

**NOTICE & AGENDA
CITY COUNCIL MEETING
FOLLOWED BY PRYOR PUBLIC WORKS AUTHORITY MEETING
CITY OF PRYOR CREEK, OKLAHOMA
TUESDAY, MARCH 15TH, 2016 AT 6:00 P.M.**

AS REQUIRED BY THE OKLAHOMA OPEN MEETING ACT, NOTICE IS HEREBY GIVEN THAT THE CITY COUNCIL OF THE CITY OF PRYOR CREEK, OKLAHOMA WILL MEET IN REGULAR SESSION AT 6:00 P.M. ON THE ABOVE DATE IN THE COUNCIL CHAMBER UPSTAIRS AT CITY HALL, 12 NORTH ROWE STREET IN PRYOR CREEK, OKLAHOMA. A MEETING OF THE PRYOR PUBLIC WORKS AUTHORITY WILL FOLLOW IMMEDIATELY. ANYONE NEEDING SPECIAL ACCOMMODATIONS TO ATTEND SHOULD CALL (918) 825-0888.

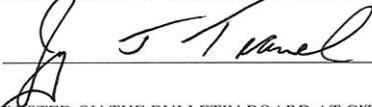
1. Call to Order, Prayer, Pledge of Allegiance, Roll Call.
2. Petitions from the Audience. (Limited to 5 minutes.)
3. Mayor's Report:
 - a. Approve declaring March 15th, 2016 as 'Mayor's Monarch Pledge Day'.
 - b. Approve authorizing the Mayor to declare April 18th, 2016 'Terry Lamar Day' in the City of Pryor Creek.
4. City Attorney's Report:
 - a. Approve authorizing the City Attorney to draft a resolution calling for a special election to increase the City of Pryor Creek sales tax by .250% for the general fund of the City of Pryor Creek.
 - b. Approve authorizing the City Attorney to amend resolution 2011-1 calling for special election to modify and make permanent the ½ of 1% tax on gross receipts or proceeds on certain sales as therein defined, provides that 60% of revenues on the tax are to be used for (1) constructing and improving streets and related drainage facilities; and tax on gross receipts or proceeds on certain sales tax as therein defined, provides that 40% of revenues on the tax are to be used for (2) constructing, equipping, maintaining capital outlay projects as defined by City of Pryor Creek Citizens Advisory Committee and City Council. The herein levied shall become effective on the termination date of the existing one-half of one percent sales tax levied under Ordinance #2011-1 adopted the 12th day of April, 2011.
 - c. Authorize the City Attorney to review and develop Economic Incentive Plan for economic development within corporate boundaries of the City of Pryor Creek.
5. Discuss, possibly act on Consent Agenda. (Items deemed non-controversial and routine in nature to be approved by one motion without discussion. Any Council member wishing to discuss an item may request it be removed and placed on the regular agenda.)
 - a. Approve minutes of March 1st, 2016 Council meeting.
 - b. Approve payroll purchase orders through March 25th, 2016.
 - c. Approve claims for purchase orders through March 15th, 2016.
 - d. Acknowledge receipt of deficient purchase orders.
 - e. Approve February Appropriations Request.
 - f. Approve authorizing the Mayor to sign the Agreement for Administration for the Sales and Use Tax Ordinances of the City and an agreement to engage in compliance activities by the City of Pryor Creek.
 - g. Approve reappointment of Barbara Hawkins, Pryor Area Chamber of Commerce Director, to Pryor Trust Authority Board, Seat # 2, term expiring 3/31/2021.
 - h. Approve reappointment of Jimmy Tramel, Mayor, to Pryor Trust Authority Board, Seat #3, term expiring 3/31/2021.
 - i. Approve appointment of B. J. Cummings, Pryor Main Street Director, to Pryor Trust Authority Board, Seat #1, term expiring 3/31/2021.
 - j. Approve Mayor's reappointment of Jeff Yates to Hotel / Motel Board Seat #1, term expiring 4/30/2018.
 - k. Approve expenditure of \$5,000.00 to the Pryor Area Chamber of Commerce for Pryor FreedomFest 2016 from Pryor Public Works Authority – Independence Day Account (#88-885-5346).
 - l. Approve acceptance of the donation of one (1) 2016 Ford Brush Truck (approximate value of \$104,323.00) to the Pryor Creek Fire Department by Tom Giles.
 - m. Approve authorizing Police Chief Dennis Nichols to close 9th Street from South Elliott Street to South Vann Street on April 23rd, 2016 from 10 a.m. to 11 a.m. for the Voices for Victims' of D.U.I. Awareness Walk.
 - n. Approve an expenditure of \$6,380.00 to Infrastructure Solutions Group, LLC for Invoice #PRY 14-04 Castle Theater / PYO Roof Repair design work from Capital Outlay – Properties (Account #44-445-5419).
 - o. Approve change order #1 to Jaybelle Construction, LLC in the amount of \$3,000.00 for Whitaker Park Spillway Project for additional concrete for support of the headwall.
 - p. Authorize Mayor to sign license and service agreement with Mango Languages for Thomas J. Harrison Pryor Public Library and approve a one-time expenditure of \$5,200.00 for a language learning database from Fund 92, State Aid Account.

6. Committee Reports:
 - a. Budget / Personnel (Rosamond)
 - b. Ordinance / Insurance (Chitwood)
 - c. Street / Maintenance Garage (Willcutt)
7. Unforeseeable business. (ANY MATTER NOT REASONABLY FORESEEN PRIOR TO POSTING OF AGENDA.)
8. Adjourn.

PRYOR PUBLIC WORKS AUTHORITY

1. Call to Order.
2. Discuss, possibly act on approval of minutes of March 1st, 2016 meeting.
3. Unforeseeable business. (ANY MATTER NOT REASONABLY FORESEEN PRIOR TO POSTING OF AGENDA.)
4. Adjourn.

FILED MARCH 11TH, 2016 AT 5:00 P.M. BY MAYOR JIMMY TRAMEL.



POSTED ON THE BULLETIN BOARD AT CITY HALL, 12 NORTH ROWE STREET, PRYOR CREEK, OKLAHOMA, MARCH 11TH, 2016 AT 5:00 P.M. BY CITY CLERK EVA SMITH.





**MINUTES
CITY COUNCIL MEETING
FOLLOWED BY PRYOR PUBLIC WORKS AUTHORITY MEETING
CITY OF PRYOR CREEK, OKLAHOMA
TUESDAY, MARCH 1ST, 2016 AT 6:00 P.M.**

The City Council of the City of Pryor Creek, Oklahoma met in regular session on the above date and time in the Council Chamber upstairs at City Hall, 12 North Rowe Street in Pryor Creek, Oklahoma. This meeting was followed immediately by a meeting of the Pryor Public Works Authority. Notice of these meetings was posted on the East bulletin board located outside to the South of the entrance doors and the City website at www.pryorcreek.org. Notice was also emailed to *The Paper* and *The Times* newspapers and emailed to the Council members.

1. CALL TO ORDER / PRAYER / PLEDGE OF ALLEGIANCE/ ROLL CALL.

Mayor Jimmy Tramel called the meeting to order at 6:00 p.m. The Prayer and the Pledge of Allegiance were conducted by Houston Brittain. Roll call was conducted by City Clerk Eva Smith. Council members present included: Roger Willcutt, Yolanda Thompson, Houston Brittain, Randy Chitwood and Drew Stott. Council members absent: Cheryl White, Greg Rosamond, Ryan Rains.

Department Heads and other City Officials present: City Attorney K. Ellis Ritchie, Police Chief Dennis Nichols, Assistant Police Chief James Willyard, Fire Chief Tim Thompson, Golf Director Dennis Bowman, Library Director Cari Rerat.

Others: Recreation Center Board Chairman Jim Harrison and member Steve Wyneken, Jessica Long, Library Board Chairman Jeanette Anderson and Integrated Insurance Services Representative John Hawkins.

2. PETITIONS FROM THE AUDIENCE.

(LIMITED TO 5 MINUTES)

There were no petitions presented.

3. MAYOR'S REPORT:

- a. ACKNOWLEDGE PARTNERSHIP BETWEEN THE CITY OF PRYOR CREEK AND THE CHEROKEE NATION IN CONJUNCTION WITH COWBOY TRADER DAYS TO HOST NATIVE AMERICAN GAMES AT PRYOR CREEK WHITAKER PARK ON JULY 21ST THROUGH JULY 24TH, 2016.**

There was no action on this item.

- b. DISCUSS, POSSIBLY ACT ON APPROVAL FOR THE MAYES COUNTY AMATEUR RADIO CLUB TO USE WHITAKER PARK ON SATURDAY, JUNE 25TH AND SUNDAY, JUNE 26TH, 2016 TO HOST "FIELD DAY" (A 24 HOUR HAM RADIO EMERGENCY COMMUNICATION TRAINING DEMONSTRATION).**

Motion was made by Chitwood, second by Stott to approve the Mayes County Amateur Radio Club to use Whitaker Park on Saturday, June 25th and Sunday, June 26th, 2016 to host "Field Day" (a 24 hour ham radio emergency communication training demonstration). Voting yes: Willcutt, Thompson, Brittain, Chitwood, Stott. Voting no: none.

4. CITY ATTORNEY'S REPORT:

- a. SECOND AND FINAL READING, DISCUSSION AND POSSIBLE ACTION TO APPROVE AN ORDINANCE – COMPLETE STREETS.**

Motion was made by Chitwood, second by Brittain to approve the second and final reading, discussion and possible action to approve an Ordinance – Complete Streets. Voting yes: Thompson, Brittain, Chitwood, Stott, Willcutt. Voting no: none.

5. DISCUSS, POSSIBLY ACT ON CONSENT AGENDA.

(ITEMS DEEMED NON-CONTROVERSIAL AND ROUTINE IN NATURE TO BE APPROVED BY ONE MOTION WITHOUT DISCUSSION. ANY COUNCIL MEMBER WISHING TO DISCUSS AN ITEM MAY REQUEST IT BE REMOVED AND PLACED ON THE REGULAR AGENDA.)

- a. Approve minutes of February 16th, 2016 Council meeting.**
b. Approve payroll purchase orders through March 11th, 2016.
c. Approve claims for purchase orders through March 1st, 2016.

APPROVE PURCHASE ORDERS THROUGH MARCH 1ST, 2016.

<u>FUNDS</u>	<u>PURCHASE ORDER NUMBER</u>	<u>TOTALS</u>
GENERAL	1520151862 - 1520151956	\$ 41,465.80
STREET & DRAINAGE	1520151956 - 1520151896	8,451.93
GOLF	1520151908 - 1520151912	9,221.13
CAPITAL OUTLAY	1520151774 - 1520151950	47,529.84
REAL PROPERTY ACQUISITION	910723B - 1520151882	57,524.82
HOTEL MOTEL TAX REV	1520151944 - 1520151942	7,729.79
RECREATION CENTER	1520151873 - 1520151888	11,763.78
E-911	1520151924 - 1520151866	2,174.11
DONATIONS	910628B	\$ 1,685.85
	TOTAL	\$ 187,547.05

	<u>NEW BLANKET PURCHASE ORDER</u>	<u>TOTALS</u>
910736B	HILL'S PET NUTRITION SALES	2,500.00
910737B	THE LAKOTA GROUP	155,197.00
910738B	AT&T	4,300.00
910739B	ROBERTS AUTO CENTER	\$ 7,500.00
	TOTAL	\$ 169,497.00

- d. Acknowledge receipt of deficient purchase orders.
There were no deficient purchase orders presented.
- e. Accept resignation of Kenneth D. Prather from Hotel / Motel Board Seat #2, term expiring June 30th, 2016.
- f. Approve Mayor's appointment of John Hawkins as Local Agent Representative for Oklahoma Municipal Assurance Group property and liability policies in the City's name.
- g. Approve authorizing the City Attorney to seek legal action against Larry Michael Lee for damages to the Animal Control Vehicle.
- h. Approve creating a new regular player green fee rate of \$11.50 for 9 holes of golf at the Pryor Creek Golf Course.
- i. Approve creating a new senior / junior green fee rate of \$8.00 for 9 holes of golf at the Pryor Creek Golf Course.
- j. Approve the separation of service by Lianne Wray from the Thomas J. Harrison Pryor Public Library.
- k. Authorize Mayor to sign license and service agreement with Mango Languages for Thomas J. Harrison Pryor Public Library and approve a one-time expenditure of \$5,200.00 for a language learning database from Fund 92, State Aid Account.
- l. Approve seeking applications for Fitness Coordinator at the Pryor Creek Recreation Center at Range B, Step 1 (annual salary \$25,546.00).
- m. Approve an expenditure of \$1,982.00 to Architectural Flooring for repair and replacement of grey stair treads and risers at the Pryor Creek Recreation Center. Other quotes received: Phase II Floor Covering, Claremore, OK - \$2,700.00 and Heritage Flooring, L.L.C., Pryor, OK - \$2,662.00.
- n. Approve retiring the Pryor Creek Police Drug Dog Rambo, a 13 year 10 month old Belgian Malinois, to his handler Jeff Mitchell per recommendation of the Pryor Veterinary Hospital.
- o. Approve expenditure of \$2,992.80 to Morgan's Collision Services, Inc. for repair of a 2013 Ford Taurus Police vehicle damaged on January 9th, 2015. (Insurance reimbursement - \$2,492.80.)
- p. Approve expenditure of \$2,625.54 to Morgan's Collision Services, Inc. for repair of a 2011 Chevy Tahoe 4x2 Police vehicle damaged on January 9th, 2015. (Insurance reimbursement - \$2,125.54.)

Motion was made by Brittain, second by Willcutt to approve items a-p less items e, g, k, o, p. Voting yes: Brittain, Chitwood, Stott, Willcutt, Thompson. Voting no: none.

e. ACCEPT RESIGNATION OF KENNETH D. PRATHER FROM HOTEL / MOTEL BOARD SEAT #2, TERM EXPIRING JUNE 30TH, 2016.

Motion was made by Chitwood, second by Thompson to approve resignation of Kenneth D. Prather from Hotel / Motel Board Seat #2, term expiring June 30th, 2016. Voting yes: Chitwood, Stott, Willcutt, Thompson, Brittain. Voting no: none.

g. APPROVE AUTHORIZING THE CITY ATTORNEY TO SEEK LEGAL ACTION AGAINST LARRY MICHAEL LEE FOR DAMAGES TO THE ANIMAL CONTROL VEHICLE.

Motion was made by Chitwood, second by Willcutt to approve authorizing the City Attorney to seek legal action against Larry Michael Lee for damages to the Animal Control Vehicle. Voting yes: Stott, Willcutt, Thompson, Brittain, Chitwood. Voting no: none.

k. AUTHORIZE MAYOR TO SIGN LICENSE AND SERVICE AGREEMENT WITH MANGO LANGUAGES FOR THOMAS J. HARRISON PRYOR PUBLIC LIBRARY AND APPROVE A ONE-TIME EXPENDITURE OF \$5,200.00 FOR A

LANGUAGE LEARNING DATABASE FROM FUND 92, STATE AID ACCOUNT.

Motion was made by Stott, second by Chitwood to table until the next Council meeting on March 15th, 2016. Voting yes: Willcutt, Thompson, Brittain, Chitwood, Stott. Voting no: none.

- o. APPROVE EXPENDITURE OF \$2,992.80 TO MORGAN'S COLLISION SERVICES, INC. FOR REPAIR OF A 2013 FORD TAURUS POLICE VEHICLE DAMAGED ON JANUARY 9TH, 2015. (INSURANCE REIMBURSEMENT - \$2,492.80.)**

Motion was made by Brittain, second by Willcutt to approve expenditure of \$2,992.80 to Morgan's Collision Services, Inc. for repair of a 2013 Ford Taurus Police vehicle damaged on January 9th, 2015. (Insurance reimbursement - \$2,492.80.) Voting yes: Thompson, Brittain, Chitwood, Stott, Willcutt. Voting no: none.

- p. APPROVE EXPENDITURE OF \$2,625.54 TO MORGAN'S COLLISION SERVICES, INC. FOR REPAIR OF A 2011 CHEVY TAHOE 4X2 POLICE VEHICLE DAMAGED ON JANUARY 9TH, 2015. (INSURANCE REIMBURSEMENT - \$2,125.54.)**

Motion was made by Willcutt, second by Chitwood to approve expenditure of \$2,625.54 to Morgan's Collision Services, Inc. for repair of a 2011 Chevy Tahoe 4x2 Police vehicle damaged on January 9th, 2015. (Insurance reimbursement - \$2,125.54.) Voting yes: Brittain, Chitwood, Stott, Willcutt, Thompson. Voting no: none.

6. COMMITTEE REPORTS:

- a. BUDGET / PERSONNEL (ROSAMOND)**

There was no report given.

- b. ORDINANCE / INSURANCE (CHITWOOD)**

Chitwood reported for the Ordinance / Insurance Committee and stated the committee will meet near the end of the month.

- c. STREET / MAINTENANCE GARAGE (WILLCUTT)**

Willcutt reported for the Street / Maintenance Garage Committee and stated bids for street went out this week.

7. UNFORESEEABLE BUSINESS.

(ANY MATTER NOT REASONABLY FORESEEN PRIOR TO POSTING OF AGENDA.)

There was no unforeseeable business presented.

8. ADJOURN.

Motion was made by Brittain, second by Stott to adjourn. Voting yes: Chitwood, Stott, Willcutt, Thompson, Brittain. Voting no: none.

PRYOR PUBLIC WORKS AUTHORITY

1. CALL TO ORDER.

Mayor Tramel called the Pryor Public Works Authority meeting to order at 6:15 p.m.

2. DISCUSS, POSSIBLY ACT ON APPROVAL OF MINUTES OF FEBRUARY 16TH, 2016 MEETING.

Motion was made by Chitwood, second by Willcutt to approve minutes of February 16th, 2016 meeting. Voting yes: Stott, Willcutt, Thompson, Brittain, Chitwood. Voting no: none.

3. UNFORESEEABLE BUSINESS.

(ANY MATTER NOT REASONABLY FORSEEN PRIOR TO POSTING OF AGENDA.)

There was no unforeseeable business presented.

4. ADJOURN.

Motion was made by Stott, second by Thompson to adjourn from the Pryor Public Works Authority meeting. Voting yes: Willcutt, Thompson, Brittain, Chitwood, Stott. Voting no: none.

MINUTES APPROVED BY MAYOR / P.P.W.A CHAIRMAN JIMMY TRAMEL

MINUTES WRITTEN BY CITY CLERK EVA SMITH

PROCLAMATION

Mayor's Monarch Pledge Day: March 15th, 2016

WHEREAS, the monarch butterfly is an iconic North American species whose multigenerational migration and metamorphosis from caterpillar to butterfly has captured the imagination of millions of Americans; and

WHEREAS, 20 years ago, more than one billion Eastern monarch butterflies migrated to Mexico, but in the winter of 2014, only 60 million made the trip; and

WHEREAS, cities, towns and counties have a critical role to play to help save the monarch butterfly, and the City of Pryor Creek has played a leadership role by launching a community wildlife habitat and Monarch Waystation Project in Pryor Creek, OK; and

WHEREAS, every citizen of Pryor Creek can make a difference for the monarch by planting native milkweed and nectar plants to provide habitat for monarch and pollinators in locations where people live, work, learn, play and worship; and

WHEREAS, on behalf of the people of Pryor Creek who have already joined me in creating a healthy habitat for these magnificent butterflies, I am honored as Mayor to lead the way by signing the National Wildlife Federation's Mayor's Monarch Pledge; and I encourage other city officials across our great nation to take a stand with me so that the monarch butterfly will once again flourish across the continent.

NOW THEREFORE, I, Mayor Jimmy Tramel of Pryor Creek, Oklahoma do hereby proclaim March 15th, 2016 as Mayor's Monarch Pledge Day in the City of Pryor Creek.

Attest:

Eva Smith

Eva Smith, City Clerk

Jimmy Tramel, Mayor

THE RITCHIE LAW FIRM

Mailing: P.O. Box 246
Physical: 21 N. Vann Street
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MEMBERS OF THE FIRM

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Chris R. Kemp

Receptionist: Office Manager:
Tammy Buff Jara Jaques

March 1, 2016

**The City of Pryor Creek
Mayor Tramel**

**Re: Economic Development Incentive Plans
City Attorney Opinion**

ISSUE ADDRESSED:

Cities in Oklahoma operate under a severely limited statutory framework within which they may raise revenues to finance their public functions. As a result of the limited revenue sources available to cities, economic development plans designed, structured and targeted to maximize revenue from the limited revenue sources available are critical to accommodating the ever growing financial needs of municipal government in order to have the resources available to serve its public functions to the citizens. Cities are forced to aggressively compete to attract, keep and provide a climate for expansion of businesses in their jurisdictions which provide the base for the limited sources of revenue available to cities.

In the context of the foregoing climate within which cities operate you have requested that I provide an explanation of the confines within which economic development incentives can be structured by cities.

There are very few "bright lines" when it comes to economic development plans to accomplish a public purpose. Our Supreme Court has addressed these issues in a few published decisions and from these we can extrapolate a pretty good general framework. However, as our Supreme Court has stated in one of those decisions *"The structure of economic development arrangements must change and grow over time to reflect and respond to increased commercial competition and complexities. An economic development plan, in whatever form it takes, will be upheld so long as it serves a public purpose and otherwise meets constitutional requirements...Although the term public purpose is incapable of exact definition, it is a fluid concept which should be broadly construed to comport with new developments and the changing conditions of time"*. State ex rel. Brown v. City of Warr Acres, 1997 OK 117; 946 P.2d 1140.

THE FRAMEWORK:

The Constitutional framework within which economic development incentives must occur are primarily the following:

OKLA. CONST. Art. 10 §14: This requires that public funds only be used for "public purposes".

OKLA. CONST. Art. 10 §17: This prohibits government from giving gifts to, investing in, or lending credit to private enterprises, individuals or entities.

OKLA. CONST. Art. 10 §26 This prohibits cities from becoming indebted to an amount exceeding, in any year, the income and revenue provided for that year.

The economic development incentive plan structure which passes muster of the courts within the allowable statutory framework can be broadly described, although not exactly stated to be, as per the following:

I. PUBLIC PURPOSE:

It is settled that economic development is a legitimate public purpose for which public funds may be expended. State ex rel. Brown v. City of Warr Acres.

An economic development plan does not lose its public purpose merely because it involves a private actor/participant in the plan. State ex rel. Brown v. City of Warr Acres.

The most noted factors for a municipality to address in deciding to enter into an economic development plan and structure of the plan are the following:

1. How, and to what extent, does the plan increase sales tax or other revenues to be received by the city from the project?
2. How, and to what extent, will the plan result in adding new jobs or retaining existing jobs in the community?
3. How, and to what extent, will the specific plan result in promoting collateral economic growth?
4. Whether the plan benefits the public as opposed to special interests or persons. A note on this factor is that it is not all or nothing. Collateral benefits to certain segments may occur but the primary and supreme benefit must be to the public.

II. GIFT, INVESTMENT OR LOAN:

It is absolutely prohibited that there be any gift, investment or loan made to private enterprises, individuals or entities by the public body. Again, the lines are blurred in this factor. Naturally, a benefit will be incurred by a private actor in an economic development plan. That is what incentivizes the private actor to enter into the plan. However, the plan's objective and result must not violate this prohibition.

The most noted factors for a municipality to address in structuring the economic development plan are the following:

1. The city must receive adequate consideration in the plan. That consideration may be the receipt of all or several of the benefits discussed in items 1-4 of the "Public Purpose" section, above.

2. Accountability of the private actor to the government body in the structure and implementation in the plan. It is important that there be "strings attached". There must be open reporting, restrictions on use of funds, consequences for any deviation, as high a degree as possible by the government body over the project and the like.
3. Comparison between the public dollars involved and the private dollars involved such that private dollars are kept to a minimum and public dollars are kept to a maximum under the circumstances to accomplish the public project benefits it is designed to yield.

Although there is no case that expressly states that a feasibility study must be done on the foregoing factors it is certainly an aspect of the analysis that the courts mention in their analysis of specific cases and which weighs in favor of the ultimate determination that a proper public purpose and project exists.

My recommendation, as City Attorney, is that prior to deciding to enter into any economic development plan incentive agreement the Mayor and Council should take formal action to institute a study of the plan being contemplated by a group of people possessed of proper qualifications to make this feasibility analysis taking into consideration the above mentioned factors at a minimum. The findings of the group should then be reported to the full Council and authorization and direction be obtained from the Council to then proceed with a formal plan to be then voted on by the Council.

Sincerely,



K. Ellis Ritchie
City Attorney, Pryor Creek, Okla.

AGREEMENT FOR ADMINISTRATION
OF THE SALES AND USE TAX ORDINANCES
OF THE CITY/TOWN AND AN AGREEMENT TO ENGAGE IN COMPLIANCE
ACTIVITIES BY THE CITY/TOWN OF

THIS AGREEMENT is entered into this ___ day of _____, ___ pursuant to the provisions of Sections 2701 et seq. of Title 68 of the Oklahoma Statutes, between the Oklahoma Tax Commission, hereinafter referred to as "Commission," and the City/Town of _____, Oklahoma, hereinafter referred to as "Municipality," for the administration of effective sales and use tax ordinances on file with the Commission hereinafter referred to as "Ordinances," levying a municipal sales or use tax of _____ percent (_____%) upon sales within or outside of the Municipality and to authorize Municipality to engage in compliance activities as hereinafter defined.

1. This Agreement is based upon the Ordinances for the collection of sales and uses taxes by the Municipality, certified copies of which are attached hereto and made a part hereof. The Municipality may, at any time and from time to time, amend or repeal the Ordinances and, to the extent that the Municipality amends or repeals the Ordinances, the Municipality shall promptly provide the Commission with a certified copy of the ordinance effecting such amendment or such repeal.

An increase or a decrease in the municipal sales or use tax rate shall become effective only on the first day of a calendar quarter. Provided, however, the sales and use tax rates levied by the Municipality if the Municipality levies both a sales and use tax, must be identical. The Municipality shall notify the Commission of an increase or a decrease at least seventy-five (75) days prior to the close of the current calendar quarter and shall provide the Commission with a certified copy of the ordinance affecting such increase or such decrease.

2. A. The Commission shall administer and shall enforce the Ordinances and shall collect the municipal sales and use tax, and the interest and penalties with respect thereto as provided in the Ordinances except as provided, in paragraph 16 below. It is recognized and acknowledged that:

(a) the Ordinances levy municipal sales tax upon all sales within the Municipality as authorized by Section 2701 of Title 68 of the Oklahoma Statutes; and

(b) the term "sale" as used in the Ordinances has the same meaning as the term "sale" has in the Oklahoma Sales Tax Code; and

(c) the Ordinances levy municipal use tax upon all transactions within or without the Municipality as authorized by Section 1411 of Title 68 of the Oklahoma Statutes; and

(d) the term "use" as used in the Ordinances have the same

meaning as the term "use" has in the Oklahoma Use Tax Code; and

(e) the permits for sales and use tax issued by the Commission shall be the sales and use tax permits used by the municipality for the enforcement and collection of sales and use taxes within and without the municipality and said permits, as issued by the Commission, shall include the zip code plus the four digit location code commonly called the zip plus 4, when available.

To facilitate such administration, such collection and such enforcement of local taxes, the Commission shall designate a Local Tax Coordinator of the Commission who shall be generally responsible for matters related to the collection of local taxes and, with respect to such matters, shall directly advise the Administrator of the Commission. The duties which may be performed by the Local Tax Coordinator and/or other employees of the Commission under his or her supervision, shall include, without limitation,

- B. (a) acting as liaison between the Commission and municipalities with respect to the administration, the collection and the enforcement of local taxes,
- (b) addressing concerns of the Commission and/or taxpayers with respect to the administration, the collection and the enforcement of municipal taxes by municipalities,
- (c) consulting with municipalities concerns and trends with respect to local taxes,
- (d) coordinating collection and enforcement actions by the Commission and municipalities with respect to local taxes,
- (e) coordinating the provision by the Commission to municipalities of information and
- (f) providing educational and other support to municipalities in their collection and enforcement efforts.

In making decisions with respect to the administration of local taxes, the Commission will consider the view expressed by the Municipality.

The Municipality shall not request that the Local Tax Coordinator perform any duties which are the sole responsibility of the Municipality.

3. The method of computing sales tax to be used by vendors in collecting both state and municipal sales tax is prescribed in Section 1362 of the Oklahoma Sales Tax Code. The method of computing use tax to be used by vendors in collecting both state and municipal use tax is prescribed in Section 1401 of the Oklahoma Use Tax Code.

4. The discount (deduction) allowed to vendors in Section 1367.1 of the Oklahoma Sales Tax Code shall be applicable to both state and local sales tax remittances. Monetary allowances provided for in 68 O.S. § 1354.31 shall also be applicable to both state and local sales tax remittances. The discount (deduction) allowed to vendors in Section 1410.1 of the Oklahoma Use Tax Code shall be applicable to both state and local use tax remittances. Monetary allowances provided for in 68 O.S. § 1354.31 shall also be applicable to both state

and local use tax remittances.

5. The Commission shall retain, as its sole compensation for its services rendered hereunder, an amount not to exceed one-half of one percent (0.5%) of the municipal sales or use taxes collected for services rendered in connection with such collections and the interest and penalties with respect thereto, collected by the Commission hereunder. The applicable percentage is set forth in Exhibit A as incorporated herein.

6. Except as otherwise provided herein, the Commission shall give no preference in applying an amount received for state, municipal and county sales or use taxes owed by a taxpayer to the extent that such amount is less than the aggregate state, municipal and county sales or use tax liability of the taxpayer. Any such amount shall be applied pro rata to the satisfaction of the claims of the Commission, the claims of the Municipality and the claims of other municipalities and counties based on the portions of the aggregate state, municipal and county sales or use tax liability of the taxpayer represented by their respective claims.

7. The municipal sales or use tax received and collected by the Commission pursuant to this Agreement shall be deposited in the State Treasury as required by law. The Commission shall use its best efforts to cause to be paid to the Municipality no later than the tenth day of each calendar month all municipal sales and use tax, and the interest and the penalties with respect thereto, received and collected by the Commission during the immediately preceding calendar month, less any amount withheld by the Commission under Paragraph 5 and less any amounts deducted by the Commission in connection with refunds hereunder.

8. The Commission shall require reports of municipal sales and use tax from vendors, shall maintain records of reports, receipts and collections from vendors. The Commission shall maintain the records in such a manner that the amount due the Municipality each month by a vendor can be determined by the Commission and can be provided to the Municipality. The requirement for the Commission to maintain its records in a verifiable form is intended to require the Commission to maintain its records in a form capable of producing reports that can be electronically downloaded into, at a minimum, an excel spreadsheet or its equivalent; the Commission will use a form which is capable of being understood by a person reviewing such records. The Commission shall make available to the Municipality a monthly statement of the municipal sales and use tax, and interest and penalties with respect thereto, received and collected by the Commission during the immediately preceding calendar month, the amounts, if any, refunded by the Commission to taxpayers during the immediately preceding calendar month and the amount withheld by the Commission under Paragraph 5. The Commission shall allow an annual review of the Commission's expenditures associated with the collection and enforcement of municipal sales and use taxes.

9. In the event a vendor remits sales or use taxes due but fails to submit city attachments, or submits a report from which the sales or use tax due Municipality cannot be determined, the Commission will allocate to Municipality such sales or use tax received pro rata based on the vendor's percentage allocation for the most recent report filed or, if no report has been filed, according to the best information available to the Commission. Such amount, and any interest and penalty as provided in Section 217 of Title 68 of the Oklahoma Statutes with respect thereto, shall be paid to the Municipality in accordance with Paragraph 7. Interest will begin as of the date the vendor remittance is deposited to the State Treasury.

10. The Municipality acknowledges that the Commission is responsible for making

refunds to taxpayers of municipal sales and use taxes previously collected by the Commission on behalf of the Municipality. The term "refunds" as used herein shall include payments made pursuant to filed claim for refund(s) or amended return(s) approved by the Commission. The Commission's determination of any taxpayer's liability for sales and use taxes shall be binding as between the Municipality and the taxpayer.

Any refund of municipal sales and use tax previously paid by the Commission to the Municipality shall be paid from subsequent collections of the municipal sales and use tax. Such refund shall be deducted from the collections payable by the Commission to the Municipality, in the immediately following calendar month following the notice requirements set out in paragraph eleven (11).

11. The Commission shall provide notice to the Municipality via the OKTap user Account to municipalities so that a municipality may view all the requests for refunds that have been filed, processed and recommended approval. All claims for refund shall be documented as outlined in OAC 710:65-11-1 upon discovery of a remittance error by the vendor. Commission, through the Local Tax Coordinator, will notify Municipality at such time the Commission determines the final amount to be refunded pursuant to a claim or remittance error. The Commission shall make available to a municipality, upon request, copies of the claims processed and recommended for approval in the amount of two thousand dollars (\$2000.00) or more and related supporting documents prior to the claim being considered for approval by the Commission. The Commission shall post the requested claim documents on the municipality's OKTap user account to comply with this requirement. Municipality agrees that any amount contained in the notice given pursuant to this section will be considered as advisory only until such time as a final determination has been made by the Commission. Any municipal sales or use tax, and/or any interest and penalties with respect thereto, paid under protest by a taxpayer to the Commission during the immediately preceding calendar month shall be paid by the Commission to the Municipality as part of the payment being made by the Commission to the Municipality. If the protested municipal sales or use tax, interest or penalties are required to be refunded, such amount and any interest required to be paid thereon will be paid out of subsequent collections by the Commission.

The municipality may request by a blanket advisement to the Commission that it be notified of any hearing wherein the Commission hears a claim for refund of a protest of an assessment. If an affected municipality shall have requested such notice in writing, the Commission shall, at the same time the parties are notified of the scheduled hearing, provide written notice of the hearing date and time via electronic mail, e-mail, or mail through the United States Postal Service to the municipality affected.

12. In the event a municipality is notified as required and set out in paragraph 11, above, that it has been paid sales or use tax funds that should have been paid to another municipality, the Tax Commission shall adhere to repayment provisions of the provisions of paragraph 10.

13. The Commission shall provide to the Municipality a full and complete list of the names and the addresses of the persons and the entities which or who report doing business within the boundary of the Municipality during the preceding calendar year via the OKTap user Account. In addition the Commission shall via OKTap provide the following:

A. additions to, and deletions from, the full and complete list of the names and the addresses of persons and entities which or who report doing business during the

preceding calendar year within the boundary of the Municipality;

B. a full and complete list of the persons and the entities specified in paragraph 12(a) which or who are more than sixty (60) days delinquent in filing and/or remitting municipal sales and use taxes pursuant to the Ordinances; and

C. a full and complete, list of all persons and all entities paying municipal sales and use tax under the Ordinances, and/or interest and penalties with respect thereto, and the amount of such remittances.

D. the number of audits completed and assessments determined by the Commission with respect to municipal sales and use taxes, and/or interest and penalties with respect thereto, under the Ordinances during the preceding calendar year; and

Commission also agrees to provide Municipality reports in addition to those outlined above under the following terms:

A. The report is requested in writing or via e-mail, outlining the information required and regularity of the report.

B. The report complies with all terms and statutes outlined within this agreement.

C. The information requested is available to the Commission.

D. Commission will be provided a minimum of thirty (30) days to compile new requests unless otherwise agreed.

E. Commission shall provide the requested report(s) within ninety (90) days unless otherwise agreed.

14. The Commission shall monitor the administration, the collection and the enforcement of municipal sales and use taxes, and/or interest and penalties with respect thereto, under the Ordinances. The Commission shall provide the Municipality such information as may be requested by the Municipality with respect to any protest or any refund of municipal sales or use taxes levied by the Municipality. The Municipality shall also be entitled to consult with the Commission's legal staff about protests and refunds and, to the extent that a protest or a refund involves one or more hearings, the Municipality shall, through legal counsel or other designated staff employed by the Municipality, be entitled to be present and observe such hearing(s); provided, however, the administrative law judge or the Commission may limit the number of counsel or other designated staff, if any, who may be present to the extent necessary to permit the hearing to be conducted in an orderly fashion and without undue trepidation on the part of the taxpayer.

To the extent that such documents and/or such information relates to municipal sales or use taxes, and/or interest and penalties with respect thereto, and is requested, at any time and from time to time by the Municipality, the Commission shall promptly provide to the Municipality (a) copies of applications for sales tax permits, (b) copies of sales or use tax reports, (c) copies of installment or other payment plans, if any, with taxpayers and (d) other documents and other information.

The Commission shall promptly notify the Municipality of any conduct which the Commission believes might be the basis for a criminal prosecution by the Municipality under the Ordinances and shall provide to the Municipality all of the documents and the information in the possession of the Commission with respect thereto, including, without limitation, the names of employees of the Commission who might be witnesses with respect thereto.

The Municipality acknowledges that Section 205 of Title 68 of the Oklahoma Statutes, which makes the records and the files of the Commission confidential (subject to specified exceptions) and which prohibits disclosure of such records and such files (subject to specified exceptions), includes the Commission's records and files with respect to the receipt and the collection of municipal sales and use tax. Nothing contained herein is intended to require the Commission to disclose to the Municipality any information whose disclosure to the Municipality is prohibited by Section 205.

The Commission acknowledges that (a) Section 205(c)(7) of Title 68 of the Oklahoma Statutes permits the Commission to furnish information disclosed by the records and the files of the Commission to an official person or body of this state who is concerned with the administration or the assessment of certain taxes, such as the Municipality, (b) Section 205(c)(22) of Title 68 permits the disclosure to the governing body or municipal attorney, if so designated by the governing body, of information directly involved in the resolution of issues arising out of the enforcement of a municipal sales and use tax ordinance, such as the Ordinances, pursuant to a municipal tax collection agreement, such as this Agreement, and (c) Section 22-107 of Title 11 of the Oklahoma Statutes and Section 205.1 of Title 68 of the Oklahoma Statutes permits the Commission to release specified information to municipalities.

The Municipality acknowledges that Section 205 of Title 68 of the Oklahoma Statutes may prevent the disclosure by the Municipality and persons associated with the Municipality of information which is provided by the Commission to the Municipality and that improper disclosure by the Municipality or any such person of such Information may result in civil and criminal liability. The Municipality shall comply with the restrictions imposed by Section 205.

15. The Commission has the authority to enter into an installment or other payment agreement with any taxpayer, including a taxpayer prosecuted under a municipal sales or use tax ordinance, for state and local taxes owed by the taxpayer. Commission will, through its use of a pay plan in order to keep a delinquent business open, collect the liability as quickly as possible by requiring a significant down payment and completion of the pay plan in as short a period as possible. The Municipality shall be entitled to consult with the Commission's legal staff about an installment or other payment agreement prior to negotiation of such an agreement. The installment or other payment agreement shall be void if the taxpayer becomes delinquent in future tax liability or payment under the agreement becomes delinquent. The Commission shall furnish a list of all sales and use taxpayers which have entered into agreements with the Commission on a monthly basis along with the terms, conditions and status of each such installment or payment agreement.

16. In the event of termination of this Agreement, the Commission will cause to be paid over to the Municipality, all municipal sales and use tax funds in its possession then due and payable under this Agreement. The Municipality shall thereafter be liable for and shall pay any refunds of municipal sales or use tax required by law to be made, including refunds of municipal sales or use tax, penalty and interest paid under protest that must be refunded and any interest required thereon. After such termination, the Commission's liability shall extend only to the amount of such funds being held by it. The Municipality agrees to pay any interest

required by law to be paid on such refunds.

17. The Commission shall have the authority to assess and to collect, on behalf of the Municipality, the municipal sales and use taxes levied by the Ordinances, and the interest and the penalties with respect thereto, including, without limitation, any municipal sales or use tax, interest and/or penalty existing on the date hereof except as provide in paragraph 18 below.

The Municipality agrees to refrain from contacting directly persons or entities doing business within the boundary of the Municipality subject to the requirements of paragraph 19. Municipality does have the inherent authority to contact vendors within and without the municipality concerning the vendor's alleged violation of municipal ordinances prior to the initiation of criminal prosecution.

The Municipality may inquire of the Commission into the compliance of persons and entities with the Ordinances and, to the extent that the Municipality determines that any person or any entity has not complied with the Ordinances, the Municipality may request the Commission to issue a proposed assessment against such person or such entity. To the extent that the Commission receives any such request, the Commission shall review such request within 45 days. If, after said review, Commission believes that such request presents a basis for a proposed assessment, Commission shall issue a proposed assessment. Any such proposed assessment shall be resolved as provided in Sections 201 et seq. of Title 68 and the procedural rules promulgated by the Commission.

The Municipality may, at the option of the Municipality, request the Commission to initiate a show cause proceeding against a person or an entity which the Municipality believes, in good faith, not to be in compliance with the Ordinances or any provision thereof. To the extent that the Commission receives any such request, the Commission shall review such request within 45 days. If after said review, Commission believes that such request presents a basis for a show cause proceeding, Commission shall initiate a show cause proceeding. Such show cause proceeding shall be conducted as provided in the procedural rules promulgated by the Commission.

The Commission and the Municipality acknowledge the mutual interest of the Commission and the Municipality in maximizing compliance with the Ordinances and the collection of local taxes thereunder. The Municipality may, at any time and from time to time, either alone or in conjunction with other municipalities, submit a written proposal for collection and enforcement activities for consideration by the Commission; provided, however, it is expressly understood that any such written proposal must provide for coordination with the collection and enforcement activities of the Commission, provide for the use of the then applicable audit standards of the Commission and otherwise be in form and in substance to the Commission. In the event that Municipality's proposal is accepted by Commission, Municipality will be authorized to conduct the activities included in such proposal on behalf of Commission and no other action will be authorized by the Commission by a municipality or municipalities not included in the accepted proposal.

Provided further that upon the request of the municipality, either alone or in conjunction with other municipalities, the Commission shall enter into contractual agreements with the municipality or group of municipalities whereby the municipality or group of municipalities are authorized to implement or augment the Commission's enforcement through a contract with a private auditor(s) or audit firm(s) of the municipal tax. The auditor(s) or audit firm(s) shall first be approved by the Commission and once approved shall be appointed as an agent of the

Oklahoma Tax Commission for purposes of the audit. Contracts with a private auditor or audit firm are not subject to the limitations of Section 262 of title 68 of the Oklahoma Statutes, and the parties, the municipality, private auditor or audit firm and the Commission, are authorized to exchange necessary information to effectively perform the contracted audit. The municipality, its officers and employees and the private auditors or audit firms may receive all information necessary to perform the audit and shall preserve the confidentiality of such information as required by Section 205, title 68, of the Oklahoma Statutes, including the penalties set out therein. The Commission shall be furnished the audit results and all relevant supporting documentation. The municipalities shall pay for the private auditor(s) or audit firm(s) by deduction from the tax assessment resulting from said audit unless another method of payment is set out in the contract with the private auditor or audit firm. Any municipal sales and use tax funds recovered as a result of the use by the municipality of a private auditor or audit firm shall not be subject to the retention calculated by the Commission as provided in Paragraph 5 of this agreement, in addition the Commission shall pay to the municipality any retainage that the Commission shall be entitled to for collection of county sales and use tax and shall pay to the municipality the state's pro rata share of the expenses of the auditor. Provided further, the Commission shall have no obligation to any municipality that does not participate in an audit conducted under subsection D of Section 2702 of Title 68 of the Oklahoma Statutes or an audit conducted pursuant to this section.

Notice of a proposed independent audit shall be provided to the municipality and the municipality shall within 30 days provide acceptance or rejection of participation in the audit. Failure to act within the 30 day time period shall mean that the municipality shall not be included in the audit. Failure to act with respect to a particular independent audit within the 30 day time period shall relieve the Commission of its obligation to audit on behalf of the municipality with respect to that particular audit.

18. The Commission acknowledges the need for municipalities to have input into rulings made by the Commission regarding requests for waivers of penalties and interest assessed on municipal sales and use taxes. Therefore, the Commission agrees to provide municipalities with the opportunity to make recommendations regarding such waiver requests. Such notification shall not include waiver requests received by the Commission through its Voluntary Disclosure Agreement Program.

The Account Maintenance Division or the General Counsel's Office of the Commission will notify municipalities at least two weeks prior to submission of a waiver request to the Commission. The notification will apply to all waiver requests for penalties and interest that was assessed on state and local sales and use taxes in excess of Two Thousand Dollars (\$2,000.00). Any recommendation made by the municipality will be presented to the Commission at the time of consideration of the request. If the municipality fails to make a recommendation in the time allotted, the Division will present the request to the Commission without a municipal recommendation. The Division will notify the municipality of the Commission decision.

19. A City/town may commence compliance activities under the following conditions:

A. The following words and terms, when used in this Agreement, shall have the following meaning, unless the context clearly indicates otherwise:

1. "Agent" means an employee of the Municipality or person or entity acting under contract with the Municipality and certified by the Commission as an agent

for the purpose of compliance activities as set out in this agreement except for municipal criminal prosecution.

2. "Compliance activities" means all actions to assist or induce a delinquent seller to comply with applicable laws, rules and regulations, to accurately and timely collect, source, report and remit sales and use taxes within the municipality's jurisdiction and shall include:

a. The identification of and reporting to the Tax Commission any unregistered sellers making sales sourced to the municipality under the laws of this state. "Unregistered seller" shall mean any delinquent seller which has failed to apply for a sales or use tax permit with the Tax Commission. Provided, the term shall not include any out-of-state seller that does not have a legal requirement to register with the state;

b. The prosecution of any criminal violations of a municipal ordinance related to the payment of sales or use taxes. "Prosecution" shall mean the initiation of legal proceedings by the filing of a complaint in a municipal criminal court of record pursuant to Section 28-113 of Title 11 or by the filing of a complaint in a municipal court not of record pursuant to the provisions of Section 27-115 of Title 11; and

c. Any additional compliance activities that may be performed by the agent of the municipality on accounts of delinquent sellers that were assigned to the agent at the request of the municipality that do not result in a duplication of compliance activities.

Compliance activities **shall not include** the following activities, over which the Tax Commission shall have sole authority:

- a. Registering new taxpayer accounts,
- b. Issuing and administering taxpayer permits,
- c. Receiving returns,
- d. Receiving remittances of sales and use taxes,
- e. Issuing assessments,
- f. Conducting hearings under Section 212 of Title 68,
- g. Developing pay plans in consultation with the municipality as provided in the Agreement for Administration of the Sales and Use Tax Ordinances,
- h. Revoking permits,
- i. Taking legal action to close a business,
- j. Issuing refunds and credits,
- k. Managing audits, and
- l. Determination of taxability of sales transactions.

3. "Delinquent seller" means any person making sales of tangible personal property or services in this state, the gross receipts or gross proceeds from which are taxed by law and fails to obtain a permit, file a sales tax return as required by law, or is delinquent in whole or in part in the collection and remittance of sales or use taxes.

4. "Enhanced collections" means any remittance of past due or unpaid state sales or use taxes, including penalty and interest, obtained from a delinquent seller that was not registered, underreported, failed to report or remit, failed to comply with a payment plan, or arising from liens filed by the Tax Commission following documented compliance activity of a municipality or person or entity acting under contract with such municipality.

B. Municipality elects to engage in the compliance activities designated by notice to the Commission; provided that Municipality may change its designation upon timely notice.

C. This Agreement shall include appointment of persons or entities approved by the Commission conducting compliance activities on behalf of Municipality as agents of the Commission. No appointment shall be necessary or required for Municipality to engage in prosecution of any criminal violations of its ordinance related to the payment of sales or use taxes.

All persons, including municipal employees and employees of entities acting under contract with a municipality, that will be performing compliance activities for Municipality must meet minimum qualifications provided herein and undergo training provided by the Tax Commission. The minimum qualifications shall consist of a bachelor's degree; or an equivalent combination of education and experience, substituting one year of experience in business management, tax revenue, credit collections, or investigative work for each year of the required degree. Provided, the minimum qualifications provided herein shall not apply to employees of municipalities seeking appointment as an agent if the municipality has a population less than 25,000.

Contracts with a private auditor or audit firm are not subject to the limitations of Section 262 of title 68 of the Oklahoma Statutes, and the parties, the municipality, private auditor or audit firm and the Commission, are authorized to exchange necessary information to effectively perform the contracted audit. The municipality, its officers and employees and the private auditors or audit firms may receive all information necessary to perform the audit and shall preserve the confidentiality of such information as required by Section 205, title 68, of the Oklahoma Statutes, including the penalties set out therein.

With the execution of this Agreement, Municipality shall provide the names of all persons, including employees of Municipality, who will be performing compliance activities on behalf of Municipality. The Commission shall issue letters of appointment for all persons who meet or are exempt from the minimum requirements.

Municipality agrees to notify the Commission when additional persons are added by Municipality to conduct compliance activities on behalf of Municipality. Municipality further agrees to immediately notify the Commission of the termination of employment or cancellation of contract of any person appointed as an agent for the purposes of conducting compliance activities.

D. The Commission shall provide to Municipality and agents appointed by the Commission to perform compliance activities all information necessary to perform compliance activities. Municipality and agent shall preserve the confidentiality of the information as required by Section 205 of Title 68 of the Oklahoma Statutes. Failure to comply with the statutory confidentiality requirements shall result in immediate

withdrawal of appointment of any person to perform compliance activities and may result in civil and criminal liability.

Nothing herein shall limit Municipality's use of information provided by the Commission in prosecution of violations of Municipality's tax ordinances.

E. As provided in Section 2702(E)(3) of Title 68, the Tax Commission shall reimburse a municipality performing any of the compliance activities defined above as follows:

1. The Tax Commission shall pay to the municipality an amount equal to three-fourths of one percent ($\frac{3}{4}$ of 1%) of enhanced collections from any unregistered seller identified and reported to the Commission by a municipality for any sales made during the period the seller was unregistered with the Tax Commission;

2. The Tax Commission shall not retain any fee and refund any fee retained from the collection of city sales and use taxes remitted as a result of the prosecution of any criminal violations of a municipal ordinance; and

3. The Tax Commission shall pay to the municipality an amount equal to three-fourths of one percent ($\frac{3}{4}$ of 1%) of enhanced collections from any delinquent seller as a result of other compliance activities documented by the municipality or person acting under contract with such municipality.

To receive compensation, Municipality shall provide documentation of compliance activities which generated the enhanced collections. Documentation shall consist of reports, on forms prescribed by the Commission, listing the name of the delinquent seller, date of compliance activity, type of activity, and such other information as may be necessary to identify the delinquent seller, compliance activity, or enhanced collections.

The Commission shall provide reimbursements on a monthly basis and provide a monthly report to Municipality indicating, at a minimum, the name of the delinquent seller, amount of enhanced collections, and date of remittance by the delinquent seller in the previous month.

The Commission shall use its best efforts to cause reimbursements as a separate distribution to be paid to Municipality no later than the tenth day of each calendar month following the month of receipt of the report of enhanced collections filed with the Commission.

20. It is recognized and acknowledged that the Municipal Ordinances include criminal sanctions for violation of the Ordinances. Notwithstanding anything else contained herein, the Municipality shall have the exclusive authority to prosecute any criminal violations of the Ordinances and the Commission shall refrain from taking any such action. Nothing contained herein shall prevent the State of Oklahoma from prosecuting persons for crimes under state law, including, without limitation, embezzlement by a vendor of a municipal sales tax.

21. To the extent that the Municipality decides to prosecute criminally any action under this Agreement, the Commission and the Municipality shall cooperate, in good faith, to

maximize collections under the Ordinances and to minimize duplicative effort by the Commission and the Municipality.

22. Where the municipality takes the action recognized by paragraph 20 of this Agreement for prosecution to enforce its sales or use tax ordinance, all taxes shall be paid by the taxpayer directly to the Commission. Any resulting payment of municipal tax shall not be subject to the retention calculated by the Commission for the collection of city sales and use taxes as provided in Paragraph 5 of this agreement, subject to the implementation plan established in paragraph 2B of this agreement.

23. The Municipality agrees that, if there is a challenge to the constitutionality or the legality of the Ordinances or any provision thereof (other than a challenge based on the application by the Commission of the Ordinances or any provision thereof), the Municipality shall be responsible for the resolution of such challenge. If such a challenge is based on the application by the Commission of the Ordinances or any provision thereof, the Commission shall be responsible for the resolution of such challenge. The party responsible for the resolution of any challenge shall make all decisions with respect to the prosecution and the settlement of any litigation with respect to such challenge and the other party shall cooperate with the responsible party with respect to the resolution of such challenge. The Commission shall provide notice to the Municipality of any challenge. Notice will be provided within seven (7) business days of the receipt of the challenge and the municipality shall be allowed to participate in any decision.

24. The change in the boundary of Municipality shall be effective for sales tax purposes only, on the first day of a calendar quarter following the enlargement of the municipal city limits. If a municipality should de-annex a territory the sales tax from business or firms located in the de-annexed area shall cease on the effective date of the de-annexation ordinance. Municipality shall give the Commission notice in writing of any annexation or de-annexation of territory to the municipality at least as required by Title 68 Oklahoma Statutes Section 2701. The notice shall include a verified copy of the boundaries of the newly annexed or de-annexed territory. In addition all Municipality limit lines shall be shown in map form, and certified to the Commission by the municipal clerk.

25. Neither Municipality nor Commission has entered into this Agreement with the intention of violating state law or the provisions of the Streamlined Sales Tax Agreement. If it is determined by either party that any provision violates either state law or the Streamlined Sales Tax Agreement, such provision of the Agreement shall be null and void. The remaining provision of the Agreement shall be in effect until the expiration or termination of the Agreement.

26. If a dispute arises from the application of paragraph nineteen (19) of this Agreement, and if the dispute cannot be settled through negotiation, the Commission and Municipality agree first to try in good faith to settle the dispute by mediation. Either party may request mediation before the Director of the Office of Management and Enterprise Services in the manner the Director deems appropriate.

27. This Agreement shall be in effect from _____, ____ until _____, _____, and shall renew without action of the parties for additional terms of one (1) year provided that the current rate has not been changed and neither party has given written notice to the other party of its intent to terminate this Agreement prior to the expiration of the then current term. Either party may terminate this contract for any reason upon thirty (30) days written notice of its intent to terminate to the other party.

IN WITNESS WHEREOF, the parties have set their hands and affixed their official seals the day and year first above written.

THE MUNICIPALITY OF

OKLAHOMA TAX COMMISSION

A Municipal Corporation

Mayor



Steve Burrage, Chairman



Dawn Cash, Vice-Chairman

ATTEST: (CITY SEAL)

Municipal Clerk



Thomas E. Kemp Jr., Secretary-Member

ATTEST: (STATE SEAL)

Assistant Secretary – OTC

APPROVED BY THE CITY OF _____ LEGAL DEPARTMENT

BY _____ DATE _____

City Attorney

EXHIBIT A

Retention Fee = 0.5%

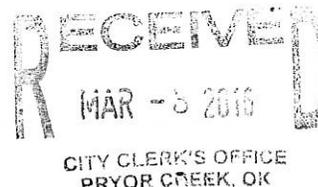


**INFRASTRUCTURE
SOLUTIONS GROUP, LLC**
Consulting Engineers

February 29, 2016

INVOICE SUBMITTED TO:

City of Pryor Creek
12 N. Rowe
Pryor, OK 74361



Invoice # PRY-15-04-02 (Addendum to PRY 14-04)

In Reference To: Castle Theater (PYO) Roof Repairs

EVALUATION – (\$9,500.00) (PRY 14-04)
100% Complete X \$9,500.00 \$9,500.00

NOTE: PRY 14-05 CLOSED AND REPLACED WITH PRY 15-04

Detailed Design (Work Order for \$10,000 Pending) – Work under EJCDC hourly rate provisions:

Engr. Time: 58 hrs. X \$140/hr. =	\$8,120.00
E.I. Time: 5 hrs. X \$105/hr. =	\$525.00
Tech. Time: 12 hrs. X \$100/hr. =	\$1,200.00
Clerical Time: 0 hrs. X 75/hr. =	\$0.00

Bidding Services (Work Order for \$1,000 Pending)
Bid Documents Prepared Job Advertised Feb. 20th
50% of \$1,000 \$500.00

Construction Related Management (Work Order for \$4,000 Pending)

ADDITIONAL SERVICES REQUESTED:

TOTAL BILLED TO DATE	\$19,845.00
TOTAL PREVIOUSLY BILLED	<u>\$13,465.00</u>
TOTAL DUE THIS INVOICE	\$6,380.00

All invoices are payable within 15 days of receipt. Please send payments to:

Infrastructure Solutions Group, LLC
719 S George Nigh Expressway
McAlester, OK 74501

Contractor's Application For Payment No. _____

<u>City of Pryor Creek</u>	Application Period:	Application Date: <u>3-9-16</u>
To (Owner):	From (Contractor): <u>Jaybelle Const LLC</u>	Via (Engineer): <u>Infrastructure Solutions Group, LLC</u>
Project: <u>Whitaker Park Spillway</u>	Contract:	Original (Days): Revised (Days): Remaining (Days):
Owner's Contract No.: <u>PP4-15-03</u>	Contractor's Project No.: <u>PR4-15-03</u>	Engineer's Project No.:

APPLICATION FOR PAYMENT

Change Order Summary

Approved Change Orders		
Number	Additions	Deductions
#1	3,000.00	
TOTALS	3,000.00	
NET CHANGE BY CHANGE ORDERS		

1. ORIGINAL CONTRACT PRICE	\$	71,000.00
2. Net change by Change Orders	\$	3,000.00
3. CURRENT CONTRACT PRICE (Line 1 ± 2)	\$	74,000.00
4. TOTAL COMPLETED AND STORED TO DATE (Column F on Progress Estimate)	\$	74,000.00
5. RETAINAGE:		
a. ____ % x \$ _____ Work Completed	\$	0
b. ____ % x \$ _____ Stored Material	\$	
c. Total Retainage (Line 5a + Line 5b)	\$	
6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5c)	\$	74,000.00
7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application)	\$	0
8. AMOUNT DUE THIS APPLICATION	\$	74,000.00
9. BALANCE TO FINISH, PLUS RETAINAGE (Column G on Progress Estimate + Line 5 above)	\$	0

CONTRACTOR'S CERTIFICATION

The undersigned Contractor certifies that: (1) all previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Applications for Payment; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to Owner at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to Owner indemnifying Owner against any such Liens, security interest or encumbrances); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

By: [Signature] Date: 3-9-16

Payment of: \$ 74,000.00
(Line 8 or other - attach explanation of other amount)

is recommended by: [Signature] (Engineer) 3/10/15 (Date)

Payment of: \$ _____
(Line 8 or other - attach explanation of other amount)

is approved by: _____ (Owner) _____ (Date)

Approved by: _____ Funding Agency (if applicable) _____ (Date)