

TOWN OF CARLTON LANDING  
REGULAR MEETING OF THE BOARD OF TRUSTEES

Location: 10B Boulevard, Carlton Landing, Oklahoma, also known as  
the Carlton Landing Academy Cafeteria  
Saturday; September 21, 2019

Immediately following the Regular Meeting of the Carlton Landing Economic Development Trust

NOTICE AND AGENDA

1. Call to Order
2. Roll Call

Consent Items

To help streamline meetings and allow the focus to be on other items requiring strategic thought, the "Consent Items" portion of the agenda groups the routine, procedural, and self-explanatory non-controversial items together. These items are voted on in a single motion (one vote). However, any Council member requesting further information on a specific item thus removes it from the "Consent Items" section for individual attention and separate vote.

3. Approval of Minutes:
  - a. A Regular Meeting of the CL Board of Trustees of 08.17.19
  - b. B Special Meeting of the CL Board of Trustees of 08.17.19
4. Approval of payment of Claims and Purchase Orders
5. Discuss, consider, and approve a request from Grant Humphreys of Carlton Landing Enterprises, LLC to terminate the construction management contract between the Town of Carlton Landing and Carlton Landing Enterprises, LLC for the purpose of Entrance Road Repairs including FEMA Roadway and Bond Drainage Improvements, or take any other appropriate action.  
exhibit - Carlton Landing Enterprises Termination Letter
6. Items Removed from Consent Agenda
7. Discuss, consider and approve Ordinance \_\_\_\_\_ regarding Use Tax Ordinance; levying and assessing a Use Tax in the amount of three percent (3.0%), setting the effective date of January 1, 2020 with Funds to be used for the general operation of the Town, and providing for exemptions and by separate motion declare an emergency, or take any other appropriate action.  
exhibit- Use Tax Ordinance
  - a. Motion to approve or disapprove declaring an emergency.
8. Discuss, consider and approve Ordinance \_\_\_\_\_ regarding Utilities Tax; levying and assessing an annual tax of two percent (2.0%) upon the gross receipts from all sales of power, light, heat, gas or electricity in the Town, which tax shall be in lieu of any other franchise, license, occupation or excise tax levied by such town as provided and authorized pursuant to 68 O.S. 2601 et seq, and by separate motion declaring an emergency, or take any other appropriate action.  
exhibit - Utilities Tax Ordinance
  - a. Motion to approve or disapprove declaring and emergency.

9. Discuss, consider and approve Ordinance \_\_\_\_\_ regarding the Operation of Financial and Business Procedures of the Town of Carlton Landing including; Appropriations, Deposits Requirements, Investment of Funds, Fund Reserve, Purchasing Authority, Bidding Requirements, and Sale of Surplus Property and by separate motion declare an emergency, or take any other appropriate action.  
exhibit - Finance and Business Procedures Ordinance
  - a. Motion to approve or disapprove declaring and emergency.
10. Discuss, consider, and approve a contract between the Town of Carlton Landing and New Town Development, LLC (Mike Kerney), to provide general project management and oversight to Entrance Road Repairs including FEMA Roadway and Bond Drainage Improvements, or take any other appropriate action.  
exhibit - Management Agreement
10. Reports
  - a. Sales Tax Revenue and other Financial Reports  
Checks Written since Last Meeting
  - b. Town Administrator  
Discuss Greg Buckley doing Management Consulting for RWD#20
  - c. Legal Reports, Comments, and Recommendations to the Governing Body
11. Recognize Citizens wishing to comment on non-Agenda Items  
Under Oklahoma Law, the Board of Trustees are prohibited from discussing or taking any action on items not on today's agenda. Citizens wishing to address the Board on items not on the agenda are required to sign-up no later than five (5) minutes prior to the scheduled start time of the meeting. The sign-in sheet will contain space for citizens name, address, phone number, and topic to discuss. In this way, staff will be able to follow-up on any issues presented, if necessary. Citizens will be provided three (3) minutes.
12. Consider convening into executive session, pursuant to 25 O.S. Section 307 B.3 for the purpose of purchasing real property for the benefit of the Town from the Developer.
13. Discuss and take possible action in open meeting, on executive session item 12, if necessary.
14. Report by Trustee Chuck Mai with possible short discussion regarding takeaways from the Special Meeting of the Board of Trustees held on 18.17.19
15. Comments and questions by Governing Body members regarding items for future consideration.
16. Adjournment

I certify that the foregoing Notice and Agenda was posted in prominent view at 10 Boulevard, Carlton Landing, Oklahoma, also known as "the High School Classroom"

at \_\_\_\_\_ M on the 19th day of September, being at least 24 hours prior to the Regular Meeting described above.

\_\_\_\_\_  
Signature of Person Posting the Agenda  
Agenda

**Jan Summers**

Printed Name of Person Posting the

09.19.19 Agenda Regular Meeting of the CL BOT  
Page 1 of 2

**TOWN OF CARLTON LANDING  
REGULAR MEETING OF THE CARLTON LANDING BOARD OF TRUSTEES**

Location: 10B Boulevard, Carlton Landing, Oklahoma, also known as  
the Carlton Landing Academy Cafeteria

Saturday; August 17, 2019

Immediately following the Regular Meeting of the Carlton Landing Economic Development Trust

**MINUTES**

1. Call to Order

The meeting was called to order at 8:10 a.m. with Mayor Chinnici presiding.

2. Roll Call

PRESENT: A roll call reflected that Trustees Chinnici, Myrick, Brule, Mai, Chapman, Clerk-Treasurer, Summers, Town Financial Manager, Norman, town attorney, Kay Wall and Greg Buckley, Town Administrator were present.

ABSENT: None

3. Financial Reports

Renee Norman, town Financial officer, reported the invoice from the Economic Development Law firm and the town of Carlton Landing Financials for August (see attached)

4. Consent Agenda: Consideration and Action

a. Approval of Minutes:

07.20.19 Regular Meeting of the Carlton Landing Board of Trustees

b. Approval of payment of Claims and Purchase Orders

MOTION: A motion was made by Mai and seconded by Brule to approve the consent agenda as presented.

AYE: Chinnici, Myrick, Brule, Mai, Chapman

NAY: None

5. Administrative Reports: None

6. Legal Reports, Comments, and Recommendations to the Governing Body: None

7. Opportunity for public comment: None

8. Comments and questions by Governing Body members regarding items for future consideration. None
9. New Business: Any matter not known about or which could not have been reasonably foreseen prior to the time of posting. None
10. Adjournment

There being no further business, a motion was made and seconded to adjourn the meeting at 8:11 a.m., August 17, 2019.

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Mayor

Attest:

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Town Clerk



CENTER FOR ECONOMIC  
DEVELOPMENT LAW

301 N. Harvey, Suite 100  
Oklahoma City, Oklahoma  
73102-3421

405 232 4606 TELEPHONE  
405 232 5010 FACSIMILE  
www.econlaw.com

August 13, 2019  
(Invoice Date)

Invoice No.: 13734

TIN: 80-0520159

Matter No.789-1

Town of Carlton Landing  
20 Boulevard  
Carlton Landing, Oklahoma

**Attention:** Grant Humphreys, Administrator (Via Email)

**RE:** Legal Consulting Services Under the Local Development Act

**Billing Period:**

For the Calendar Month Ending Jul 31, 2019

**LEGAL SERVICES**

DATE	DESCRIPTION	Attorney/ Staff	Rate	Hours	Amount
Jul-31-19	Review agenda for August meeting.	LVB	\$250.00	0.40	100.00

**Total of Legal Services Fees for Billing Period:** **\$100.00**

**Total of Legal Services Fees & Disbursements for Billing Period:** **\$100.00**

Previous Balance: 648.00

**Balance Due:** **\$748.00**

"Balance Due" may not reflect payments or charges made after the last day of the Billing Period.

6:39 PM

08/12/19

Accrual Basis

**The Town of Carlton Landing**  
**Balance Sheet**  
**As of August 12, 2019**

	Aug 12, 19
<b>ASSETS</b>	
Current Assets	
Checking/Savings	
BOK - Checking - *9683	228,939.67
General Obligation Bond 2018	69,786.67
Sinking Fund Acct # 312713087	68,874.16
Total Checking/Savings	367,600.50
Accounts Receivable	
Accounts Receivable	786.00
Total Accounts Receivable	786.00
Total Current Assets	368,386.50
Fixed Assets	
Marina Project	22,778.50
Swim Beach	225,973.18
Total Fixed Assets	248,751.68
<b>TOTAL ASSETS</b>	<b>617,138.18</b>
<b>LIABILITIES &amp; EQUITY</b>	
Liabilities	
Current Liabilities	
Accounts Payable	
Accounts Payable	5,245.44
Total Accounts Payable	5,245.44
Other Current Liabilities	
Road Repair	83,717.84
24000 - Payroll Liabilities	1,636.37
Total Other Current Liabilities	85,354.21
Total Current Liabilities	90,599.65
Long Term Liabilities	
2018 GOB	69,801.67
2017 GOB	168,259.22
Total Long Term Liabilities	238,060.89
Total Liabilities	328,660.54
Equity	
32000 - Retained Earnings	292,492.09
Opening Balance Equity	100.00
Net Income	-4,114.45
Total Equity	288,477.64
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>617,138.18</b>

6:39 PM

08/12/19

Accrual Basis

**The Town of Carlton Landing**  
**Profit & Loss Budget vs. Actual**  
 July through August 2019

	Jul - Aug 19	Budget	\$ Over Budget
<b>Income</b>			
<b>Revenues</b>			
Permits and Licensing	350.00	5,940.00	-5,590.00
Sales Tax Revenue	3,129.96	20,000.00	-16,870.04
Sinking Fund Receipts	0.00	5,700.00	-5,700.00
<b>Total Revenues</b>	<b>3,479.96</b>	<b>31,640.00</b>	<b>-28,160.04</b>
<b>Total Income</b>	<b>3,479.96</b>	<b>31,640.00</b>	<b>-28,160.04</b>
<b>Gross Profit</b>	<b>3,479.96</b>	<b>31,640.00</b>	<b>-28,160.04</b>
<b>Expense</b>			
Administrator	3,615.38	5,084.00	-1,468.62
Annual Audit	0.00	0.00	0.00
Events	0.00	0.00	0.00
FEMA Match	0.00	7,000.00	-7,000.00
Fire Protection	500.00	1,000.00	-500.00
Finance Officer	1,200.00	1,200.00	0.00
General Administrative Expense	15.00	1,340.00	-1,325.00
Home Inspections	0.00	4,100.00	-4,100.00
Insurance	0.00	300.00	-300.00
Interest - Interest Expense	0.00	5,700.00	-5,700.00
Legal Fees- Town Attorney	1,000.00	1,000.00	0.00
Legal Fees - Economic Develop	0.00	1,500.00	-1,500.00
Meeting Expense	50.00	100.00	-50.00
Operating Expense	0.00	200.00	-200.00
Pending Projects Stephens Road	0.00	0.00	0.00
Profession Fees & Subscriptions	0.00	300.00	-300.00
Publication and Notice Exp	0.00	250.00	-250.00
Rent	500.00	1,200.00	-700.00
Road Maintenance	0.00	1,000.00	-1,000.00
Trails Maintenance	0.00	800.00	-800.00
Training and Reimbursement	0.00	0.00	0.00
Website Expense	0.00	160.00	-160.00
66000 - Payroll Expenses	714.03		
<b>Total Expense</b>	<b>7,594.41</b>	<b>32,234.00</b>	<b>-24,639.59</b>
<b>Net Income</b>	<b>-4,114.45</b>	<b>-594.00</b>	<b>-3,520.45</b>



Page 1

# **TOWN OF CARLTON LANDING SPECIAL MEETING OF THE BOARD OF CARLTON LANDING BOARD OF TRUSTEES**

Location: 10B Boulevard, Carlton Landing, Oklahoma also known as  
the Carlton Landing Academy Cafeteria  
Saturday; August 17, 2019

Immediately following the Regular Meeting of the Pittsburg County RW & SD #20

Notice/Agenda posted in prominent view at 10B Boulevard, Carlton Landing, OK, also  
known as the Carlton Landing Academy Cafeteria @ 4:00 p.m. August 14, 2019

## **MINUTES**

### **1. Call to Order**

The meeting was called to order at 8:45 a.m. with Mayor Chinnici presiding.

### **2. Roll Call.**

Present: A roll call reflected that Trustees Chinnici, Myrick, Brule, Mai, Chapman,  
Clerk-Treasurer Summers, Town Finance Manager Norman, Town  
Attorney Kay Wall and Town Administrator Greg Buckley were present

Not Present: None

### **3. Discussion of Town goals, projects, finances, future planning, and vision with representatives from various town partners and vendors, including presentations as listed in the posted agenda.**

#### **A. Understanding the Dynamics of the Town of Carlton Landing: Greg Buckley**

Mr. Buckley reviewed the Town's formation under the Township Trust Title 60. He presented a short overview of the finances of the Town. Carlton Landing has several sources of income. General operating expenses are derived from taxes including Sales Tax. The town also collects Ad Valorem taxes. In addition, the town derives income from its TIF district. The Town has purchased two Revenue Notes which are being supported by TIF funds from property taxes collected from the TIF District. In addition, we have sold two GO Bonds based on a vote of the Citizens approving GO Bond purchases.

GO bonds must be used for projects identified in the election propositions and may be used only to improve property owned by the Town.

TIF funds may be used for projects identified in the priorities list and approved by the Note buyer at the time of purchase.

Going forward, it is important that the town identify new sources of revenue to be used for the operating budget. TIF funds may be used for projects, but they cannot be used for general operating expenses nor maintenance.

#### **B. How the TIF works: Leslie Batchelor, Esq. Center for Economic Development Law**

Leslie Batchelor described the development of the TIF and the need to comply with the Project Plan and the Master Development Agreement. The purpose of TIF is to drive economic development of the Town

C. The TIF Committee and the Trust. Where do they fit? Jim Hasenbeck

The TIF Committee consists of the Developer and representatives from the Planning Commission, the HOA, and the Town. The Committee sets priorities for use of TIF funds and makes recommendations to the Carlton Landing Economic Development Trust regarding use of those funds. It is an advisory board only.

D. Why do we have Bonds: G.O. Bonds and Revenue Notes: Chris Gander, BOK

Chris Gander explained the complexities of the relationships of the G.O. Bonds to the Revenue Notes supported by the TIF funds collected as property taxes from the TIF district in Carlton Landing.

E. Planning Commission: Jim Hasenbeck

The planning commission assures that the overall development of the town meets the standards set forth by the Town Architect, the Developer, and other designers of the Town of Carlton Landing as put forth in the Living Tradition (Design Code) as well as in the Declaration of Covenants, Conditions and Restrictions for Carlton Landing.

F. What is the role of the Developer relative to the Town? Grant Humphreys

Grant made several remarks relative to the development of the Town and the interaction of the Entities of the Town. He shared a dropbox folder he created with documents related to the current topic.

[www.tinyurl.com/y4kjp9wc](http://www.tinyurl.com/y4kjp9wc)

G. What are the responsibilities of the HOA? Austin Tunnell

As the Town has jurisdiction and responsibility for the property owned by the Town, the HOA has jurisdiction and responsibility for properties owned by the HOA. The Town owns only the Entrance/Exit road and the Town Green and Beach. All other property including the pools are owned by the HOA. The Town has a Town Green Park Management Agreement with Carlton Landing Enterprises, LLC.

The HOA consists of Grant Humphreys, Kirk Humphreys, Blair Humphreys, David Auld, Austin Tunnell, and a third Citizen of Carlton Landing the position of which is vacant at this time.

H. Understanding the Rural Water District: Daryl Nieto

The Rural Water District is an entity separate from the Town of Carlton Landing. The District supplies water to the Citizens of Carlton Landing. The District is in the process of upgrading its equipment with the installation of a new water treatment plant. When all approval is obtained from the DEQ, installation of the plant will begin.

I. Understanding the United States Army Corps of Engineers: Mike Kerney

The USACE has jurisdiction over Lake Eufaula and its shoreline. Any projects involving building, clearing, or general use of the shoreline must be approved by the Corps. The rules of the Corps are strict and unbendable. Incorporation of Carlton Landing as a Town made leasing Corps land and interaction with the USACE easier.

J. Other groups providing services within the Town of Carlton Landing:

1. Carlton Landing Academy: No presentation

2. Carlton Landing Home Rental Program: Kayla Burris

Kayla described the operation of the Home Rental Program which allows homeowners a hassle-free way to rent their homes. Homes are cleaned and inspected to provide renters with an ideal way to visit and stay at Carlton Landing while providing peace of mind to homeowners.

3. Carlton Landing Boat Club: David Kimmel

The Boat Club is an ideal way to enjoy the beauty of Lake Eufaula without the concerns of owning a boat. Club Members pay a fee to join. Boats are available by reservation.

4. Carlton Landing Foundation: Sarah Tunnell

The Foundation seeks to provide for the cultural aspects of the Town. They sponsor movies and other community activities for adults and children.

5. Builders Guild of Carlton Landing: Grant Humphreys

Grant gave a short history of the Builders Guild. The goal is to maintain an appropriate number of builders who will keep construction at a steady pace which will provide homes for sale without overbuilding.

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Mayor

Attest:

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Town Clerk

ASAP

## **AGENDA ITEM COMMENTARY**

**ITEM TITLE:** Discuss consider, and approve a request from Grant Humphreys of Carlton Landing Enterprises, LLC to terminate the construction management contract between the Town of Carlton Landing and Carlton Landing Enterprises, LLC for the purpose of Entrance Road Repairs including FEMA Roadway and Bond Drainage Improvements, or take any other appropriate action.

**INITIATOR:** Greg Buckley, Town Administrator

**STAFF INFORMATION SOURCE:** Greg Buckley, Town Administrator

**BACKGROUND:** Carlton Landing Enterprises, LLC was under contract to perform work and assist with making improvements to Firefly Lane, Block 13 and 15, and Boulevard Lane, Block 10 and 11, but requested to terminate the Agreement. Staff negotiated a revised scope of work which provides for general project management and oversight of the project. Mike Kerney has the capabilities to assist the Town Administrator with this project. The 2018 TIF Revenue Bond approved \$180,000.00 for Firefly and Boulevard Lane(s) paving and drainage. The project is in the initial phase and will need to be engineered and then bid. We have had some initial discussion with Pittsburgh County on them assisting with the project.

**FUNDING:** None

**EXHIBITS:** Letter from Carlton Landing Enterprises

**RECOMMENDED ACTION:** Approve request from Grant Humphreys of Carlton Landing Enterprises, LLC to terminate the construction management contract between the Town of Carlton Landing and Carlton Landing Enterprises, LLC for the purpose of Entrance Road Repairs including FEMA Roadway and Bond Drainage Improvements.



Aug 17, 2019

Mayor Joanne Chinnici  
The Town of Carlton Landing  
Carlton Landing, OK 74432

**RE: CONTRACT CANCELLATION**

Honorable Mayor Chinnici,

With this letter, I am requesting termination of two construction management contracts between Carlton Landing Enterprises, LLC and the Town of Carlton Landing. The two contracts are:

1. FEMA Roadway and Bond Drainage Improvements Contract, signed May 18, 2019
2. Alley Paving and Drainage Improvements Contract, signed May 18, 2019.

Effective October 1st, Mike Kerney will no longer be an employee of Carlton Landing Enterprises, LLC. Due to that change, CLE not have the personnel resources available to perform the scope defined in those contracts. Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Grant Humphreys", with a stylized flourish at the end.

Grant Humphreys  
Manager, Carlton Landing Enterprises, LLC

Item No.   7  

Date: 9-21-19

## **AGENDA ITEM COMMENTARY**

**ITEM TITLE:** Discuss, consider and approve Ordinance \_\_\_\_\_ regarding Use Tax Ordinance; levying and assessing a Use Tax in the amount of three (3.0%), setting the effective date of January 1, 2020 with Funds to be used for the general operation of the Town, and providing for exemptions and by separate motion declare an emergency, or take any other appropriate action.

**INITIATOR:** Greg Buckley, Town Administrator

**STAFF INFORMATION SOURCE:** Greg Buckley, Town Administrator

**BACKGROUND:** The Town approved levying a Sales Tax of three percent (3.0%) in 2014. At that time the Town did not pass an Ordinance levying and assessing a Use Tax. The Use Tax is paid on items purchased outside the State but stored and used within the State/Town. This is important as internet sales falls under the category of Use Tax, not Sales Tax.

**FUNDING:** None

**EXHIBITS:** Use Tax Ordinance

**RECOMMENDED ACTION:** Approve Ordinance \_\_\_\_\_ regarding Use Tax Ordinance; levying and assessing a Use Tax in the amount of three percent (3.0%), setting the effective date of January 1, 2020 with Funds to be used for the general operation of the Town, and providing for exemptions.



**TOWN OF CARLTON LANDING**

**ORDINANCE NO. \_\_\_\_\_**

**USE TAX**

**AN ORDINANCE OF THE TOWN OF CARLTON LANDING, OKLAHOMA, ADOPTING PROVISIONS LEVYING AND ASSESSING AN EXCISE TAX OF THREE PERCENT (3%) OF THE PURCHASE PRICE UPON THE STORAGE, USE, OR CONSUMPTION OF TANGIBLE, PERSONAL PROPERTY PURCHASED OUTSIDE THE STATE OF OKLAHOMA AND BROUGHT INTO CARLTON LANDING, OKLAHOMA; PROVIDING EXEMPTIONS THERETO; SPECIFYING WHEN SUCH TAXES ARE PAYABLE; PROVIDING COLLECTION OF TAX BY RETAILER OR VENDOR NOT MAINTAINING PLACE OF BUSINESS WITHIN STATE OR BOTH WITHIN OR WITHOUT STATE; PROVIDING FOR REVOKING PERMITS; ESTABLISHING REMUNERATIVE DEDUCTIONS ALLOWED VENDORS OR RETAILERS OF OTHER STATES; PROVIDING INTEREST AND PENALTIES FOR DELINQUENT PAYMENT OF TAXES; PROVIDING FOR WAIVER OF INTEREST AND PENALTIES; PROVIDING FOR SUBMISSION OF CLAIM FOR REFUND OR ERRONEOUS PAYMENTS; PROVIDING THAT RECORDS SHALL BE CONFIDENTIAL AND PRIVILEGED; PROVIDING THAT TAXES COLLECTED HEREUNDER SHALL BE CUMULATIVE; PROVIDING FOR SEVERABILITY OF THE SECTIONS OF THIS ORDINANCE; DEFINING TERMS, DEFINING TAX COLLECTOR; ESTABLISHING CLASSIFICATION OF TAX PAYERS; RATIFYING SUBSISTING STATE PERMITS; ESTABLISHING PURPOSES FOR WHICH REVENUES COLLECTED THEREUNDER SHALL BE EXPENDED; ESTABLISHING CITATION OF THE REVENUES COLLECTED HEREUNDER SHALL BE EXPENDED; ESTABLISHING CITATION OF THE ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, 68 O.S., 1998 Supplement, Section 1402, allows any Municipality which has a Sales Tax to levy an excise tax on the storage, use or other consumption of tangible personal property; and,

**WHEREAS**, the Town of Carlton Landing is desirous of utilizing this additional tax, as permitted in said Section 1402;

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF CARLTON LANDING, OKLAHOMA:**

SECTION 1.                    Use Tax Provisions Adopted

The following Use Tax provisions, all of which shall read as follows, are hereby adopted for Carlton Landing, Oklahoma:

Use Tax Ordinance No. \_\_\_\_\_

Section 1.                    Excise Tax on Storage, Use, or other Consumption of Tangible Personal Property Levied

There is hereby levied and there shall be paid by every person storing, using or otherwise consuming within Carlton Landing, Oklahoma, tangible, personal property purchased or brought into this Municipality, an excise tax on the storage, use or otherwise consuming within the Municipality of such property at the rate of three percent (3%) of the purchase price of such property. Such tax shall be paid by every person storing, using or otherwise consuming, within the Municipality, tangible, personal property purchased or brought into the Municipality. The additional tax levied hereunder shall be paid at the time of importation or storage of the property within the Municipality and shall be assessed to only property purchased outside Oklahoma; provided that, the tax levied herein shall not be levied against tangible, personal property intended solely for use outside the Municipality, but which is stored in the Municipality pending shipment outside the Municipality or which is temporarily retained in the maintenance of other service. Any person liable for payment of the Use Tax authorized herein, may deduct from such Use Tax and County or Municipal Sales Tax previously paid on such goods or services; provided that the amount deducted shall not exceed the amount that would have been due if the taxes imposed by the municipality had been levied on the sale of such goods or services.

Section 2.                    Exemptions

The provisions of the Ordinance shall not apply:

1. In respect to the use of an article of tangible, personal property brought into the Municipality of a non-resident individual visiting in this Municipality for his or her personal use or enjoyment while within the Municipality;
2. In respect to the use of tangible, personal property purchased for resale before being used;
3. In respect to the use of any article of tangible, personal property on which a tax, equal to or in excess of that levied by both the Oklahoma Use Tax Code and the Municipality of Carlton Landing, Oklahoma, Use Tax Ordinance, has been paid by the person using such tangible, personal property in the Municipality, whether such tax was levied under the Laws of Oklahoma or some other State, Municipality, or County of the United States. If any article of tangible personal property has already been subjected to a tax law by Oklahoma or any other State or County in respect to its sale or use, in an amount less than the tax imposed by both the Oklahoma Use Tax Code and the Carlton Landing, Oklahoma, Use Tax Ordinance, and the rate by which the previous tax upon the sale or use was computed; provided, that, no credit shall be

given for taxes paid in another State, Municipality, or County does not grant like credit for taxes paid in Oklahoma and the Municipality.

4. In respect to the use of machinery and equipment purchased and used by persons establishing new manufacturing or processing plants in the municipality, and machinery and equipment purchased and used by persons in the operation of manufacturing plants already established in the Municipality which machinery and equipment is incorporated into, and is directly used in, the process of manufacturing property subject to the taxation under the Sales Tax Code of Carlton Landing, Oklahoma. The term “manufacturing plants” shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;
5. In respect to the use of tangible, personal property now specifically exempted from taxation under the Sales Tax Code of Carlton Landing, Oklahoma;
6. In respect to the use of any article of tangible, personal property brought into the Municipality by an individual with intent to become a resident of this Municipality where such personal property is for such individual’s personal use or enjoyment;
7. In respect to the sum of any article of tangible, personal property used, or to be used, by commercial airlines or railroads; or
8. In respect to livestock purchased outside Oklahoma and brought into this Municipality for feeding or breeding purposes, and which is later resold.

### Section 3.                      Time Due: Returns: Payment

The tax levied by this Ordinance is due and payable at the time and in the manner and form prescribed for payment of the State Use Tax under the Use Tax Code of the State of Oklahoma.

### Section 4.                      Tax Constitutes Debt

Such taxes, penalty or interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors, and may be collected by suit as with any other debt.

### Section 5.                      Collection of Tax by Retailer or Vendor

Every retailer or vendor maintaining places of business both within and without the State of Oklahoma, and making sales of tangible, personal property from a place of business outside this State for use in Carlton Landing, Oklahoma, shall, at the time of making such sales, collect the Use Tax levied by this Ordinance from the purchaser and give to the purchaser a receipt therefore in the manner and form prescribed by the Oklahoma Tax Commission, if said Tax Commission shall, by regulation, require such receipt. Each retailer or vendor shall list operating in this Municipality and location of any and all distribution or sales houses or offices or other places of business in this Municipality.

Section 6.                      Collection of Tax by Retailer or Vendor not Maintaining a Place of Business within the State or Both Within and Without State; Permits

The Oklahoma Tax Commission may, at its discretion, upon application, authorize the collection of the Use Tax herein levied by any retailer or vendor not maintaining a place of business within this State but who makes sales of tangible, personal property for use in this Municipality, and by the out-of-state place of business of any retailer or vendor maintaining places of business both within and without Oklahoma and making sales of tangible, personal property at such out-of-state place of business for use in this Municipality. Such retailer or vendor may be issued, without charge, a Permit to collect such taxes, by said Tax Commission in such manner and subject to such regulations and agreements, as it shall prescribe. When so authorized, it shall be the duty of such retailer or vendor to collect the Use tax upon all tangible, personal property sold to his knowledge for use within this Municipality. Such authority and Permit may be canceled when, at any time, said Tax Commission considers that such Use Tax can more effectively be collected from the person using such property in this Municipality; provided, however, delivery to the purchaser within this Municipality by the retailer or vendor in such retailer's or vendor's vehicle, whether owned or leased (not by common carrier), such sales or transactions shall continue to be subject to applicable Municipal Sales Tax at the point of delivery and the tax shall be collected and reported under the taxpayer's Sales Tax Permit number accordingly.

Section 7.                      Revoking Permits

Whenever any retailer or vendor not maintaining a place of business in this State, or both within and without this State, authorized to collect the Use Tax herein levied, fails to comply with any of the provisions of this Article or the Oklahoma Use Tax Code or any order, rules or regulations of the Oklahoma Tax Section 1408, by order, revoke the Use Tax Permit, if any, issued to such retailer or vendor, and if any such retailer or vendor is a corporation authorized to do business in this State may, after the notice and hearing above provided, cancel said corporation's license to do business in this State and shall issue a new license only when such corporation has complied with the obligations under this Ordinance, the Oklahoma Use Tax Code, or any order, rules or regulations of the Oklahoma Tax Commission.

Section 8.                      Remunerative Deductions Allowed Vendors or Retailers of Other States

Returns and remittances of the Use Tax herein levied and collected shall be made to the Oklahoma Tax Commission at the time and in the manner, form and amount prescribed for returns and remittances required by the Oklahoma Use tax Code; remittances of Use Taxes collected hereunder shall be subject to the same discount as may be allowed by said Code for the collection of State Use Taxes.

Section 9.                    Interest and Penalties; Delinquency

Section 217 of Title 68 O.S. 1998 Supplement is hereby adopted and made a part of this Ordinance, and interest and penalties at the rates and in the amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the Use Tax levied by this Ordinance; provided, that, the failure or refusal of any retainer or vendor to make and transmit the reports and remittances of Use Tax in the time and manner required by this Ordinance shall cause such Tax to be delinquent. In addition, if such delinquency continues for a period of five (5) days, the retailer or vendor shall forfeit his claim to any discount allowed under this Ordinance.

Section 10.                Waiver of Interest and Penalties

The interest or penalty, or any portion thereof, accruing by reason of a retailer's or vendor's failure to pay the Use Tax herein levied may be waived or remitted in the same manner as provided for said waiver of remittance as applied in administration of the State Use Tax provided in 68 O.S. 1998, Section 227; to accomplish the purposes of this Section, the applicable provisions of said Section 227 are hereby adopted by reference and made a part of this Ordinance.

Section 11.                Erroneous Payments; Claims for Refund

Refund of erroneous payment of the Municipal Use Tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time provided for administration of the State Use Tax as set forth in 68 O.S. 1998, Section 227; to accomplish the purpose of this Section the applicable provisions of said Section 227 are hereby adopted by reference and made a part of this Ordinance.

Section 12.                Fraudulent Returns

In addition to all civil penalties provided by this Ordinance, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any Use Tax, or portion thereof, rightfully due under this Ordinance, shall be an offense, and upon conviction thereof the offending taxpayer shall be punished by a fine of not more than Two Hundred dollars (\$200.00). Each day of noncompliance with this Ordinance shall constitute a separate offense.

Section 13.                Records Confidential

The confidential and privileged nature of the records and files concerning the administration of the Municipal Use Tax is legislatively recognized and declared, and to protect the same, the provisions of 68 O.S. 1998, Section 205, of the State Use Tax Code, and each Subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the Municipal Use Tax as if herein set forth in full.

Section 14.                    Provisions Cumulative

The provisions hereof shall be cumulative, and in addition to any and all other taxpaying provisions of Municipal Ordinances and regulations.

Section 15.                    Provisions Severable

The provisions hereof are hereby declared to be severable, and if any Section, paragraph, sentence or clause of this Ordinance, is for any reason held invalid or inoperative by any court of competent jurisdiction, such decision shall not affect any other Section, paragraph, sentence, or clause hereof.

Section 16.                    Definitions

The definitions of words, terms, and phrases contained in the Oklahoma Tax Code, Section 1401, 68 O.S. 1991 and 1998 Supplement, are hereby adopted by reference and made a part of this Article; in addition hereto, the following words and terms shall be defined as follows:

1. TOWN shall mean the Town of Carlton Landing, Oklahoma.
2. TRANSACTION shall mean sale.
3. The term, "Tax collector," as used herein, means the Department of the Municipality, or the official agency of the State, duly designated according to Law or contract authorized by law, to administer the collection of the Use Tax herein levied.

Section 17.                    Classification of taxpayers

For purpose of this Ordinance, the classification of taxpayers hereunder shall be as prescribed by State Law for the purposes of the Oklahoma Use Tax Code.

Section 18.                    Subsisting State Permits

All valid and subsisting Permits to do business issued by the Oklahoma Tax Commission pursuant to the Oklahoma Tax Code are, for the purpose of this Ordinance, hereby ratified, confirmed and adopted in lieu of any requirement for an additional Municipal Permit for the same purpose.

Section 19.                    Purposes of Revenues

It is hereby declared to be the purpose of this Ordinance to provide revenues for the support of the functions of the Municipal Government of the Town of Carlton Landing, Oklahoma, and any and all revenues derived hereunder may be expended by the Town Board of Trustees for any purpose for which funds may be lawfully expended and authorized.

Section 20.                      Citation

This Ordinance shall be known and may be cited as the Carlton Landing, Oklahoma “Use Tax Ordinance.”

Section 21.                      Penalty

Any violation of this Ordinance shall be liable for a fine not to exceed Two Hundred dollars (\$200.00) per day, or the maximum legal limit.

Section 22.                      Effective Date

This Ordinance shall take effect on and after the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

PASSED AND APPROVED BY THE MAYOR AND BOARD OF TRUSTEES OF THE TOWN OF CARLTON LANDING, OKLAHOMA, THIS 21<sup>st</sup> DAY OF SEPTEMBER, 2019.

SEAL

\_\_\_\_\_  
Mayor  
Town of Carlton Landing

ATTEST:

\_\_\_\_\_  
Town Clerk

Item No. 8

Date: 9-21-19

## **AGENDA ITEM COMMENTARY**

**ITEM TITLE:** Discuss, consider and approve Ordinance \_\_\_\_\_ regarding Utilities Tax; levying and assessing an annual tax of two percent (2.0%) upon the gross receipts from all sales of power, light, heat, gas or electricity in the Town, which tax shall be in lieu of any other franchise, license, occupation or excise tax levied by such town as provided and authorized pursuant to 68 O.S. 2601 et seq, and by separate motion declare an emergency, or take any other appropriate action.

**INITIATOR:** Greg Buckley, Town Administrator

**STAFF INFORMATION SOURCE:** Greg Buckley, Town Administrator

**BACKGROUND:** Currently, the primary general fund revenue is from Sales Tax and the Town currently has limited retail. In addition, the Retail is very seasonal. With the addition of Use Tax, the town will see some increase; however, the Use Tax revenue is speculative until we build some history on what is received. Diversifying funding revenue is critical for the Town to provide revenue for on-going operations. Implementing the Utilities Tax at 2% does not overly impact any business or their customers. On a \$100 bill the addition of the tax will be \$2.00. While this will not generate a large amount of income, at the present time, it will grow as the Town continues to grow.

**FUNDING:** None

**EXHIBITS:** Utilities Ordinance

**RECOMMENDED ACTION:** Approve Ordinance \_\_\_\_\_ regarding Utilities Tax; levying and assessing an annual tax of two percent (2.0%) upon the gross receipts from all sales of power, light, heat, gas or electricity in the Town, which tax shall be in lieu of any other franchise, license, occupation or excise tax levied by such town as provided and authorized pursuant to 68 O.S. 2601 et seq.



**ORDINANCE NO. \_\_\_\_\_**

**UTILITY TAX**

**BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF CARLTON LANDING, OKLAHOMA:**

That Ordinance # \_\_\_\_\_, Utility Tax, is hereby enacted, and shall read as follows:

From and after September 21, 2019, there is hereby levied and assessed an annual tax of two percent (2%) upon the gross receipts from all sales of gas, power, heat, light or electricity in the Town of Carlton Landing, which tax shall be in lieu of any other franchise, license, occupation, or excise tax levied by such Town, all as provided by State law.

**EMERGENCY CLAUSE:**

It being immediately necessary for the preservation of the public peace, health and safety of the Town of Carlton Landing, Oklahoma, and the inhabitants thereof, an emergency is hereby declared to exist. By reason whereof it is necessary that this ordinance shall go into full effect and be of force immediately upon its passage.

PASSED AND APPROVED BY THE MAYOR AND BOARD OF TRUSTEES OF THE TOWN OF CARLTON LANDING, OKLAHOMA, THIS 21<sup>st</sup> DAY OF SEPTEMBER, 2019.

SEAL

\_\_\_\_\_  
Mayor  
Town of Carlton Landing

ATTEST:

\_\_\_\_\_  
Town Clerk

## **AGENDA ITEM COMMENTARY**

**ITEM TITLE:** Discuss, consider and approve Ordinance \_\_\_\_\_ regarding the Operation of Financial and Business Procedures of the Town of Carlton Landing including; Appropriations, Deposits Requirements, Investment of Funds, Fund Reserve, Purchasing Authority, Bidding Requirements, and Sale of Surplus Property and by separate motion declare an emergency, or take any other appropriate action.

**INITIATOR:** Greg Buckley, Town Administrator

**STAFF INFORMATION SOURCE:** Greg Buckley, Town Administrator

**BACKGROUND:** State Statute(s) provides general requirements and guidelines regarding municipal finance and purchasing. The Statute(s) also provide the ability for cities and towns to set procedures and purchasing authority limits specific to their community. While the Town has been following the State Statute, Staff felt it would be beneficial for the Town Trustees to provide more specific guidelines and spending authority limits for Staff. Highlights of the Ordinance include:

- Only State and Federally incorporated Banks and Savings and Loans shall be used.
- Allows the City Treasurer to invest funds of the Town.
- Establishes a Fund Reserve of at least 25% for each Town Fund, excluding sinking/debt service funds.
- Establishes limits for the when quotes, bids and Trustee authority is needed for purchasing.
- Allows for certain exemptions for obtaining quotes, bids.
- Allows for the Use of purchasing from State Contracts, Purchasing Cooperative, and State Surplus.
- Establishes the requirements for declaring items surplus and setting the threshold for Trustee approval at \$5,000.00.
- Reiterates State Statute that elected officials and officers of the Town may not directly or indirectly benefit or have an interest in any sale, lease or contract.

The Ordinance provides the top limit before Trustee approval at \$25,000, which is the top limit under State Statute. Operationally, purchases can only be made if funds have been budgeted, which makes the purchase process more of an administrative function. If an item is not budgeted or funds are needed to be transferred which require a budget amendment, the Town Trustees would have to approve the Budget Amendment prior to the purchase.

**FUNDING:** None

**EXHIBITS:** Financial and Business Procedures Ordinance

**RECOMMENDED ACTION:** Approve Ordinance \_\_\_\_\_ regarding the Operation of Financial and Business Procedures of the Town of Carlton Landing including; Appropriations, Deposits Requirements, Investment of Funds, Fund Reserve, Purchasing Authority, Bidding Requirements, and Sale of Surplus Property.

ORDINANCE NO. \_\_\_\_

AN ORDINANCE GOVERNING THE OPERATION OF FINANCIAL AND BUSINESS PROCEDURES OF THE TOWN OF CARLTON LANDING INCLUDING APPROPRIATIONS, DEPOSIT REQUIREMENTS, INVESTMENT OF FUNDS, FUND RESERVE, PURCHASING AUTHORITY, BIDDING REQUIREMENTS, AND SALE OF SURPLUS PROPERTY

WHEREAS, Oklahoma Statutes Title 11 Section 17, Title 61 and Title 62 outline general requirements to municipal finances and purchasing, the Statues allow cities and towns discretion for their respective policies and practices; and

WHEREAS, the Board of Trustees of Carlton Landing, Oklahoma deem it to be in the best interests and safety of the citizens to establish guidelines regarding the finances and purchasing policies.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF CARLTON LANDING, OKLAHOMA:

SECTION 1. APPROPRIATIONS

All monies, however derived, belonging to the town shall only be appropriated for such objects, and defraying such expenses as accrue or necessarily arise in the exercise of powers granted by law and ordinances of the town. No appropriation shall be made without an order to that effect entered upon a proper book to be kept for that purpose by the city.

SECTION 2. DEPOSITORYES DESIGNATED; FUNDS DEPOSITED

- A. Banks and savings and loan associations which are incorporated under Federal or State law may by designated as depositories by the Board of Trustees for the funds of the Town. The city treasurer, or designee, shall deposit daily all public funds received in these banks. Funds may be transferred from one depository to another upon direction of the city treasurer.
- B. Deposits shall be secured as provided by state law.

## SECTION 2. INVESTMENT OF TOWN FUNDS

The city treasurer or any other person authorized to invest public monies shall invest the same in those investments authorized by the Board of Trustees or authorized by state law in a manner authorized by either or both such board and statutes.

## SECTION 3. FUND RESERVE

Each Fund of the Town shall maintain a reserve of not less than twenty-five percent (25%). In the event the a Fund Reserve falls below twenty-five percent (25%) and the reserve cannot be brought back to the minimum in a single year, the Board of Trustees shall allocate such funds from year-end balance surplus that are not needed for next fiscal year operation to increase the reserve as much as possible until such time as the minimum reserve is achieved. Use of Fund Reserve shall require the approval of the Trustees to cover then current year short-falls or emergencies. Fund Reserve shall not apply to sinking funds or debt service funds that serve to hold moneys for repayment of notes or loans.

## SECTION 4. PURCHASING

- A. Definition: "Contractual services", for the purpose of this Chapter, means services performed by the city by persons not in the employment of the City, and may include the use of equipment or the furnishing of commodities in connection with such services under express or implied contract. Contractual services include: travel, freight, express, parcel post, postage, telephone, telegraph, utilities, rents, repairs, alterations, and maintenance of buildings, equipment, streets, and bridges and other physical facilities of the City and other services performed by the City by persons not in the employment of the City.
- B. Authority to purchase: All purchases of supplies, materials, equipment, and contractual services for the offices, departments and agents of the Town government shall be

made by the Town Administrator or by other City personnel in accordance with purchase authorizations issued by the Town Administrator, subject to any regulations which Board of Trustees may prescribe

C. Procedure:

1. Any supplies, materials and equipment for the offices, departments and agencies of the Town which have a cost not exceeding twenty-five thousand dollars (\$25,000.00) shall follow purchasing guidelines:

- a. Purchases under two thousand five hundred dollars (\$2,500.00) require no quotes or bids.
- b. Purchases from two thousand five hundred dollars (\$2,500.00) to ten thousand dollars (\$10,000.00) require three (3) verbal quotes.
- c. Purchases from ten thousand dollars one cent (\$10,000.01) to twenty-five thousand dollars (\$25,000.00) require three (3) written quotes.
- d. General Fund amounts over twenty-five thousand dollars (\$25,000.00) require formal bids and approval by the Board of Trustees.
- e. Trust authority amounts over fifty thousand dollars (\$50,000.00) require formal bids and approval by the authority.

2. Exceptions:

- a. Notwithstanding the foregoing limitation, competitive bidding and or obtaining quotes shall not be required and the Town Administrator shall have the authority, instead, to make purchases from a Cooperative Purchasing Agreement/Plan or under contracts let by the State of Oklahoma, when the best interests of the Town would be served. The Town Administrator has the authority to join or become a member of Cooperative Purchase Agreement/Plan(s) that comply with Oklahoma purchasing Statutes.
- b. The purchase of used equipment, supplies and or items from Federal or State Surplus sites or from a dealer or auction site provided the item was budgeted and the

- purchase price does not exceed the budget amount for said item.
- c. Contractual services (gas, electricity, telephone service, and the like) purchased from a public utility at a price or rate determined by the State Corporation Commission or other government authority.
  - d. Taxes, including but not limited to withholding social security and unemployment compensation taxes.
  - e. Retirement, pension fund, insurance and similar payments or contributions which are payable pursuant to a resolution, ordinance, contract, policy or other appropriate agreement which has been approved by the Board of Trustees.
  - f. Supplies, materials, equipment, or contractual services which can be furnished- only by a single dealer or a sole source vendor, or which have a uniform price wherever bought.
  - g. Contractual services of a professional nature, such as engineering, architectural, medical, and legal services.

## SECTION 5. BIDDING REQUIREMENTS

- A. Public Competitive Bidding Act: State law requires that all public construction contracts be awarded to the lowest responsible bidder by free and open competitive bidding after solicitation for sealed bids. "Public construction contract" is defined, in part, as any contract exceeding fifty thousand dollars (\$50,000.00) in amount awards by any public agency for the purpose of making any public improvements, constructing any public building or making repairs to or performing maintenance on any public building. "Public improvement" is defined by the law as any beneficial or valuable change of addition, betterment, enhancement or amelioration of or upon any real property, or interest therein, belonging to a public agency, intended to enhance its value, beauty or utility or to adapt it to new or further purposes. The term does not include the direct purchase of materials, equipment or supplies by a public agency of any personal

property as defined in 62 Oklahoma Statutes, 2001, section 430.01. Public agencies subject to the Public Competitive Bidding Act include all cities, towns, public trusts and any department, agency board. Commission, committee or authority of any city, town or public trust. Numerous provisions are mandated for bid notices, advertising, awarding contracts, change order, qualification of bidders, insurance and other matters. Authority is given for waiving bidding requirements if an emergency exists, and for negotiating a contract if no timely bids are received. In 2006, new requirement were established in 61 Oklahoma Statutes section 103(B) for contracts under fifty thousand dollars (\$50,000.00). Public construction contracts less than fifty thousand dollars (\$50,000.00) must be let and awarded to the lowest responsible bidder by receipt of written bids.

- B. Public Trust Bidding Law: All public trust contracts for construction. Labor, equipment, material, repairs in excess of twenty-five thousand dollars (\$25,000.00) shall be awarded by public trusts to the lowest and best competitive bidder pursuant to public invitation to bid. Authority to waive the bidding requirement is given if an emergency is declared to exist.

Note public trusts must follow both title 61's Competitive Bidding Act as well as title 60's Public Trust Bidding Law.

## SECTION 6. SALE OF SURPLUS PROPERTY

The Town Administrator has the authority to transfer property between departments without the need for such items to be declared surplus of obsolete.

- A. No surplus or obsolete supplies, materials, or equipment of a value of more than Five Thousand Dollars (\$5,000.00) may be sold until the Board of Trustees shall have declared them surplus of obsolete.
- B. Surplus or obsolete supplies, materials or equipment with a value of five thousand or less may disposed by Town Administrator without prior Board of Trustee approval.



- C. The Town Administrator may dispose of surplus or obsolete items by competitive sealed bid, public auction, internet auction, other means which best disposes of such property.

SECTION 7. TRUSTEES AND OTHER OFFICERS: PURCHASES, CONTRACTS

- A. No member of the Board of Trustees may sell or furnish for a consideration, any materials or other supplies for use of the town; and any member of the Board of Trustees voting for or consenting to or being a party to such contract or purchase is personally liable as provided by state law.
- B. The Board of Trustees shall not make any contract with any of its members or in which any of its members shall be directly or indirectly interested, such contract being prohibited by state law.
- C. No officer of the town may become directly or indirectly interested individually in any sale, lease or contract which he is authorized to make, such being prohibited by state law.

PASSED by the Board of Trustees of the Town of Carlton Landing, Oklahoma, on the \_\_\_\_ day of \_\_\_\_\_, 2019.

This ordinance shall go into effect on the \_\_\_\_ day of \_\_\_\_\_, 2019.

SIGNED by the Mayor of the Town of Carlton Landing, Oklahoma, on the \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Mayor

ATTEST:  
(SEAL)

\_\_\_\_\_  
Town Clerk

## **AGENDA ITEM COMMENTARY**

**ITEM TITLE:** Discuss consider, and approve a contract between the Town of Carlton Landing and New Town Development, LLC (Mike Kerney), for a fixed fee of \$5,500.00 to provide general project management and oversight to Entrance Road Repairs including FEMA Roadway and Bond Drainage Improvements, or take any other appropriate action.

**INITIATOR:** Greg Buckley, Town Administrator

**STAFF INFORMATION SOURCE:** Greg Buckley, Town Administrator

**BACKGROUND:** Carlton Landing Enterprises, LLC was under contract to perform work and assist with making improvements to Firefly Lane, Block 13 and 15, and Boulevard Lane, Block 10 and 11, but requested to terminate the Agreement. Staff negotiated a revised scope of work which provides for general project management and oversight of the project. Mike Kerney has the capabilities to assist the Town Administrator with this project. We have had discussion with Pittsburgh County on them assisting with the project and they have indicated they would. We will be working with the County on an Interlocal Agreement for the project.

**FUNDING:** FEMA and G.O. Bond

**EXHIBITS:** Management Services Agreement

**RECOMMENDED ACTION:** Approve a contract between the Town of Carlton Landing and New Town Development, LLC (Mike Kerney), for fixed fee of \$5,500 to provide general project management and oversight to Entrance Road Repairs including FEMA Roadway and Bond Drainage Improvements.

**CONSTRUCTION MANAGEMENT SERVICES**  
**Town of Carlton Landing**  
**Entrance Road Repairs**  
**FEMA Roadway and Bond Drainage Improvements**

This Contract for Construction Management Services (the "Contract") entered into this \_\_\_\_ day of \_\_\_\_\_, **2019**, (the "Effective Date") by and between **The Town of Carlton Landing** (the "Owner"), and **New Town Development, LLC** (the "Manager"), an Oklahoma Limited Liability Corporation.

1. **THE WORK:** The Manager agrees to serve as General Project Manager. The term "Work" is defined as:
  - Review the Entrance Road and determine a priority list for necessary drainage and paving improvements consistent with the FEMA and Bond funding.
  - Determine a scope of work for the improvements using the available funding as the overall projected cost.
  - General oversight and management - working with Pittsburgh County, other contractors, vendors, etc. ensuring proper construction, traffic control, materials, project scope, drainage flow.
  - Inspection of work.
2. **CONTRACT AMOUNT:** The Contract shall include a fixed fee of **Five Thousand five hundred dollars (\$5,500.00)** in consideration for performing the Work.
3. **BREACH OF AGREEMENT:** If Owner determines that the Manager has acted or not acted in a way that results in the failure to perform under this Contract (the "Breach"), then Owner may provide the Manager with a written notice of violation which specifically defines the Breach. The Manager shall then have up to five (5) days to cure the Breach as defined in the notice. If the Manager is unable or unwilling to cure the Breach, then Owner may terminate this Contract and complete the Work itself or cause the Work to be completed by others. Any monies due to the Manager up to the notice date shall be due to the Manager, but the remainder of the Contract Amount shall be the sole property of Owner.
4. **CONTRACT TERMINATION:** Owner shall have the right to cancel this Agreement at any time prior to the completion of the Work upon giving ten (10) days written notice to the Manager. Should Owner so elect to cancel, and Manager is not in breach hereunder, Owner shall promptly pay Manager the actual cost of labor and materials furnished to the notice date.
5. **PROGRESS PAYMENTS:** Upon execution of Agreement twenty-five percent (25%), \$1,375.00, shall be paid to Manager. Upon commencement of paving and or drainage work actually starting, Manager may submit payment request for another forty percent (40%), \$2,200.00. Upon final completion and acceptance of the project, the Manager may submit for the final thirty-five percent (35%), \$1,925.00.
6. **INDEPENDENT MANAGER:** The Manager, being an independent Manager, agrees to furnish all labor, materials (if specified), machinery, tools and all other items necessary to or required to perform the Work in a professional workmanlike manner.
7. **LIEN WAIVERS:** If requested, the Manager agrees to require subcontractors provide lien waivers from labor and material suppliers evidencing payment of all financial responsibilities

for the Improvements. In lieu of lien waivers, if acceptable to Owner, the Manager may require subcontractors provide a Payment Bond or Certification certifying that all labor and materials pertaining to the Improvements have been paid in full.

8. **ACCEPTANCE OF THE IMPROVEMENTS:** Manager agrees to notify Owner of its completion of the work. Owner will have ten (10) days to inspect the work and determine whether it was satisfactorily completed.
9. **INDEMNIFICATION:** Manager hereby expressly binds itself to indemnify and save Owner, Carlton Landing Economic Development Trust (collectively, the "Indemnitees") from all claims, suits and actions of every kind and description which may be brought against the Indemnitees on account of any Injunction or damages received, sustained, or claimed by any party or parties, or to any property, resulting from the acts or omissions of the Manager, employees, servants, agent or invitees of either in performing the Work. Owner is not responsible in any manner for the property of the Manager used to perform the Work or for the property of its employees or subcontractors engaged in performing the Work.
10. **INSURANCE:** The Manager agrees to carry and maintain primary and noncontributory insurance as described below:
  - a. Workers Compensation Insurance, which will fully comply with applicable law and Employer's Liability insurance with limits not less than \$1,000,000 per occurrence. The Manager will provide a valid waiver executed by its workers compensation insurance carrier of any right of subrogation against the Indemnitees for any injury to a covered employee working on the premises of the Project.
  - b. Comprehensive General Public Liability Insurance, occurrence form including Products and Completed Operations, Broad Form Property Damage, and Broad Form Contractual Liability covering the Manager's obligations and liabilities under the Contract as follows: \$1,000,000 per occurrence and \$2,000,000 aggregate.
  - c. Automobile Liability Insurance covering owned, non-owned and hired vehicles used by the Manager with combined single limit of not less than \$1,000,000.
  - d. The Manager will provide Certificates of Insurance reflecting the coverage's required by the Contract. The certificates will specify the date when such insurance expires and will provide that all indemnitees will be given not less than thirty (30) days' written notice before cancellation or reduction of coverage to such insurance. Additionally, the Manager will give all indemnitees written notice of any reduction or material change in the insurance within thirty (30) days of such change.
  - e. All insurance policies except Workers Compensation will name the Indemnitees as Additional Insured.
  - f. The Manager will also provide certificates of insurance evidencing the Manager's Comprehensive General Liability coverage, including Blanket Contractual Liability, Completed Operations Products Liability and XCU coverage and all other coverage available under the Extended Business Liability Endorsement. Certificates are to also indicate that the General Liability policy provides coverage for the indemnification mentioned above.
11. **LEGAL COMPLIANCE:** The Manager agrees to perform the Work in compliance with all local, state and federal laws or applicable building codes. The Manager further agrees to observe all local, state and federal laws relating to the obstruction of roads, streets and alleys, and will maintain all signals, barriers and notices that may be necessary so as to adequately protect

employees and all other persons. The Manager agrees to accept full responsibility for any citations issued as a result of Manager's failure to comply with all requirements of the Williams-Steiger Occupational Safety and Health Act of 1970, as amended. The Manager further agrees to remain in full compliance with requirements of the Williams-Steiger Occupational Safety and Health Act of 1970, as amended, at all times.

12. **ARBITRATION:** Any controversy or claim arising out of or relating to this Contract, or the breach thereof, will be settled by arbitration, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.
13. **NOTIFICATION:** The Manager will be responsible for notifying the proper public authorities for any inspection of his work necessary under State laws. Such fees charged for any necessary inspections will be the expense of and paid for by Owner. All Federal, State, City and other taxes or levies will be paid by the Manager and will be submitted to Owner for reimbursement. The Manager agrees to indemnify the Indemnitees from any losses or expenses incurred by the Manager's failure to comply with the above-mentioned ordinances or statutes. All testing required by the Manager will be at the expense of and paid for by the Manager.
14. **ASSIGNMENT:** Inasmuch as the Contract is made upon the Manager's personal qualifications and responsibility, and inasmuch as the payments to be made hereunder are intended to finance performance, the Manager agrees that it will not assign or otherwise transfer the Contract without first obtaining Owner's written consent; and any assignment without Owner's consent is null and void.
15. **SURVIVAL OF CONTRACT:** It is mutually agreed and understood that the Contract will be binding upon all parties hereto and their respective heirs, executors, or administrators.

The undersigned mutually agree to the terms defined herein.

**Town of Carlton Landing**

**New Town Development, LLC**

By: \_\_\_\_\_  
Joanne Chinnici, Mayor

By: \_\_\_\_\_  
Michael Kerney, Owner

**The Town of Carlton Landing**  
**Profit & Loss Budget vs. Actual**  
**July through August 2019**

	Jul - Aug 19	Budget	\$ Over Budget
<b>Income</b>			
<b>Revenues</b>			
Permits and Licensing	350.00	5,940.00	-5,590.00
Sales Tax Revenue	11,678.24	20,000.00	-8,321.76
Sinking Fund Receipts	0.00	5,700.00	-5,700.00
<b>Total Revenues</b>	<b>12,028.24</b>	<b>31,640.00</b>	<b>-19,611.76</b>
<b>Total Income</b>	<b>12,028.24</b>	<b>31,640.00</b>	<b>-19,611.76</b>
<b>Gross Profit</b>	<b>12,028.24</b>	<b>31,640.00</b>	<b>-19,611.76</b>
<b>Expense</b>			
Administrator	4,351.53	5,084.00	-732.47
Annual Audit	0.00	0.00	0.00
Events	0.00	0.00	0.00
FEMA Match	0.00	7,000.00	-7,000.00
Fire Protection	500.00	1,000.00	-500.00
Finance Officer	1,200.00	1,200.00	0.00
General Administrative Expense	15.01	1,340.00	-1,324.99
Home Inspections	0.00	4,100.00	-4,100.00
Insurance	0.00	300.00	-300.00
Interest - Interest Expense	0.00	5,700.00	-5,700.00
Legal Fees- Town Attorney	1,000.00	1,000.00	0.00
Legal Fees - Economic Develop	100.00	1,500.00	-1,400.00
Meeting Expense	100.00	100.00	0.00
Operating Expense	0.00	200.00	-200.00
Pending Projects Stephens Road	0.00	0.00	0.00
Profession Fees & Subscriptions	-0.89	300.00	-300.89
Publication and Notice Exp	0.00	250.00	-250.00
Rent	500.00	1,200.00	-700.00
Road Maintenance	0.00	1,000.00	-1,000.00
Town Green Project	85.00		
Trails Maintenance	784.00	800.00	-16.00
Training and Reimbursement	0.00	0.00	0.00
Website Expense	0.00	160.00	-160.00
66000 - Payroll Expenses	1,371.47		
<b>Total Expense</b>	<b>10,006.12</b>	<b>32,234.00</b>	<b>-22,227.88</b>
<b>Net Income</b>	<b>2,022.12</b>	<b>-594.00</b>	<b>2,616.12</b>

The Town of Carlton Landing  
Balance Sheet  
As of September 16, 2019

	Sep 16, 19
<b>ASSETS</b>	
Current Assets	
Checking/Savings	
BOK - Checking - *9683	235,073.77
General Obligation Bond 2018	69,786.67
Sinking Fund Acct # 312713087	68,588.16
Total Checking/Savings	373,448.60
Accounts Receivable	
Accounts Receivable	786.00
Total Accounts Receivable	786.00
Other Current Assets	
Office Furniture	4,241.43
Due from Tif	2,579.23
Total Other Current Assets	6,820.66
Total Current Assets	381,055.26
Fixed Assets	
Marina Project	22,778.50
Swim Beach	225,973.18
Total Fixed Assets	248,751.68
<b>TOTAL ASSETS</b>	<b>629,806.94</b>
<b>LIABILITIES &amp; EQUITY</b>	
Liabilities	
Current Liabilities	
Other Current Liabilities	
Road Repair	83,717.84
24000 - Payroll Liabilities	3,711.95
Total Other Current Liabilities	87,429.79
Total Current Liabilities	87,429.79
Long Term Liabilities	
2018 GOB	69,801.67
2017 GOB	168,259.22
Total Long Term Liabilities	238,060.89
Total Liabilities	325,490.68
Equity	
32000 - Retained Earnings	295,662.45
Opening Balance Equity	100.00
Net Income	8,553.81
Total Equity	304,316.26
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>629,806.94</b>

The Town of Carlton Landing  
Account QuickReport  
July 1 through September 16, 2019

Type	Date	Num	Name	Memo	Split	Amount
Revenues						
Sales Tax Revenue						
Deposit	07/09/2019		Oklahoma Tax Com...	June 2019	BOK - Checkin...	3,067.59
Deposit	07/09/2019		Oklahoma Tax Com...	Cigar Tax	BOK - Checkin...	62.37
Deposit	08/09/2019		Oklahoma Tax Com...	Sales Tax	BOK - Checkin...	8,520.10
Deposit	08/09/2019		Oklahoma Tax Com...	Cigar TAX	BOK - Checkin...	28.18
Deposit	09/16/2019		Oklahoma Tax Com...	Sales TAX	BOK - Checkin...	14,155.52
Total Sales Tax Revenue						25,833.76
Total Revenues						25,833.76
TOTAL						25,833.76



The Town of Carlton Landing  
Transaction List by Vendor  
August 18 through September 17, 2019

Type	Date	Num	Memo	Account	Clr	Split	Debit	Credit
<b>Center for Economic Development Law</b>								
Bill Pmt -Check	08/29/2019	495	VOID:	BOK - Checking - *9...	X	Accounts Paya...	0.00	
Bill Pmt -Check	08/29/2019	497		BOK - Checking - *9...		Accounts Paya...		748.00
<b>Dr Jan Summers</b>								
Bill	09/03/2019	Invoic...	Invoice 1	Accounts Payable		Office Furniture		4,241.43
Bill Pmt -Check	09/03/2019	504	Invoice 1	BOK - Checking - *9...		Accounts Paya...		4,241.43
<b>Kay Robbins Wall</b>								
Bill Pmt -Check	08/29/2019	498	September	BOK - Checking - *9...		Accounts Paya...		500.00
Bill	09/01/2019	Septe...	September	Accounts Payable		Legal Fees- To...		500.00
<b>Landmark</b>								
Bill Pmt -Check	08/29/2019	499		BOK - Checking - *9...		Accounts Paya...		1,176.00
<b>OkMRF</b>								
Liability Check	08/26/2019	494	454051	BOK - Checking - *9...		-SPLIT-		1,039.62
<b>OPEH&amp;W</b>								
Bill Pmt -Check	08/29/2019	500		BOK - Checking - *9...		Accounts Paya...		2,790.32
Bill	09/05/2019	Septe...	September 20...	Accounts Payable		Administrator		1,395.16
<b>QuickBooks Payroll Service</b>								
Liability Check	08/22/2019		Created by P...	BOK - Checking - *9...	*	-SPLIT-		2,483.72
Liability Check	09/05/2019		Created by P...	BOK - Checking - *9...		-SPLIT-		2,712.50
<b>R &amp; B Door Company LLC</b>								
Bill Pmt -Check	08/29/2019	501	1058	BOK - Checking - *9...		Accounts Paya...		85.00
<b>Renee Norman</b>								
Bill Pmt -Check	08/29/2019	502	September	BOK - Checking - *9...		Accounts Paya...		600.00
Bill	09/01/2019	Septe...	September	Accounts Payable		Finance Officer		600.00
<b>Renee Norman - Reimbursements</b>								
Bill	09/09/2019	Payroll	Payroll	Accounts Payable		Publication and...		289.18
Bill Pmt -Check	09/09/2019	506	Payroll	BOK - Checking - *9...		Accounts Paya...		289.18
<b>Tad Sweitzer</b>								
Bill Pmt -Check	08/29/2019	496	31013006	BOK - Checking - *9...		Accounts Paya...		50.00
Bill Pmt -Check	08/29/2019	503	23906080	BOK - Checking - *9...		Accounts Paya...		50.00
<b>Tony Baker Rental</b>								
Bill	09/03/2019	4592	4592	Accounts Payable		Rent		500.00
Bill Pmt -Check	09/03/2019	505	4592	BOK - Checking - *9...		Accounts Paya...		500.00
<b>Town of Carlton Landing General Fund</b>								
Check	08/27/2019	EFT		Sinking Fund Acct # ...		Due to/From G...		286.00