

June 19, 2020

The Honorable Mike Hunter
Oklahoma Attorney General
313 NE 21st Street
Oklahoma City, OK 73105

Sir,

Although we recognize the inevitability of progress and the need for taxpayer dollars during these trying times we are witnessing a pattern of events occurring in our city and community that causes us to question the ethics, proper procedures, and motivations of how the City of Sapulpa are expanding their tax base.

We are concerned about a neighboring development that appears to be moving forward at a rapid pace and after much research there is a pattern of obscured and questionable financial and real estate decisions that do not make sense for the citizens of our community.

In question, is a 65-acre tract purchased (\$300,000) for a sports complex later deemed unfit for that purpose only after its purchase. A resident discussed the possibility of purchasing it at an amount slightly exceeding the original purchase price but was turned down. Years later the property was sold for \$650,000 to an embattled developer who has mismanaged other properties in the community to a poor state. Despite a seemingly \$350,000 profit, the city promised the developer a \$2,000,000 city funded sewer extension that was paid for with borrowed money. In addition, the City of Sapulpa has designated the minimum number of homes to be built. The project is now over 200 homes and duplexes.

The pathway to this development is littered with a lack of communication to the impacted property owners nearby, a lack of transparency, and a resistance to disclose details to the interested parties. We are asking your office to review and investigate the transactions and procedures or lack thereof on this project.

In the following pages we have laid out a trail of transactions and the supporting documents we could obtain through public records.

Once again, we recognize the inevitability of growth, but it would be unfortunate to give up the beauty of rural settings in such a compromising way. It would be much easier to embrace progress if we felt we had been properly engaged by the City of Sapulpa.

Chronological Order of Events

August 8, 1991

The land in question was purchased by Thomas L. Hughes from the Moore Estate. Attached is the deed.

Appendix A – Deed Transferring Property from Moore Estate to Thomas L. Hughes

July 1, 2005

The land was sold by Thomas L. Hughes to the City of Sapulpa. Attached is the Warranty Deed.

Appendix B – Warranty Deed from Thomas L. Hughes to the City of Sapulpa

September 5, 2017

The City Commissioners held a closed-door executive session to discuss the purchase and sale of the property.

No minutes of the meeting can be found.

Appendix C – Notice of Executive Session to Discuss the Sale of the Property

May 15, 2018

The City of Sapulpa received approval for a loan from the Oklahoma Water Resources Board (OWRB) for \$7,850,000 of which \$3,043,900 was designated for the Frankoma Road Sewer Extension. (Please note that just under \$2,000,000 was used).

June 18, 2018

City of Sapulpa entered into an agreement with Tetra Tech to provide consulting, design, and Project Management services to the City of Sapulpa for the Frankoma Road Sewer Extension.

The cost to the City of Sapulpa was \$468,500.

Appendix D – Notice to Discuss the Tetra Tech Contract

Appendix E – Contract Between the City of Sapulpa and Tetra Tech

December 3, 2018

The Sapulpa City Commissioners had discussions and possible action regarding Contract for the Purchase and Sale of Real Estate with Guardian Capital LLC for 65 acres m/l located at the Northwest corner of 81st street and Frankoma Road in the amount of \$650,000.00.

March 2, 2020

City of Sapulpa entered a contract with Cherokee Pride Construction to build the Frankoma Sewer Extension.

The cost to the city was \$1,448,261

Appendix F – Notice of Discussion to Award the Sewer Extension Contract

Appendix G – Contract Between the City of Sapulpa and Cherokee Pride Construction

January 22, 2019

The City of Sapulpa entered a contract with Guardian Capital LLC to purchase the land from the City of Sapulpa with the following stipulations (Note: there are just a few major stipulations, please look at the entire contract):

- Purchaser agrees to develop properly and construct a minimum of 125 single family homes.
- Seller agrees to participate and support Purchaser in obtaining all approvals necessary for re-zoning of the subject Property for residential development.
- Seller agrees to execute and secure a city bond agreement or any other such source of funding necessary to complete said sewer line.

Appendix H – Notice of Discussion to Sell the Property to Guardian Capital LLC

Appendix I – Contract for Sale Between the City of Sapulpa and Guardian Capital LLC

May 6, 2019

The sale of the property closed.

Appendix J - Consider acknowledging the Purchase, Sale, and Closing of Real Estate transaction with DGB-81, LLC

Appendix K – Warranty Deed from the City of Sapulpa to DGB-81, LLC

Points we would like the Oklahoma Attorney General to consider:

1. The land in question was purchased by the City of Sapulpa from Thomas L Hughes on July 1, 2005.
 - a. On June 4, 2020, the Sapulpa City Attorney verbally acknowledged that the City of Sapulpa paid Mr. Hughes \$300,000 for the property. We cannot find any public documentation to verify.
 - b. We were told that the land was purchased for a sports complex but that after further review, the land was not suitable for that purpose and that another location was found. Why would the City of Sapulpa purchase the property for a particular purpose without first determining if the plot of ground would be suitable?
2. On September 5, 2019, the city commissioners held a closed-door executive session to discuss the purchase and sale of the property. No minutes of the meeting can be located. We would like to know what was discussed at that meeting and if the choice of a developer was discussed along with any recommendations or stipulations.
3. The City of Sapulpa signed a contract with Guardian Capital for the sale of the property, but the Warranty Deed was made out to DGB-81, LLC. Why was there a change in the purchaser?
4. Were there any ex parte communications or deals made between the City of Sapulpa and the Developer?
5. The City of Sapulpa placed the citizens in debt to the amount of \$1,916,761 (from the OWRB loan) to place a new sewer line for the developer.
 - a. Is it the responsibility of the Sapulpa City Taxpayer to pay for a dedicated sewer line for a building developer?
 - b. Did the OWRB know that the funding for the sewer extension would be used to serve property that was sold by the city to a private developer. Per the contract between the City of Sapulpa (Seller) and Guardian Capital or DGB-81 (Buyer), the City of Sapulpa will furnish and fund the sewer extension as a condition of sale.
6. Is it legal for a city municipality to be in the land development business utilizing taxpayer money?
 - a. Please read the entire contract. The stipulations made by the City of Sapulpa ("seller") look as if they are dictating how to develop that site.
 - b. Is it legal or even moral for the City of Sapulpa officials to in essence "gamble" with taxpayer money? No one knows if any homes would be sold. But I do not believe it is the responsibility of the city to be in the business of partnering with developers to sell homes.

7. I know of two times the land could have been sold to individuals without any stipulations or city paid sewer line construction.

We must wonder why the City of Sapulpa officials did not take the opportunity to sell the property for at least what was originally paid to liquidate the property with no additional expense to the Sapulpa City taxpayer.

This alone must give one thought about whether there are under the table deals between the City of Sapulpa and the developer or is this just a case of pure fiscal malfeasance?

8. In addition to an investigation into these activities, we would like to request a financial audit of the City of Sapulpa.

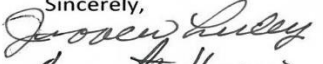

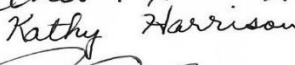


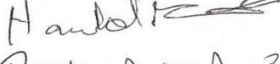

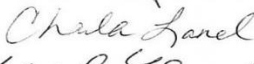
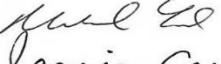


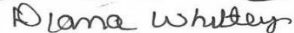
We would appreciate your office looking into this matter.

Conclusion

We, the citizens of the City of Sapulpa and Creek County Oklahoma request an investigation by the Attorney General's office into the above-mentioned transactions. We believe that an investigation will bring to light the truth and provide actual transparency into how the purchase and sale of the above described property was accomplished by City of Sapulpa officials.

In addition, we believe that involvement by the Oklahoma Attorney General could very possibly require the empanelment of a Grand Jury to investigate the actual finances and specific uses of the taxpayer money by the City of Sapulpa elected and appointed officials.

Sincerely,

Sincerely,
 **JEFF C. WHITELEY** 7680 S. 97th West Ave
Tulsa, OK 74131
 **Elsworth Harrison** 7682 S. 97th W. Ave Tulsa, OK 74131
 **Kathy Harrison** Kathy Harrison 7682 S. 97th W. Ave Tulsa OK 74131
 **ERNIE L. ROBERTS** 9900 W. 81st St Tulsa OK 74131
 **Wilma J. Roberts** 9900 W. 81st St Tulsa OK 74131
 **Harold G. Guinn** 9582 W 77th St Tulsa, OK 74131
 **Brittney White** 9582 W. 77th St Tulsa, OK 74131
 **Charla Land** Charla Land 9128 W 81st St S. Tulsa, OK 74131
 **MICHAEL LAVO** 918 W. 81st St. Tulsa, OK 74131
 **Seanie Carnes** Seanie Carnes 7810 S. 97th W. Ave Tulsa 74131
 **DENICE R. LAND** 9554 W 81st Tulsa OK 74131
 **Diana Whiteley** Diana Whiteley 7680 S. 97th West Ave, Tulsa 74131

Appendix A – Deed Transferring Property from Moore Estate to Thomas L. Hughes

10-20
90-00
91 9089

PERSONAL REPRESENTATIVE'S DEED

This Indenture, made this 8th day of August, 1991, by and between Daniel H. Moore, the duly qualified and acting Personal Representative of the Estate of Horatio L. Moore, Deceased, (First Party), and Thomas Lesly Hughes, (Second Party),

WITNESSETH:

WHEREAS, under and by virtue of authority granted in the Last Will and Testament of Horatio L. Moore, Deceased, duly admitted to probate, and of record in the District Court of Tulsa County, Oklahoma, to which reference is hereby made, the First Party did, on the 21st day of June, 1991, sell the hereinafter described real property at private sale to Second Party for the sum of Sixty Thousand Dollars (\$60,000.00) in cash, he being the highest and best bidder for said property, and that being the highest and best bid therefor; and

WHEREAS, the District Court, after due and legal return by First Party of said private sale proceedings, did on the 8th day of August, 1991, make an order confirming said sale and directing that conveyance be executed to said Second Party, a certified copy of which order of confirmation was filed for record in the office of the County Clerk of Tulsa County, Oklahoma, on the 8th day of August, 1991, at Book 5341 at Page 0404, and in the office of the County Clerk of Creek County, Oklahoma, on the 8th day of August, 1991, and recorded in Book 380 at Page 419-20, which order of confirmation is hereby referred to and made a part of this Indenture.

NOW, THEREFORE, the said Daniel H. Moore, Personal Representative of the Estate of Horatio L. Moore, Deceased, First Party, pursuant to authority granted in said Last Will and Testament and the order of confirmation of said sale, for and in consideration of the sum of Sixty Thousand Dollars (\$60,000.00) cash, in hand paid by Second Party, the receipt of which is hereby acknowledged, have granted, bargained, sold and conveyed and by these presents do grant, bargain, sell and convey unto Second Party, his heirs and assigns, forever, all the right, title, interest and estate of the said Horatio L. Moore, Deceased, at the time of his death, and also all the right, title and interest that the said estate may have acquired by operation of law or otherwise, other than or in addition to that of said decedent at the time of his death, in and to the following described real property situated in Creek County, Oklahoma, to-wit:

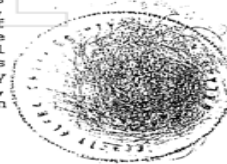
The North Half (N/2) of the Southwest Quarter (SW/4) and the Southwest Quarter (SW/4) of the Southwest Quarter (SW/4), of Section Twelve (12), Township Eighteen (18) North, Range Eleven (11) East, of the Indian Base and Meridian, Creek County, Oklahoma, subject to easements of record; however, reserving and excepting unto the grantor, his heirs, executors, administrators and assigns, all of the oil, gas, and mineral in and under the surface of said land, together with the full and free right to enter upon said premises and use so much of the surface thereof as may be reasonably necessary for operating, drilling, and marketing the production thereof.



STATE OF OKLAHOMA
COUNTY OF CREEK
THIS INSTRUMENT WAS FILED
FOR RECORD ON

AUG 8 1991

By Betty R. Hartz Deputy
BETTY R. HARTZ, County Clerk



421

Appendix B – Warranty Deed from Thomas L. Hughes to the City of Sapulpa

19-00
4-00
10-00

CRENSHAW COUNTY ABSTRACT CO.
200-000 East County
P.O. Box 700
Sapulpa, OK 74067
(918) 536-4130

STATE OF OKLAHOMA COUNTY OF CREEK
This instrument was filed for Record On
JUL 1 8 2005
AT 2:15 PM. J. A. H. RECORDED IN
BOOK 111 PAGE 111-111
BY J. A. H. RECORDED IN
BOOK 111 PAGE 111-111

06 10057

Mailing Address:
P.O. Box 1110
Sapulpa, OK 74067

STATE OF OKLAHOMA
Creek County
Documentary Stamp: \$ 450.00

GENERAL WARRANTY DEED

THIS INDENTURE made this 1st day of July, 2005, between THOMAS LESLY HUGHES, a single person, party of the first part, hereinafter called Grantor, and the CITY OF SAPULPA, party of the second part, hereinafter called Grantee.

WITNESSETH, that in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, said party Grantor does, by these presents, grant, bargain, sell and convey unto said Grantee, its heirs, executors, administrators, successors and assigns, all of the following described real estate, situated in the County of Creek, State of Oklahoma, to-wit:

Beginning at the Southwest Corner of Section 12, Township 18 North, Range 11 East; thence North 01°09'19" West 1450.0'; thence North 89°05'31" East 1420'; thence South 01°49'07" East 658.34'; thence South 88°51'33" West 100.0'; thence South 01°04'20" East 808.38' to the Railroad R/W; thence along Railroad R/W 589.94' to the South line of said Section 12, thence South 88°59'11" West 1043.97' to the point of beginning, Creek County, State of Oklahoma, according to the U.S. Government Survey thereof.

Grantor retains a 25' wide Utility Easement on the East 25' of the West 50' of said Tract.

TO HAVE AND TO HOLD THE SAME together with all and singular the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining forever.

And said Grantor, his heirs, executors, administrators, successors and assigns, do hereby covenant, promise and agree to and with said Grantee, at the delivery of these presents that Grantor lawfully seized in his own right of an absolute and indefeasible estate of inheritance in the premises, of and in all and singular the above granted and described premises, with the appurtenances; that the same are free, clear and discharged and unencumbered of and from all former and other grants, titles, charges, covenants, judgments, taxes, assessments and encumbrances, of whatsoever nature and kind, EXCEPT: Easements and building restrictions of record and special assessments not yet due; setback lines zoning ordinances and outstanding minerals, if any, of record and that said Grantee will WARRANT AND FOREVER DEFEND the same unto the Grantee, its heirs, executors, administrators, successors and assigns, against the Grantor, his heirs, executors, administrators, successors and assigns, and all and every person or persons whatsoever, lawfully claiming or so claim the same.

894

RECORD & RETURN 8944 CASH
FIRST TITLE & ABSTRACT SERVICES, INC.
7800 EAST 45 ST. SUITE 200
TULSA, OK 74117

Appendix C – Notice of Executive Session to Discuss the Sale of the Property

Meeting Date: 09/05/2017
Submitted By: Anna Jo Fife, City Manager Assistant
Department: City Manager
Presented By:

SUBJECT:

Consider entering into Executive Session to discuss the following:

1. Discuss the purchase and sale of approximately 65 acres of vacant land located at the Northwest (NW) corner of the intersection of 81st Street South and Frankhoma Road; and

BACKGROUND:

RECOMENDATION:

Appendix D – Notice to Discuss the Tetra Tech Contract

Meeting Date: 06/18/2018
Submitted For: Rick Rumsey
Department: Assistant City Manager
Presented By: Rick Rumsey

Submitted By: Amy Hoel

SUBJECT:

Discussion and possible action regarding Professional Services Agreement for Engineering Services with Tetra Tech for the Frankoma Road Sanitary Sewer Extension Project in the amount of \$468,500.00.

BACKGROUND:

This agreement with Tetra Tech is for the engineering services needed for the Frankoma Road sewer extension project. This project consists of a new gravity sewer, lift station with backup generator, and force main needed to provide sanitary sewer service to the proposed development located near East 81st Street and Frankoma Road. The scope of services includes design, development, project management, and all inspections as needed. For additional information regarding this item, please refer to the attachment.

RECOMMENDATION:

Staff recommends Trustees approve Agreement and authorize Chairman to execute same.

Fiscal Impact

Amount:	\$468,500.00
To be paid from:	OWRB Loan Proceeds
Account number:	49-4203

Attachments

[Agreement - Tetra Tech](#)

Appendix E – Contract Between the City of Sapulpa and Tetra Tech



Tetra Tech, Inc. Professional Services Agreement for Engineering Services

This Agreement is made and becomes effective this 12th day of June, 2018, between **Sapulpa Municipal Authority** (Client) and **Tetra Tech, Inc.** (Consultant), a Delaware corporation.

Client hereby retains Consultant to perform engineering services in connection with a Project described as **Frankoma Road Sanitary Sewer Extension** and as further described in Attachment A. Consultant agrees to perform the services in consideration of the compensation described in Attachment A and in accordance with the terms described in the attached Standard Terms and Conditions.

This Agreement consists of this document together with Attachment A - Project Requirements and the attached Standard Terms and Conditions. This Agreement between the Client and Consultant supersedes all prior written and oral understandings. This Agreement may only be amended, supplemented, modified, or cancelled by a duly executed written instrument. Signature by facsimile or e-mail shall be deemed original.

In executing this Agreement, the undersigned also acknowledge their authority to bind the parties to all terms and conditions.

In witness whereof, the parties hereto have made and executed this Agreement as of the day and year first written.

Sapulpa Municipal Authority
P.O. Box 1130
Sapulpa, Oklahoma 74067

Tetra Tech, Inc.
7645 East 63rd Street, Suite 301
Tulsa, Oklahoma 74133
918.249.3909

By _____
Client's Authorized Signature

Reg Green

Printed Name
Trust Chairman

Title

By _____
Consultant's Authorized Signature

Felix R. Belanger, P.E.
Vice President

Attest:

mwt\G:\Administrative\Contracts\Client Contracts\Client Work Order Contracts\Sapulpa Municipal Authority\A-200-11386-18002.docx

Appendix F – Notice of Discussion to Award the Sewer Extension Contract

Municipal Authority Regular

[Return to the Search Page](#)

Administration 7.A.

Meeting Date: 03/02/2020
Submitted For: Steve Hardt **Submitted By:** Mikaila Stepp, Admini:
Department: Public Works
Presented By: Steve Hardt

SUBJECT:

Discussion and possible action regarding award of bid to Cherokee Pride Construction, Inc., in the amount of \$1,488,261.00 for the construction of the Frankoma Road Sanitary Sewer Improvements, project number ORF-18-0020-CW, and authorize the chairman to execute all contract documents related thereto. This amount includes the base bid of \$1,383,261.00 and the Add Alternate No.1 of \$65,000. Four (4) bids were recieved ranging from the award amount to \$2,500,653.00.

BACKGROUND:

Bids were recently received and reviewed by Tetra Tech Engineering for necessary improvements for the Frankoma Road Sanitary Sewer improvements project. A total of four (4) bids were received and Cherokee Pride Construction, Inc. was determined to be the lowest responsible bidder in the amount of \$1,448,261.00. For further information, please see attachments.

RECOMMENDATION:

Staff and Tetra Tech recommend awarding bid as stated to Cherokee Pride Construction, Inc., in the amount of \$1,488,261.00.

Fiscal Impact

Amount: \$1,448,261.00
To be paid from: Sewer Extension and Development Fund
Account number: 49-526-405B

Attachments

[Tetra Tech Bid Recommendation](#)
[Notice of Award Agreement](#)
[Bid Details and Tabulations](#)

Appendix G – Contract Between the City of Sapulpa and Cherokee Pride Construction

ORF-418 (Rev.: 05/04/15)

NOTICE OF AWARD

TO: Cherokee Pride Construction, Inc.

P.O. Box 28

Sapulpa, OK 74067

PROJECT DESCRIPTION

Construction of a new 350 GPM Lift Station, 1,025 LF of 15" gravity sanitary sewer line, 7,575 LF of 6" sanitary sewer forcemain, and 50 LF 2" water line.

The OWNER has considered the BID submitted by you for the above described WORK in response to its Advertisement for Bid dated 8 January 2020, and Information for Bidders.

You are hereby notified that your BID has been accepted for items in the amount of \$ 1,448,261.00.

You are required by the Information for Bidders to execute the Agreement and furnish the required Contractor's Performance Bond, Statutory Bond, Maintenance Bond and Certificate of Insurance within ten (10) calendar days from the date of this Notice to you.

If you fail to execute said agreement and to furnish said BONDS within ten (10) days from the date of this Notice, said OWNER will be entitled to consider all your rights arising out of the OWNER's acceptance of your Bid as abandoned and as a forfeiture of your BID BOND. The OWNER will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this **NOTICE OF AWARD** to the OWNER. Dated this _____ day of _____, 20__.

Sapulpa Municipal Authority
(Owner)

By: _____
(Signature)

Name: Louis Martin, Jr.

Title: Mayor Pro Tem

ACCEPTANCE OF NOTICE:

Receipt of the above **NOTICE OF AWARD** is hereby acknowledged by

Cherokee Pride Construction, Inc.
(Contractor)

this the _____ day of _____, 20__.

By: _____
(Signature)

Title: _____
(Print or Type)

Appendix H – Notice of Discussion to Sell the Property to Guardian Capital LLC

Meeting Date: 01/22/2019
Submitted For: Rick Rumsey
Department: Assistant City Manager
Presented By: David Widdoes

Submitted By: Amy Hoel

SUBJECT:

Discussion and possible action regarding Contract for the Purchase and Sale of Real Estate with Guardian Capital LLC for 65 acres m/l located at the Northwest corner of 81st street and Frankhoma Road in the amount of \$650,000.00.

BACKGROUND:

The City is selling the referenced tract for \$650,000.00 to the Buyer for the development of a new subdivision with a minimum of 125 homes. After all contingencies are met, closing is to occur by March 31, 2019.

RECOMMENDATION:

Staff recommends Council approve Contract and authorize the Mayor to execute same.

Attachments

[Contract](#)

[Exhibit](#)

Appendix I – Contract for Sale Between the City of Sapulpa and Guardian Capital LLC

CONTRACT FOR SALE AND PURCHASE OF UNIMPROVED REAL PROPERTY

THIS CONTRACT FOR SALE AND PURCHASE OF UNIMPROVED REAL PROPERTY ("Contract"), dated effective as of a date hereinafter specified, is made by and between **CITY OF SAPULPA** ("Seller") and, **GUARDIAN CAPITAL LLC**, an Oklahoma Limited Liability Company, or its permitted assignee (hereinafter the "Purchaser").

1. Property. The term "Property" shall mean and be defined herein as that certain tract of unimproved real property lying in Creek County, Oklahoma owned by the Seller being more particularly described on attached "Exhibit A".
2. Agreement. For and in consideration of the mutual agreements of the Seller and the Purchaser as specified herein, and for such other good, valuable, sufficient and received consideration, duly acknowledged by Purchaser and Seller, the Seller hereby agrees to sell to the Purchaser, and the Purchaser hereby agrees to purchase from the Seller the Property hereunder, free and clear at Closing of any lien, claim, charge, or encumbrance (except for the Permitted Exceptions) for the Purchase Price and upon and subject to all of the terms and conditions hereof.
3. Purchase Price. Subject to any prorations, deductions, credits, or adjustments provided for in this Contract, the Purchase Price to be paid by Purchaser to Seller for the Property shall be SIX HUNDRED, FIFTY THOUSAND DOLLARS (\$650,000.00) ("Purchase Price") minus the Earnest Money Deposit, by delivery by Purchaser to the Escrow Agent on the Closing Date (as hereinafter defined) of immediately available funds, by wire transfer of federal funds or by such other method of cash payment acceptable to Seller, subject to such Closing adjustments and prorations as required hereunder.
 - a. Earnest Money Deposit. "Earnest Money Deposit" shall mean and be defined herein, collectively, as the sum of ONE THOUSAND DOLLARS (\$1,000.00), in immediately available federal funds, which must be tendered by Purchaser to the Escrow Agent within three (3) days after the Effective Date of this Contract. The Earnest Money Deposit is to be tendered to the Escrow Agent by Purchaser, to be held by the Escrow Agent pending the Closing in the manner and pursuant to the terms and conditions expressly provided in this contract and shall be delivered by the Escrow Agent to Seller on the Closing Date to be applied in partial payment of the Purchase Price in accordance with the terms of this Contract.
4. General Provisions Regarding Earnest Money Deposit. Pending the Closing or earlier termination of this Contract, the Earnest Money Deposit shall be held in escrow by the Escrow Agent pursuant to this Agreement to be executed and entered into by the Purchaser, the Seller and the Escrow Agent. The Earnest Money Deposit shall be deposited by the Escrow Agent in a non-interest bearing account in such

major state or national banking association as the parties shall jointly elect. The Earnest Money Deposit shall be paid forthwith by the Escrow Agent to the party entitled to receive the Earnest Money Deposit under the terms of this Contract.

- a. The parties and Escrow Agent agree that the Earnest Money Deposit so held by Escrow Agent shall be applied as follows:
 - b. If Closing is held, the principal amount of the Earnest Money Deposit so held shall be paid over to Seller and the principal amount so paid shall be credited to the Purchase Price;
 - c. If Closing is not held by reason of Purchaser's default, the Earnest Money Deposit shall be paid promptly by the Escrow Agent to Seller and shall be retained by Seller; and
 - d. If Closing is otherwise not held for any reason other than a default of Purchaser, the Earnest Money Deposit shall be paid by the Escrow Agent to Purchaser.
5. Additional Terms. This Agreement shall include the following specific provisions which will survive the closing:
- a. Preliminary Plat / Residential development. The Purchaser will plat and develop the Property into a residential subdivision in accordance with the Preliminary Plat, (the "Plat"). Purchaser agrees to develop the Property pursuant to and in accordance with the Plat.
 - i. Purchaser agrees to develop Property and construct a minimum of one hundred twenty-five (125) single family homes in accordance to said Plat.
 - ii. Seller agrees to participate and support Purchaser in obtaining all approvals necessary for re-zoning of the subject Property for residential development.
 - b. Sewer Line. Seller and Purchaser hereby agree that a sewage utility easement will be executed and pipelines for purposes of sewage (the "Sewer Line") will be built on the Property in accordance with the Plat. Seller hereby agrees to hereby:
 - i. In good faith, take all reasonable actions necessary to ensure that said Sewer Line will be completed by June 15, 2020 (the "Sewer Line Completion Date").
 - ii. Seller agrees to execute and secure a city bond agreement or any other

such source of funding as necessary to complete said Sewer Line.

- iii. Purchaser agrees to pay all applicable fees to the City of Sapulpa as required for the Sewer Line, including without limitation and as applicable, all sewer extension, development and tap fees required by city code. The parties stipulate that the sewer extension fee applicable for the Sewer Line shall be at a rate of ONE THOUSAND THREE HUNDRED DOLLARS (\$1,300.00) per acre.
 - iv. Purchaser and Seller agree to draft and execute an enforceable letter of commitment (the "Letter of Commitment") requiring the Seller to complete sewage pipeline to the subject Property, and will detail specifications for its completion by Sewer Line Completion Date, which will, upon signing become an addendum to this Contract.
 - c. Liquidated Damages to Purchaser. If the Sewer Line is not materially completed and fully serviceable on or before the Sewer Line Completion Date, Purchaser shall be entitled to liquidated damages from Seller in a Per Diem amount of FIVE HUNDRED DOLLARS (\$500.00) and paid over to Purchaser. This penalty shall be only be applicable if the Purchaser is in full compliance with its obligations to develop the Property as contemplated by this Agreement, and in such event, said penalty shall accrue daily until the Sewer Line is materially completed and serviceable as contemplated by this Agreement and by the Letter of Commitment and such specifications as agreed upon by Purchaser and Seller.
 - d. Exclusive Option to Seller. Purchaser grants Seller an exclusive option to buy the Property for an amount equal to the Purchase Price in the event Purchaser does not develop the Property by as contemplated by the Agreement and the Letter of Commitment.
6. Facilitating Actions. The parties agree to take the following actions to facilitate the Closing and the realization of the benefits contemplated by this Agreement:
- a. Approvals. The parties will use reasonable efforts to obtain all necessary or desirable approvals of governmental authorities and consents of all third persons to expedite the Closing.
 - b. Material Change. From the date hereof to the Closing Date, the Seller will not sell, encumber or otherwise dispose of any of the Property.
 - c. Further Assurances. The Seller and the Purchaser will, whenever and as often as reasonably requested to do so by the other party: (a) execute, acknowledge and deliver or cause to be executed, acknowledged and delivered such further conveyances, assignments, confirmations,

satisfactions, releases, approvals, consents, certifications and other documents as might be reasonably necessary, expedient or proper, in the opinion of the requesting party, to complete the conveyances, transfers, sales and assignments herein provided; and (b) take all other actions as are reasonably requested to carry out the intent of this Agreement or to facilitate an orderly transfer of ownership of the Property.

8. Condition of Property and Inspection. No representations, warranties or guarantees regarding the condition of the Property, or environmental hazards are expressed or implied, other than as may be specified by Seller in writing at Purchaser's request.
9. Acceptance of Property. Subject to the provisions of the Property Condition Disclosure Act and unless otherwise agreed upon in writing, Purchaser, by Closing or taking possession of the Property, shall be deemed to have accepted the Property in its then existing condition, including fixtures, equipment, and appliances.
10. Closing. This transaction shall be closed at such place as may be agreed upon by Purchaser and Seller, after title objections and other requirements have been met or waived, on or before but not later than March 31st, 2019, unless the date of Closing is extended in a written instrument signed by Seller and Purchaser.
11. Costs. The parties agree that the Seller shall pay the costs of abstracting, and all closing fees, if any. The Purchaser shall pay the costs of recording fees, title opinion, title insurance premiums, all costs associated with obtaining a mortgage loan, surveying fees, and revenue stamps, if any.
12. Deed. At the time of Closing, Seller shall execute and deliver a good and sufficient Warranty Deed (the "Deed") in recordable form conveying marketable title to the Property to Purchaser, and the manner in which Purchaser is to take title, as follows: **GUARDIAN CAPITAL LLC**, an Oklahoma Limited Liability Company, and/or assigns.
13. Risk of Loss and Adjustments. Until Closing, the risk of loss of any part of the Property shall be on Seller, and Seller shall be entitled to receive all insurance proceeds therefor, whether or not possession of any part of the Property has been delivered to Purchaser. In the event of material damage by fire before Closing, Purchaser may declare this Agreement null and void. For purposes of this Agreement, the term "material damage" shall mean any damage of the nature referred to in the preceding sentence which reasonably requires an expenditure of greater than FIVE THOUSAND DOLLARS (\$5,000.00) to restore or repair.
14. Proration of Taxes. Ad valorem taxes and special assessments thereon for the current year shall be prorated to date of Closing. If the amount of ad valorem taxes or special assessments for the current tax year has not been fixed by the date of Closing, the proration of such taxes shall be based upon the rate of levy for the preceding tax year.

15. Possession. Possession of the Property shall be given to Purchaser at Closing.
16. Notices. Any notice or other communication required or permitted under this Contract, or convenient to the Seller or the Purchaser in the consummation of the transactions contemplated hereby, shall be deemed delivered when (i) deposited in a receptacle of the United States Postal Service, as registered or certified mail, return receipt requested, postage prepaid, (ii) sent by electronic facsimile transmission (to be followed by delivery of a copy thereof by overnight courier), or (iii) received by an overnight courier service (which obtains a receipt evidencing delivery) and shall be addressed as follows:
- If to the Seller: CITY OF SAPULPA
ATTN: David Widdoes, City Attorney
P.O. Box 1130
Sapulpa, OK 74067-1130
- If to the Purchaser: GUARDIAN CAPITAL LLC,
an Oklahoma Limited Liability Company
10131 S 72nd E Ave
Tulsa OK 74133
17. Insurance. Seller shall keep and maintain all insurance presently in effect on the Property until Closing.
18. Default. Time is of the essence of this Agreement. In the event Purchaser fails or refuses to complete the performance of Purchaser's obligations under this Agreement, except for any reason specified herein, Seller shall have the right, after demand upon Purchaser and Purchaser's failure or refusal to comply therewith, to terminate this Agreement. In the event Seller fails to comply with the terms of this Agreement, Purchaser shall have the right to recover all sums paid to Seller hereunder.
19. Seller's Affidavit. At Closing, Seller shall furnish Purchaser an affidavit stating that Seller is and/or has been at all times in sole and undisputed possession of the Property.
20. Real Estate Commission. Each party warrants to the other that it has not used the services of a real estate broker or agent in connection with this transaction. Each party agrees to defend, indemnify, and hold the other party harmless for any claim for real estate commissions arising by reason of the indemnifying party's breach of this warranty. The provisions of this paragraph shall survive Closing and the delivery of the deed to the Real Property or the termination of this Agreement.

21. Assignment. This Agreement shall be binding upon the parties hereto, their respective heirs, successors and assigns. The Purchaser may assign this agreement without the written consent of the other party.
22. Choice of Law. This Agreement shall be governed, construed and interpreted in accordance with the laws of the State of Oklahoma.
23. Covenants and Conditions. The covenants and conditions contained herein shall survive the date of closing.

IN WITNESS WHEREOF, this Contract has been executed and delivered by the Purchaser to the Seller effective as of the Effective Date.

SELLER:

CITY OF SAPULPA

By: _____

Name: _____

Title: _____

Date: January __, 2019

PURCHASER:

GUARDIAN CAPITAL, L.L.C.,
an Oklahoma limited liability company

By: Daniel Flannery

Name: Dan Flannery

Title: Managing Member

Date: January 20, 2019

**Appendix J - Consider acknowledging the Purchase, Sale, and Closing of Real Estate
transaction with DGB-81, LLC**

Meeting Date:	05/06/2019	Submitted By:	Amy Hoehner, Legal Assistant
Submitted For:	David Widdoes		
Department:	Legal		
Presented By:	David Widdoes		

SUBJECT:

Consider acknowledging the Purchase, Sale, and Closing of Real Estate transaction with DGB-81, LLC for 65 acres m/l at the Northwest corner of 81st street and Frankoma Road in the amount of \$650,000.00, and ratifying all documents executed at said closing.

BACKGROUND:

On April 30, 2019, the City closed the sale of the referenced tract for \$650,000.00 to the Buyer for the development of a new residential subdivision.

RECOMMENDATION:

Staff recommends that the Mayor and City Councilors ratify and acknowledge the closing of the referenced transaction.

Attachments

[General Warranty Deed](#)
[Closing Statement](#)

Appendix K – Warranty Deed from the City of Sapulpa to DGB-81, LLC

GENERAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

THAT the CITY OF SAPULPA, OKLAHOMA, a municipal corporation, (hereinafter "Grantor") in consideration of the sum of Ten Dollars (\$10.00), in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto **DGB-81, LLC** ("Grantee"), the following described real property and premises situated in Creek County, State of Oklahoma, to-wit:

Beginning at the Southwest corner of Section Twelve (12), Township Eighteen (18) North, Range Eleven (11) East of the Indian Base and Meridian, Creek County, State of Oklahoma, according to the U.S. Government Survey thereof; Thence N01°09'19"W 1980.0 feet; Thence N89°05'31"E 1420.0 feet; Thence S01°49'07"E 650.34 feet; Thence S88°51'33"W 100.0 feet; Thence S01°04'20"E 808.38 feet to the Railroad Right of Way; Thence along the Railroad Right of Way 589.90 feet to the South line of said Section 12; Thence S88°59'11"W 1043.97 feet to the Point of Beginning.

and

All that part of the Southeast Quarter of the Southwest Quarter (SE/4 SW/4) of Section Twelve (12), Township Eighteen (18) North, Range Eleven (11) East of the Indian Base and Meridian, Creek County, State of Oklahoma, according to the U.S. Government Survey thereof, lying North of the Burlington Northern Santa Fe Railroad Right of Way,

together with all and singular the hereditaments and appurtenances thereunto belonging.

TO HAVE AND TO HOLD the above described premises unto the said Grantee, party of the second part, and to its heirs, assigns and successors forever. Said Grantor does hereby covenant, promise and agree to delivery of an absolute and indefeasible estate in fee simple (surface only) that is free, clear, and discharged of and from all former and other grants, titles, charges, judgments, taxes, assessments, and encumbrances, of whatsoever nature and kind, and will warrant and defend title to the same.

IN WITNESS WHEREOF, the said GRANTOR has hereunto executed and delivered this deed as of the 30th day of April, 2019.

THE CITY OF SAPULPA

By: Reg Green
Reg Green, Mayor

Attest: Shirley Burzio
Shirley Burzio, City Clerk

ACKNOWLEDGMENT

STATE OF OKLAHOMA)
COUNTY OF CREEK) ss.

Before me, a Notary Public in and for said County and State, on this 30th day of April, 2019, personally appeared Reg Green, the duly elected Mayor of the City of Sapulpa, Oklahoma, to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that he executed the same as the free and voluntary act and deed of the municipal corporation for the uses and purposes therein set forth.

Given under my hand and seal the day and year last above written.

[S E A L]

My Commission Expires: 06/10/2020
My Commission Number: 16005715

