or locations are required for landscaping by these regulations.
  - a) Developments shall include landscape material from the following list, in any combination, such that the total points received for the development equal at least 50 points per 100 square feet in all areas:
    1. Berms, minimum 30 inches tall earn five points per ten linear feet.
    2. Turf shall earn ten points per 100 square feet.
    3. Vegetative ground cover (other than natural turf or sod) shall earn 25 points per 100 square feet of cover.
    4. Small shrubs (mature height of four feet) shall earn 25 points each.
    5. Large shrubs (mature height over four feet) shall earn 75 points each.
    6. Trees of one-inch caliper or greater at the time of planting which are classified as follows:
      - i. Small trees earn 100 points;
      - ii. Medium trees earn 150 points and shall be designated by a scaled 20-foot diameter circle;
      - iii. Large trees earn 200 points and shall be designated by a scaled 35-foot diameter circle;
      - iv. Evergreen trees shall be designated by a scaled 20-foot diameter circle.
    7. Preservation of existing trees will earn the same base points as new trees based on the size classification of tree. For trees over four-inch caliper, an additional 20 points will be awarded for each inch of caliper over four, up to double the point value of the tree. (For example: saving a tree which is classified in the large tree category will earn 200 points; if the tree measures to be eight-inch caliper, an additional 80 points will be awarded.) The diameter of the tree shall be measured at 4½ feet above the ground.
    8. Any plant materials installed to meet the requirements of this chapter which die, or are otherwise removed, must be replaced with plant materials which will earn at least the same number of points.

If the replacement materials are to be located more than 20 feet from where the previous materials had been, a revised landscape plan shall be submitted to the city planner for administrative review and approval.

- b) Site plan designation. Site plans shall be labeled with the number of square feet contained within each landscape area. The landscaping shown on site plans shall specify the vegetation according to the categories listed below. Symbols shall be used to identify planting sites for landscape materials as designated below, and standard sizes shall be used for trees. Landscaping in addition to that shown on the site plan is encouraged and will not be a violation of the site plan. The required site plan designations shall be:
  - 1. "Berm," and the contour thereof at 30 inches of height;
  - 2. "TF" for turf;
  - 3. "GC" for vegetative ground covers;
  - 4. "SS" for small shrubs;
  - 5. "LS" for large shrubs;
  - 6. "ST" for a small tree;
  - 7. "MT" for a medium tree;
  - 8. "LT" for a large tree; and
  - 9. "EV" for evergreen trees.
- 5) Plans submitted for building permits for these developments shall include the information required by this section in sufficient detail to evaluate compliance with these regulations. For those developments which require city council site plan approval prior to the issuance of a building permit, a conceptual landscape plan shall be included with the site plan. The minimum requirements for this conceptual landscape plan include:
  - a) The location of all landscape area;
  - b) The calculations showing compliance with the minimum landscape area requirements and what the minimum point requirements are for plan material;
  - c) An illustration of the concept which will be used in placement of landscape materials by area across the site (i.e., the approximate number and size as well as the general location of trees, shrubs, and ground covers); and
  - d) Existing trees which will be preserved.

In approving any site plan ~~reviewed by~~ the planning commission and/or city council, ~~they~~ may reserve the right to review the final landscape plan prior to the issuance of a building permit.

- e) *Visual barriers and transitional yards.* Visual barriers and/or transitional yards are to be provided as required in this subsection to help separate more intense land uses from less intense ones, and to screen some uses from view. The visual barrier may have openings of reasonable length to accommodate driveways and walkways.
  - 1) Certain districts of more intense use are to have visual barriers installed when they abut districts of less intense use.
    - a) In such cases, visual barriers are not required when parking lots abut one another, no matter what zoning district.
    - b) When the office district abuts an RSS, RSL, RT or RM district, a visual barrier is required on the property zoned office district.

- c) When CS, CB, CG, IL or IG district abuts an RSS, RSL, RMH, RT or RM district, a visual barrier is required on the property zoned CS, CB, CG, IL or IG district.
  - d) Separation of properties by an alley, right-of-way or road easement does not exempt such properties from these requirements.
- 2) Wherever any provision of his chapter requires the construction and maintenance of a visual barrier or transitional yard as a condition for initiating and subsequently continuing any use, such barrier or yard shall be constructed and maintained on the lot containing or proposed to contain such use, in accordance with the provisions of this section. When the area required to have a visual barrier is within a utility easement, the visual barrier shall be constructed as required in this subsection. When located within a dedicated easement, the materials used to construct the visual barriers may be removed without liability for replacement by a public utility, or private contractor representing a public utility, to gain access for the installation, removal, extension or repair of utility lines and equipment. Such barriers and yards shall also make provision for easy access to meters, transformers, junction boxes, and other utility equipment commonly found in utility easements. Visual barriers shall not impede access to dumpsters and access by emergency personnel. Locations and situations where visual barriers or transitional yards are required include the following:
  - a) As may be required as a condition of approval of a site plan for a specific use or planned unit development;
  - b) Along the frontage of a principal or minor arterial street where there is open storage of equipment, machinery, materials, products, supplies, vehicles or work in progress which is not otherwise screened from the street by building, except for temporary uses, and except for the display and sale or rental of operable motor vehicles, recreational vehicles, trailers, mobile homes, boats, aircraft, construction equipment and farm machinery in the districts where permitted; and
  - c) Along certain portions of district boundaries, provided also that where a lot falls within the provisions of this subsection, no part of such lot that is within 100 feet of the abutting property shall be developed, used, or subsequently maintained for any use that is not a use of right in the district in which the abutting property is located or in an RM district, unless and until there is provided on such lot a visual barrier meeting the requirements of this section.
- 3) The purpose of visual barriers and transitional yards is to provide separation between uses and screen potentially unsightly areas. These goals can be met in a variety of ways described as follows:
  - a) When a visual barrier is required for the purpose of screening outdoor storage areas, the provided barrier shall be at least 80 percent opaque, and not less than six feet high above the highest point within ten feet of either side of the property line, exclusive of any earth berms created to satisfy this requirement.
  - b) When a visual barrier or transitional yard is required to provide separation between land uses, the design of the barrier or yard shall follow the guidelines set forth in this subsection. The type of materials used to provide the visual barrier will vary depending upon the width of the transitional yard.
    - 1. A yard width up to five feet shall require a visual barrier that is at least 75 percent opaque up to four feet, and 60 percent opaque

between four and six feet above the height of the highest point within ten feet of either side of the property line, exclusive of any earth berms created to satisfy this requirement.

2. A yard width over five feet and up to ten feet wide shall require a visual barrier that is at least 70 percent opaque up to three feet, and 50 percent opaque between three and six feet tall above the height of the highest point within ten feet of either side of the property line, exclusive of any earth berms created to satisfy this requirement.
  3. A yard width over ten feet shall require a visual barrier that is at least 70 percent opaque up to three feet, and 40 percent opaque up to five feet tall above the height of the highest point within ten feet of either side of the property line, exclusive of any earth berms created to satisfy this requirement.
- c) Visual barriers may consist of any combination of earth berms, shrubs, trees, fences, and other natural and decorative man made materials. Where vegetation is used to provide the visual barrier it shall immediately provide at least 50 percent of the required screening and will be given two years from the date of installation to achieve the height and coverage designated for the given screen or transitional yard. When vegetation is proposed to provide the required visual barrier, the plans for the development shall specify the types of plant material to be used in order to evaluate whether or not the proposed plant material can meet the screening requirement.

d) All properties within the city shall be required to meet these requirements within one year of April 15, 2008.

f) Fraternity or Sorority House. A landscape plan with at least one (1) tree and ten (10) shrubs per 30 feet of lineal frontage

1) Corner lots shall provide landscaping for both front yards.

4)2) The landscaping shall be a minimum requirement for the lot, which can be clumped or spread throughout the parcel.

**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, sentence, 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 \_\_\_\_ DAY OF \_\_\_\_\_, 2026.

\_\_\_\_\_  
WILLIAM H. JOYCE, MAYOR

(SEAL)  
ATTEST:

\_\_\_\_\_  
TERESA KADAVY, CITY CLERK

APPROVED AS TO FORM AND LEGALITY THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2026.

\_\_\_\_\_  
KIMBERLY CARNLEY, CITY ATTORNEY

First Reading: 02/09/2026  
Second Reading:

**ORDINANCE NO. 3592**

**AN ORDINANCE AMENDING THE STILLWATER CITY CODE BY CREATING A NEW CHAPTER 30, MUNICIPAL CODE LIEN ENFORCEMENT; CREATING SECTION 30-1, ADOPTION OF THE MUNICIPAL CODE LIEN ENFORCEMENT ACT OF 2025; CREATING SECTION 30-2, DEFINITIONS; CREATING SECTION 30-3, CODE VIOLATION FEES AND COSTS ENFORCED IN REM; OWNER-OCCUPIED PROPERTY EXCEPTION; PRIORITY; CREATING SECTION 30-4, IN REM FORECLOSURE OF MUNICIPAL CODE LIENS; CREATING 30-5, CODE ENFORCEMENT; IDENTIFICATION OF PROPERTIES; PETITION; NOTICE; 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 be amended by creating a new Chapter 30, Municipal Code Lien Enforcement, to be read as follows:

**CHAPTER 30. MUNICIPAL CODE LIEN ENFORCEMENT**

**Sec. 30-1. Adoption of the Municipal Code Lien Enforcement Act of 2025.**

The provisions of the Municipal Code Lien Enforcement Act of 2025, 11 O.S. § 22-140 et seq., are hereby adopted by the City of Stillwater, Oklahoma for the collection of municipal code liens as to real property, other than owner-occupied property, in the City of Stillwater.

**Sec. 30-2. Definitions.**

The following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Code enforcement director* means an employee of a municipality who is tasked by the municipal governing body with the enforcement of state law or local ordinances related to the condition of real property within the jurisdiction of the municipality.

*Interested party* means:

- (a) The person who last appears as owner of the real property in the county records,
- (b) The current mortgagee of record of the property or assignee of record of the mortgagee,
- (c) The current holder of a beneficial interest in a deed of trust recorded against the real property,
- (d) A tax certificate holder, or
- (e) Any party having an interest in the real property, or in any part thereof, legal or equitable, in severalty or as tenant in common, whose identity and address are reasonably ascertainable from the records of the municipality or records maintained in the county records or as revealed by a full title search, consisting of fifty (50) years or more.

An interested party shall not include the holder of the benefit of an easement which burdens the real property, the holder of the benefit or burden of a real covenant which burdens the real property, or the holder of the benefit of a utility easement which burdens the real property.

*Minimum bid price* means the price that equals the redemption amount.

*Municipal code lien* means any lien that has been levied against real property by a municipality that is the result of the nonpayment of any fine, penalty, abatement cost, or enforcement cost incurred by a municipality related to the enforcement of state or local housing and building codes. Such lien shall include only those liens which arise out of a failure to comply with any law of the State of Oklahoma, or from the failure to comply with a municipality's ordinances or resolutions.

A municipal code lien shall not include any lien that has previously been certified to the tax collector of the county for inclusion on the property tax bill associated with the real property.

*Municipal code lien payoff* means the principal amount of a municipal code lien, interest accrued at the rate of seven and one-half percent (7.5%) per annum from the date the municipal code lien was filed in the office of the county clerk, any fees or costs incurred in the collection of such a lien under this Chapter including, without limitations, the cost of title examinations and publication notices, and any other penalties allowable under either the laws of the State of Oklahoma or under an ordinance or resolution of the City of Stillwater.

*Owner-occupied* means real property that is lawfully occupied as a principal residence that is any of the following:

- (a) A homestead as described in Section 2888 of Title 68 of the Oklahoma Statutes,
- (b) Exempt from ad valorem taxation under Sections 2904 through 2911 of Title 68 of the Oklahoma Statutes, and
- (c) Eligible for the designation listed in subparagraph (a) or (b) or this paragraph, but which has not yet been granted such designation and which is lawfully occupied by the family of a deceased individual.

*Redemption amount* means the sum of:

- (a) The full amount of the municipal code lien payoff for each municipal code lien on which the municipality is seeking to foreclose under this Chapter, and
- (b) Any tax payoff that may be applicable to the property on which the municipality is seeking to foreclose under this Chapter.

*Taxes* means those taxes assessed against the real property by either the State of Oklahoma, the county in which the real property is situated, or the municipality that are delinquent as of the date a proceeding under this Chapter is commenced or at any time before final resolution of the same, and shall also include any taxes assessed against real property that are unpaid from any previous year and any amounts required for redemption. As provided in Section 3103 of Title 68 of the Oklahoma Statutes, a lien for taxes shall be superior to all other liens, including municipal code liens.

*Tax certificate holder* means any of the following:

- (a) A tax sale purchaser who holds a certificate of purchase,
- (b) The state, where it has accepted and recorded a certificate of purchase obtained at a tax sale,
- (c) Any party to which a certificate of purchase obtained at a tax sale has been assigned, or
- (d) The purchaser or assignee of a tax lien certificate.

*Tax payoff* means all amounts necessary to satisfy any claims for delinquent taxes assessed against the real property on which the municipality is seeking foreclosure under this Chapter. Those amounts shall include:

- (a) If the taxes associated with the property are delinquent, but the property has not yet been sold for taxes, the full amount of delinquent taxes, costs, fees, and charges due to the county tax collector,
- (b) If the property has been sold for taxes to either the state or to a party other than the state, those amounts required for redemption, except for when a municipality is the prevailing bidder, the tax payoff amount shall be the lesser of these amounts, and
- (c) If a tax lien has been sold by a county, the amount required for redemption.

**Sec. 30-3. Code violation fees and costs enforced in rem; Owner-occupied property exception; Priority.**

- (a) Notwithstanding any law to the contrary, any fees, penalties, and abatement costs imposed against property other than owner-occupied real property for violations of state or local housing and building codes adopted pursuant to the statutes of the State of Oklahoma may be enforced in rem as a lien in accordance with this Chapter; provided, however, such enforcement shall not commence until the cumulative amount of fees, penalties, and abatement costs outstanding equals or exceeds \$1,500.00.
- (b) The provisions of this Chapter do not apply to owner-occupied property as defined in this Chapter.
- (c) Every municipal code lien, as defined in this Chapter, shall be superior to all other liens, except those liens for taxes described or referenced in Section 3103 of Title 68 of the Oklahoma Statutes

**Sec. 30-4. In rem foreclosures of municipal code liens.**

The City of Stillwater may proceed with judicial in rem foreclosures of municipal code liens in accordance with the provisions this Chapter by enactment of an ordinance or resolution of the Stillwater City Council and shall utilize the judicial in rem proceedings as the sole remedy for the enforcement of municipal code liens through the sale of real property.

**Sec. 30-5. Code enforcement; Identification of properties; Petition; Notice**

- (a) After the municipal code lien has been recorded with the office of county clerk in which the real property is located, the Code Enforcement Director may identify those properties on which to commence judicial in rem foreclosure in accordance with state law and this Chapter except that those properties that the Code Enforcement Director has identified as owner-occupied shall not be subject to judicial in rem foreclosure under this Chapter. The Code Enforcement Director shall not file a petition for judicial in rem foreclosure in accordance with this Chapter for a period of six (6) months following the date upon which the municipal code lien is recorded in the office of the county clerk. A petition for judicial in rem foreclosure may include any other municipal code lien that has been filed prior to the date the petition is filed. After enforcement proceedings have commenced in accordance with this Chapter, the enforcement proceedings may be amended to include any subsequently arising municipal code liens and, if applicable, any and all taxes as defined in this Chapter.
- (b) If the property on which the City of Stillwater is seeking to foreclose is subject to taxes as defined herein, then, at least sixty (60) days prior to the filing of the petition, the Code Enforcement Director shall notify all other taxing agencies within the jurisdiction of the City of Stillwater and the State of Oklahoma of the Code Enforcement Director's intention to file a petition for judicial in rem foreclosure of the real property on which a municipal code lien exists.
- (c) In the name of the City of Stillwater, the Code Enforcement Director shall, in the appropriate lis pendens record in the office of the county clerk of the county in which the real property is located, file a notice of intent to file a judicial in rem foreclosure action. The notice shall include a legal description of the property, street address of the property if available, a statement that the property is subject to judicial in rem foreclosure proceedings under this Chapter, and a statement that those proceedings may extinguish any legal interests in the property.
- (d) Simultaneous with the filing of its notice of intent to file a judicial in rem foreclosure action, the Code Enforcement Director, in the name of the City of Stillwater, shall file a petition with the clerk of the district court for the district in which the real property is located.
- (e) The petition shall be filed against the real property against which the municipal code lien has been recorded and shall provide all of the following:

1. Identify the City of Stillwater and the name and address of the code enforcement director;
2. The real property address;
3. A description of the real property;
4. The tax identification number of the real property;
5. The municipal code lien which is being foreclosed;
6. The principal amount of the municipal code lien together with applicable interest and penalties;
7. The principal amount of any additional municipal code liens together with applicable interest and penalties in accordance with this section, if any;
8. The year or years for which the taxes are delinquent, if any;
9. The principal amount of the taxes together with interest and penalties, if any;
10. A statement that upon final sale in accordance with this Chapter and payment of the amount due for taxes, if applicable, an interested party's rights of redemption shall be extinguished; and
11. The names and addresses of all interested parties to whom copies of the petition are to be sent in accordance with Subsection (f) of this section.

(f) The City of Stillwater shall mail copies of the petition by both certified mail, return receipt requested, and by regular mail to all interested parties whose identities and addresses are reasonably ascertainable. Copies of the petition shall also be mailed by first-class mail to the real property address to the attention of the occupants of the property, if any. In addition, notice shall be physically posted on the real property and shall include the following statement: "THIS PROPERTY IS SUBJECT TO A JUDICIAL IN REM FORECLOSURE ACTION AND MAY BE TRANSFERRED TO THE CITY OF STILLWATER OR ANOTHER PARTY. PERSONS WITH INFORMATION REGARDING THE CURRENT OWNER OF THE PROPERTY ARE REQUESTED TO CONTACT THE CITY OF STILLWATER."

(g) Within thirty (30) days of the filing of the petition, the City of Stillwater shall cause notice of the filing of the petition to be published each week for three (3) consecutive weeks in a newspaper of general circulation in the county in which the property is located. Such notice shall specify:

1. The name and address of the code enforcement director;
2. The real property address;
3. A description of the real property;
4. The tax identification number of the real property;
5. Any applicable municipal code lien which is being foreclosed upon;
6. The principal amount of any municipal code lien together with interest and penalties;
7. The applicable period of tax delinquency, if any;
8. The principal amount of taxes, if any;
9. That upon deposit with the appropriate parties by the court of the tax payoff amount, if any, any and all rights of redemption accorded to interested parties are extinguished; and
10. The date and place of the filing of the petition.

**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 \_\_\_\_ day of \_\_\_\_\_ 2026.

\_\_\_\_\_  
William H. Joyce, Mayor

(Seal)

Attest:

\_\_\_\_\_  
Teresa Kadavy, City Clerk

Approved as to form and legality this \_\_\_\_ day of \_\_\_\_\_ 2026.

\_\_\_\_\_  
Kimberly Carnley, City Attorney

First Reading: 02/09/2026  
Second Reading:

**ORDINANCE NO. 3591**

**AN ORDINANCE AMENDING THE STILLWATER CITY CODE BY CREATING A NEW CHAPTER 34, "PUBLIC ART PROGRAM;" CREATING SECTION 34-1, "PURPOSE;" CREATING SECTION 34-2, "DEFINITIONS;" CREATING SECTION 34-3, "FUND ESTABLISHED;" CREATING SECTION 34-4, "ADMINISTRATION;" CREATING SECTION 34-5, "STILLWATER PUBLIC ART COMMITTEE;" CREATING SECTION 34-6, "DISPLAY OF PUBLIC ART;" CREATING SECTION 34-7, "INFRASTRUCTURE ART SPONSORSHIP PROGRAM;" 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, be amended by creating a new Chapter 34, "Public Art Program" to read as follows:

**CHAPTER 34 – PUBLIC ART PROGRAM**

**Sec. 34-1. - Purpose.**

The purpose of this Chapter is to enhance the cultural and aesthetic quality of life in Stillwater through the acquisition and display of public art. It establishes a committee to oversee the selection, installation, maintenance, and preservation of public artwork throughout Stillwater, and establishes a public art fund.

**Sec. 34-2. - Definitions.**

For purposes of this Chapter the following words or phrases shall be defined as follows:

*Public Art* means any visual Work of Art displayed in an open City-owned area, or the exterior of any City owned facility, inside any City-owned facility and areas designated as public areas, or on private property if the Work of Art is installed or financed, either wholly or in part, with funds from the Stillwater Public Art Fund.

*Committee* shall mean the Stillwater Public Art Committee ("SPA") as established by this chapter.

*Fund* shall mean the Stillwater Public Art Fund established by this Chapter.

*Work of Art* includes, but is not limited to, sculptures, murals, fountains, stained glass, reliefs, carvings, paintings, installations, and other visual art forms, and does not typically include signage, landscaping, or architectural ornamentation.

*Utility Infrastructure* means City-owned utility infrastructure and supportive equipment used for utility services.

**Sec. 34-3. - Fund Established.**

The Stillwater Public Art Fund is hereby established to receive donations from individuals, corporations, grants, other contributions, and allocations from the City as determined by the City Council. Said funds shall be administered by the City Council as recommended by the Stillwater Public Art Committee solely for the purposes set out in this Chapter. Funds shall be used for the following eligible expenditures:

- (1) Commissioning, purchasing, and installing public artwork
- (2) Administration and artist selection processes
- (3) Maintenance, repair, and insurance
- (4) Communications and education related to public art
- (5) Contributions to private installation of public art up to one-half of the cost of the piece of art not to exceed \$30,000 toward the purchase of said work of art

**Sec. 34-4. - Administration.**

The Stillwater Public Art Committee (“SPA”) shall administer the provisions of this Chapter 34 – Public Art Program and make recommendations to the City Council regarding expenditures of funds. The committee shall report annually to the City Council, no later than March 1, summarizing prior year’s activities and finances, and including any planned projects or activities for the next fiscal year.

**Sec. 34-5. – Stillwater Public Art Committee.**

- (a) *Duties and Functions.* The duties and functions of the Stillwater Public Art Committee (“SPA”) shall be to administer the provisions of this Chapter. SPA shall develop guidelines for the selection and maintenance of public art; review and recommend selection, acquisition or placement of art; and promote public art initiatives and education. SPA shall make recommendations to the City Council on expenditures of funds from the Public Art Fund consistent with the provisions of this Chapter.
- (b) *Membership and Qualifications.* SPA shall consist of nine (9) members as follows: Seven (7) members shall be appointed by the City Council at large in accordance with City Code Sec. 2-113. The City Manager shall designate One (1) member from city staff, and One (1) member from city administration to serve on the committee. The designated city staff appointee shall serve as advisor to the committee and as the city point of contact for the Public Art Program. Membership shall reflect a balance of artistic, professional, and community perspectives, and

may include individuals with experience in the visual arts, design, architecture, tourism, business, or education.

- (c) *Residency Requirements.* The seven (7) members appointed by the City Council shall be residents of the City of Stillwater or shall demonstrate ties to the community through employment, property ownership, or leadership in a Stillwater-based organization.
- (d) *Term.* The seven (7) members appointed by the City Council shall serve three-year terms and may be reappointed for no more than three (3) consecutive terms. Initial appointments shall be staggered so that no more than one-third of the Committee expires in any given year.
- (e) *Rules of Procedure, Vacancies, Removal, Officers, Council Review of Decisions, Authority of Members.* All other provisions of City Code Chapter 2, Article III. Authorities, Boards, Committees, Commissions, Trusts, generally applicable to city committees and not otherwise provided for in this Chapter shall be applicable to SPA.

**Sec. 34-6. – Display of Public Art.**

Works of Art may be placed in public areas or private spaces with high public visibility by agreement with the owner thereof. Displayed Works of Art may not be removed or altered without prior SPA approval. All Works of Art acquired in whole or in part using Public Art Funds shall be acquired in the name of and title shall be held by the City of Stillwater.

**Sec. 34-7. – Infrastructure Art Sponsorship Program.**

- (a) Program. There is hereby established an Infrastructure Art Sponsorship Program, wherein City-owned utility infrastructure can be visually enhanced through public art. The City may also refer to this program as the “Utility Box Art Program.”
- (b) Program Guidelines. SPA shall develop sponsorship program guidelines for this program to include application and evaluation criteria for the sponsorship of infrastructure art. Sponsors shall provide funds to cover installation, administration, and maintenance costs. This program is not eligible for funds from the Public Art Fund. All public art displayed on utility infrastructure must be approved by SPA.

**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, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by the 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 \_\_\_\_ DAY OF FEBRUARY 2026.

\_\_\_\_\_  
WILLIAM H. JOYCE, MAYOR

(SEAL)  
ATTEST:

\_\_\_\_\_  
TERESA KADAVY, CITY CLERK

APPROVED AS TO FORM AND LEGALITY THIS \_\_ DAY OF FEBRUARY 2026.

\_\_\_\_\_  
KIMBERLY CARNLEY, CITY ATTORNEY

First Reading: 1-26-2026  
Second Reading: