



## **SPECIAL URBAN RENEWAL AUTHORITY AGENDA**

City Hall - Midwest City Council Chambers, 100 N. Midwest Boulevard

October 10, 2023 – 8:15 AM

- A. CALL TO ORDER.
- B. DISCUSSION ITEMS.
1. Discussion, consideration, and any possible action of approving the minutes of the July 19, 2023 special meeting.
  2. Discussion, consideration and possible action, including any possible amendments, on a Resolution authorizing the acquisition of certain real property located on the northwest corner of E. Reno Avenue and N Air Depot Boulevard, by negotiation or by exercise of eminent domain, if necessary, Heritage Park Mall Area Urban Renewal Plan.
  3. Discussion, consideration and possible action, including any possible amendments, on a Resolution approving and adopting the Relocation Policy and Procedures for the Heritage Park Mall Area Urban Renewal Plan.
- C. NEW BUSINESS/PUBLIC DISCUSSION. In accordance with State Statute Title 25 Section 311. Public bodies - Notice. A-9, the purpose of the "New Business" section is for action to be taken at any Council/Authority/Commission meeting for any matter not known about or which could not have been reasonably foreseen 24 hours prior to the public meeting. The purpose of the "Public Discussion" section of the agenda is for members of the public to speak to the Authority on any subject not scheduled on the regular agenda. The Authority shall make no decision or take any action, except to direct the City Manager to take action, or to schedule the matter for discussion at a later date. Pursuant to the Oklahoma Open Meeting Act, the Authority will not engage in any discussion on the matter until that matter has been placed on an agenda for discussion. **THOSE ADDRESSING THE AUTHORITY ARE REQUESTED TO STATE THEIR NAME AND ADDRESS PRIOR TO SPEAKING TO THE AUTHORITY.**
- D. ADJOURNMENT.

Notice of this special Midwest City Urban Renewal Authority meeting was filed with the City Clerk of Midwest City more than 48 hours prior to the meeting and copies of the agenda for this special meeting were posted at City Hall and on the City’s website, accessible to the public for at least 24 hours in advance of the meeting.

## MINUTES OF THE SPECIAL

### MIDWEST CITY URBAN RENEWAL AUTHORITY MEETING

June 28, 2023 – 8:15 AM

A special meeting of the Midwest City Urban Renewal Authority (“URA”) was held on July 19, 2023 at 8:15 a.m. in the Council Chambers, Midwest City Hall, 100 N. Midwest Blvd, MWC, OK 73110.

Vice-Chairman Herbert called the meeting to order at 8:16 AM with the following Trustees present: Secretary Sherry Beard and Commissioner Aaron Budd. City Staff present included Economic Development Director Robert Coleman and Counselor Don Maisch.

#### B. DISCUSSION ITEMS

**1. Discussion, consideration, and possible action of approving the minutes of the June 28, 2023 special meeting.**

Secretary Beard made a motion to approve the minutes as presented, Commissioner Budd seconded the motion and the item was approved 3 – 0.

**2. Discussion, consideration and possible action to amend and receiving the Fiscal Year 2022 - 2023 Annual Report and to direct its filing with the Mayor and City Council of the City of Midwest City.**

Coleman provided a brief overview of how the URA’s account arrived at its current balance.

Commissioner Budd motioned to receive the annual report as written. His motioned was seconded by Beard and the item was approved 3 – 0.

#### D. ADJOURNMENT.

Being there no further business, Secretary Beard made a motion to adjourn, which was seconded by Commissioner Budd. Following a 3 – 0 vote in the affirmative, the meeting adjourned at 8:18 AM.

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DAVE HERBERT, Vice-Chairman

ATTEST:

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SHERRY BEAIRD, Secretary



City Manager  
100 N. Midwest Boulevard  
Midwest City, OK 73110  
office 405.739.1204

## MEMORANDUM

TO: Urban Renewal Authority Board Members

FROM: Tim Lyon, General Manager/Administrator

DATE: October 10, 2023

SUBJECT: Discussion and consideration for adoption, including any possible amendments, on a Resolution authorizing the acquisition of certain real property located on the northwest corner of Reno Avenue and N. Air Depot Boulevard, by negotiation or by exercise of eminent domain, if necessary, Heritage Park Mall Area Urban Renewal Plan.

On April 25, 2023, City Council adopted and approved the Heritage Park Mall Area Urban Renewal Plan ("Plan"), consistent with and pursuant to the Oklahoma Urban Redevelopment Act, 11 O.S. §38-101, et seq. ("Act"). The Plan authorizes and directs the Urban Renewal Authority ("Authority") to carry out certain responsibilities for implementation of the Plan, including the acquisition of property specified in the Plan consistent with the Act and the Relocation Policy and Procedure for the Heritage Park Mall Area Urban Renewal Plan ("Policy"), adopted by the Authority.

The Plan authorizes the acquisition of certain real property, whether improved or unimproved, as shown on the Land Acquisition Map, by direct negotiation or by the exercise of the power of eminent as needed to achieve the objectives of the Plan. All such acquisition actions taken by the Authority shall be taken in accordance with the Act, the Plan, and the Policy.

The attached resolution determines that the acquisition of certain property as authorized by the Plan is necessary to achieve the objectives of the Plan and authorizes the Executive Director to negotiate and enter into contracts for acquisition. The resolution further authorizes the use of eminent domain, if necessary, to acquire property, in accordance with the Plan and the Policy.

Staff recommends approval.

A handwritten signature in black ink, appearing to read "Tim Lyon", is written over a horizontal line.

Tim Lyon  
General Manager/Administrator

Attachments: Resolution  
Heritage Park Mall Area Urban Renewal Plan

**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION OF THE MIDWEST CITY URBAN RENEWAL AUTHORITY AUTHORIZING THE ACQUISITION OF CERTAIN REAL PROPERTY LOCATED ON THE NORTHWEST CORNER OF RENO AVENUE AND N. AIR DEPOT BOULEVARD, BY NEGOTIATION OR BY EXERCISE OF EMINENT DOMAIN, IF NECESSARY, HERITAGE PARK MALL AREA URBAN RENEWAL PLAN**

**WHEREAS**, on April 25, 2023, the City Council of the City of Midwest City (“City”) approved the Heritage Park Mall Area Urban Renewal Plan (“Urban Renewal Plan”) in accordance with the Oklahoma Urban Redevelopment Law, 11 O.S. §38-101, *et seq.* (“Act”), and authorized the Midwest City Urban Renewal Authority (“Authority”) to carry out the Urban Renewal Plan; and

**WHEREAS**, in accordance with the Act and the Urban Renewal Plan, the Authority is authorized and directed to carry out certain responsibilities for implementation of the Urban Renewal Plan, including the acquisition of parcels within the Urban Renewal Area; and

**WHEREAS**, the Urban Renewal Plan authorizes the acquisition of certain real property, whether improved or unimproved, and specifically finds that the acquisition of said property is necessary to carry out the Urban Renewal Plan; and

**WHEREAS**, the City has previously authorized the acquisition of real property, whether improved or unimproved, as necessary for the execution of the Urban Renewal Plan; and

**WHEREAS**, consistent with the Urban Renewal Plan, any such property may be acquired by negotiation or by exercise of eminent domain, if necessary; and

**WHEREAS**, as required by the Urban Renewal Plan, any such property is to be acquired consistent with the Midwest City Urban Renewal Authority Relocation Policy and Procedures for the Heritage Park Mall Area Urban Renewal Plan, as adopted and amended from time to time (“Policy”); and

**WHEREAS**, the Authority finds that the acquisition of the properties described and depicted on Exhibit A (“Properties”) by direct negotiation or by the exercise of the power of eminent domain is necessary to achieve the objectives of the Urban Renewal Plan; and

**WHEREAS**, the Authority finds that it is necessary and appropriate to authorize the acquisition of the Properties by direct negotiation and/or by the exercise of the power of eminent domain, as needed to achieve the objectives of the Urban Renewal Plan, in accordance with the Act and the Policy, and to authorize the Executive Director to disburse funds in payment therefore.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of the Midwest City Urban Renewal Authority that:

1. It is hereby determined that the acquisition of the Properties is necessary to achieve the objectives of and to carry out the Urban Renewal Plan.
2. The Executive Director, with the assistance of legal counsel of the Authority, is hereby authorized to negotiate and enter into contracts for the acquisition of the Properties and to disburse funds in payment therefore in accordance with the Urban Renewal Plan and the Policy.
3. The Executive Director and legal counsel of the Authority are hereby authorized and directed to take all necessary actions to acquire title to the Properties by the exercise of eminent domain, if necessary, in the name of the Authority, in accordance with the Urban Renewal Plan and the Policy.
4. The Executive Director and legal counsel of the Authority are authorized and directed to take such actions and execute such documents, including but not limited to contracts to engage the services of title companies, surveyors, appraisers, relocation specialists, and other professionals to assist in the acquisition of the Properties as may be necessary or appropriate to carry out the authorizations contained in this resolution.

**ADOPTED and APPROVED** by the Board of Commissioners of the Midwest City Urban Renewal Authority this \_\_\_ day of October, 2023.

I, \_\_\_\_\_, Secretary of the Board of Commissioners for the Midwest City Urban Renewal Authority, certify that the foregoing resolution was duly adopted at a meeting of the Board of Commissioners of the Midwest City Urban Renewal Authority, held in City Hall at 100 N. Midwest Boulevard, Midwest City, Oklahoma, on the \_\_\_ day of October, 2023; that said meeting was held in accordance with the Bylaws of the Authority and the Oklahoma Open Meetings Act; that any notice required to be given of such meeting was properly given; that a quorum was present at all times during said meeting; and that the resolution was duly adopted by a legally sufficient number of the Commissioners.

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SECRETARY

(SEAL)

## **EXHIBIT A**

### **Legal Description of Properties**

*The legal description is subject to adjustment as to exact boundaries, dimensions, and final determination based on a survey.*

Blocks 5, 6, 7, and 8 in Heritage Park Mall, a Re-Subdivision of Blocks 3, 4, and 5 of Miracle Mile Addition, an Addition to Midwest City, Oklahoma County, Oklahoma, as shown by the recorded plat thereof (former What-A-Burger and Remainder of Heritage Park Mall)

Lot 3 in Heritage Park Mall (a Re-Subdivision of Block 3, 4, and 5 of Miracle Mile Addition) in Midwest City, Oklahoma County, Oklahoma, according to the recorded plat thereof, recorded in Book 47 at Page 96, Oklahoma County Records, Oklahoma; (former Montgomery Wards building)

## Depiction of Properties





# **HERITAGE PARK MALL AREA URBAN RENEWAL PLAN**

DECEMBER 21, 2022



**I. Description of Project**

a. Background and Purpose

This plan addresses a specific, small in size, distressed area near the western gateway to the City of Midwest City (“City”), specifically the northwest corner of Reno Avenue and N. Air Depot Boulevard, primarily consisting of the former Heritage Park Mall. The City has made significant progress in its effort to create a desirable community within which to live, work, play, and invest. Public investment through streetscape and drainage improvements, water and sewer infrastructure, and trails and public spaces have contributed to this effort. The City’s Comprehensive Plan identifies the current uses in this area as office and retail and designates future land use of the area as a focal point of the community where the City seeks to encourage quality development and contemplates major redevelopment, whether through new land uses and buildings or the repurposing of the existing structures.

The Heritage Park Mall Area Urban Renewal Plan (“Urban Renewal Plan”) is an urban renewal plan as defined by and in accordance with the provisions of the Oklahoma Urban Redevelopment Law, 11 O.S. §38-101, *et seq.* It is a primary element of the City’s intent to facilitate the redevelopment of the area, creating new economic development opportunities. Implementation of this Urban Renewal Plan is critical to remedying blighting conditions, in order to contribute to the economic and community health of the City into the foreseeable future.

b. Urban Renewal Area Map

The Urban Renewal Area Map is attached as Exhibit 1.

c. Legal Description of Urban Renewal Area

The Urban Renewal Area is located in Midwest City, Oklahoma County, State of Oklahoma, and is specifically described on Exhibit 2.

d. Eligibility for Redevelopment

The Urban Renewal Area is a blighted area within the meaning of the Oklahoma Urban Redevelopment Law, as found and declared by the City in Resolution 2022-23, dated August 23, 2022.

e. Urban Renewal Plan Objectives

The Urban Renewal Plan will be undertaken as approved and authorized by the City. The principal activities consist of acquisition, disposition, and redevelopment to remedy blighting conditions in the Urban Renewal Area.

Administrative implementation and support with respect to acquisition and disposition of property will be provided primarily by the Midwest City Urban Renewal Authority, a public body corporate (“MWCURA”).

The primary development and redevelopment objectives of the Urban Renewal Plan are to:

- i. Remove the blighting conditions in the Urban Renewal Area.

- ii. Create one or more new redevelopment sites in the City.
- iii. Return the under-utilized land to full economic productivity.
- iv. Build on the City's past and ongoing investment in the immediate area.
- v. Encourage investment in and redevelopment in accordance with the City's Comprehensive Plan.
- vi. Reinforce the City's image through quality urban design practices.
- vii. Encourage the redevelopment of the underutilized shopping mall to become one of the focal points of the community.
- viii. Provide economic development tools to assist in the revitalization of the Urban Renewal Area.
- ix. Address any environmental conditions impacting redevelopment and public health through identification and remediation.
- x. Improve the economic viability of the commercial corridor.
- xi. Acquire property to create development parcels.
- xii. Proactively recruit private reinvestment in the Urban Renewal Area.
- xiii. Support consistent code enforcement to beautify the area.
- xiv. Support and reinforce adopted policies of the City outlined in the Comprehensive Plan, the zoning code, and other regulatory documents.

f. Types of Renewal Actions

The primary actions of the Urban Renewal Plan are to:

- i. Facilitate the acquisition of parcels and clearance of dilapidated structures to create individual and large tract assemblages as redevelopment sites for investment and to eliminate blight.
- ii. Make properties available for redevelopment as contemplated by this Urban Renewal Plan.
- iii. Rehabilitate and bring up to a standard compatible with objectives of the Urban Renewal Plan, meeting all applicable requirements of City codes and ordinances, for any structures that may remain.
- iv. Identify key development sites and market to the development community.
- v. Coordinate needed public infrastructure and neighborhood amenity improvements related to redevelopment sites.
- vi. Coordinate any needed zoning, architectural, or urban design standards that would enhance the redevelopment efforts.

**II. Land Use Plan and Provisions**

a. Land Use Plan

The existing zoned uses of the properties within in the Urban Renewal Area are depicted on the attached Exhibit 4, Existing Land Use Map. The Land Use Plan consists of the current and future Land Use Plan Map contained in Exhibit 5 and the Land Use Provisions in Section II of this Urban Renewal Plan. The Land Use Plan will be consistent with the City's Comprehensive Plan and the land use provisions contained herein.

b. Permitted Land Use Categories

Permitted land use categories are shown on Exhibit 5, the Land Use Plan Map. The current and future permitted land use categories include office, retail, residential, institutional, and public. Private and public uses (including institutional) shall permit accessory uses and complementary uses, whether public or private. Specific land uses will be controlled by applicable zoning approved by the City. The Land Use Plan Map is a general guide subject to specific adjustment and modification by the City without amendment of this Urban Renewal Plan.

c. Specific Regulations, Controls, and Restrictions to Be Imposed by the Urban Renewal Plan on the Sale, Lease, or Other Disposition of All Real Property Acquired

In order to achieve the objectives of the Urban Renewal Plan and in order to assist redevelopers in redeveloping property, MWCURA, acting on behalf of the City, will subject land to be redeveloped to specific regulations and controls at the time of land disposition. Such specific regulations and controls may include, but are not limited to, floor area ratio, building coverage, height, setback, open areas, uses, off-street parking, and landscaping.

MWCURA shall review the proposals and plans for redevelopment, and it shall prescribe such controls, regulations, restrictions, and obligations in the redevelopment contract, deeds of disposition, and other related documents as it determines to be appropriate to carry out the objectives of the Urban Renewal Plan.

d. Duration of Controls, Effective Date and Renewal Provisions

Building requirements which are implemented by covenants in disposition or other documents shall be effective for the period provided in the redevelopment documents, but in any event until January 1 of the year 2045, unless otherwise extended by the City.

### III. Project Authorizations

a. Implementation Authority

- i. The City shall provide overall policy direction and approvals as required under the Oklahoma Urban Redevelopment Law and applicable state law regarding development, redevelopment, and financing activities. The City may make budgetary appropriations and undertake land acquisitions and dispositions as it deems necessary and appropriate and in accordance with applicable law.
- ii. The Midwest City Economic Development Authority, a public trust whose beneficiary is the City (“MWCEDA”), and the Midwest City Memorial Hospital Authority, a public trust whose beneficiary is the City (“Trust”), may provide primary financing authorizations and establish financing priorities necessary or appropriate to implement the Urban Renewal Plan.
- iii. MWCURA may undertake acquisition (including relocation and other related activities) and disposition activities necessary or appropriate to undertake the Urban Renewal Plan in accordance with City approvals.

- iv. The City, the MWCEDA, the Trust, and MWCURA are each separately authorized to utilize powers, funds, employees, consultants, and members to accomplish the objectives of the Urban Renewal Plan to the extent permitted by law.
- v. MWCURA may devote properties acquired by it in the Urban Renewal Area, prior to the time such properties are needed for redevelopment purposes, to rental, lease, or other continuation of present uses or to temporary uses, such as parking, relocation, or recreation, etc., in accordance with such standards, controls and regulations as MWCURA and/or the City may deem appropriate.
- vi. Administrative interpretations of the land use provisions during the period of Urban Renewal Plan execution shall be provided by the appropriate and designated department of the City upon its own motion or within thirty (30) days after receipt of a written request for such interpretation.
- vii. The City shall be a beneficiary to all instruments and agreements incorporating land use provisions and building requirements and shall be entitled to enforce such provisions by actions of law or in equity including suits for injunctions both prohibitive and mandatory.

b. Project Coordination

Implementation and coordination actions shall be guided by the City Manager and such staff, employees, officers, consultants, and members of the City, the MWCEDA, the Trust, and MWCURA as may be necessary or appropriate from time to time. Implementation and coordination participation shall, at a minimum, include representatives of the City, the MWCEDA, the Trust, and MWCURA, and their legal counsel. Additional participants may be designated at any time by the City Manager. Public benefits, such as public improvements and financial assistance, should be conferred in a manner that leverages quality private development consistent with the City's development and redevelopment objectives, as reflected in this Urban Renewal Plan, the Comprehensive Plan, and applicable zoning. Whenever possible, development agreements shall be used to ensure that public resources generate corresponding private development.

c. Land Acquisition

Real property in the Urban Renewal Area may be acquired as shown on the Land Acquisition Map, Exhibit 3. Such property may be acquired by direct negotiation and/or by the exercise of the power of eminent domain granted by law to MWCURA, including specifically any currently vacant property as shown on the Existing Land Use Map, Exhibit 4, or which has become vacant by removal of structures thereon. In addition, title to and interests in street rights-of-way and other public use land will be acquired by MWCURA or the City as necessary to carry out the Urban Renewal Plan objectives. The City consents to the acquisition through eminent domain of any such property in which it may have a legal or beneficial interest. Under the provisions of this section, MWCURA may, as it determines appropriate, acquire a lesser interest in property than fee simple, which lesser interest may include acquisition of one or more structures, but excluding the land or some interest therein where the acquisition of such lesser interest will serve the objectives of this Urban Renewal Plan and where its requirements for redevelopment are otherwise met.

d. Reports to The City

MWCURA shall provide to the City upon request periodic reports detailing activities undertaken by MWCURA in the Urban Renewal Area.

e. Redevelopers' Obligations

Redevelopment of land in the Urban Renewal Area shall be made subject to the redevelopment requirements specified by MWCURA. The purpose of such redevelopment requirements is to assure the redevelopment of the Urban Renewal Area will conform to the planning and design objectives of the Urban Renewal Plan. It is therefore the obligation of all redevelopers not only to comply with these requirements, but also to familiarize themselves with the overall Urban Renewal Plan and to prepare development or redevelopment proposals which are in harmony with the Urban Renewal Plan. All such proposals will be subject to design review, comment, and approval by MWCURA prior to disposition and prior to commencement of construction.

Redevelopers will be obligated, under the terms of the disposition instrument, to carry out certain specified improvements, in accordance with the Urban Renewal Plan, within a reasonable period of time as set forth in the contract or agreement. Redevelopers will not be permitted to dispose of property until the improvements are completed, without the prior written consent of MWCURA, which consent will not be granted except under conditions that will prevent speculation and protect the interests of the City and MWCURA.

f. Underground Utility Lines

When required by MWCURA, utility distribution lines, whether public or private, shall be placed underground.

g. Other Provisions Necessary to Meet State and Other Local Requirements

The land in the Urban Renewal Area is to be made available to public or private enterprises for redevelopment as provided in this Urban Renewal Plan.

h. Modification of the Urban Renewal Plan

This Urban Renewal Plan may be modified as provided by state law as now in effect or as it may hereafter be amended.

i. Planning and Zoning

The land use provisions contained in this Urban Renewal Plan shall be implemented and supplemented by the zoning ordinances and other codes of the City.

**IV. Land Disposition**

a. Methods

Land disposition pursuant to this Urban Renewal Plan may be accomplished by methods which comply with the laws of the State of Oklahoma.

b. Procedures for Contracts

- i. Applicability. MWCURA shall comply with the following procedures when it proposes to enter into contracts or agreements with respect to land or the redevelopment thereof for residential, recreational, commercial, industrial, other uses, or for public uses, other than for retention of property for public use, in accordance with the Urban Renewal Plan. The procedure below will apply until such time as the City adopts and approves procedures by ordinance, resolution, or otherwise, which are intended to supersede these provisions.
- ii. Obligations to be Imposed. MWCURA shall require the purchaser or redeveloper to devote property to the uses provided in this Urban Renewal Plan and agree to development in accordance with the Urban Renewal Plan.
- iii. Notice. Prior to entering into any agreement for land disposition to a private purchaser or any agreement for private redevelopment, MWCURA shall give at least ten (10) days' notice by publication in a newspaper of general circulation in the City, which notice shall state the address and office hours of MWCURA, recite that MWCURA is considering a proposal to enter into an agreement for disposal of land and/or private redevelopment, containing the name of the proposed redeveloper, and setting forth a description of the land involved. The terms of the proposal shall be available for public inspection at the office of MWCURA.
- iv. Approval. Approval of any contacts, agreements, or disposition of land, land use, or redevelopment of land pursuant to negotiation shall be pursuant to a public meeting of MWCURA. Ten (10) days' notice of such meeting shall be given by publication in a newspaper of general circulation in the City, which notice shall specify the time and place of the meeting, the nature of the agreement to be approved, and the proposed purchaser or redeveloper. Such notice may be combined with the notice referred to in subsection IV(b)(iii) above.

**V. Project Financing Plan**

Financing authorizations and support will be primarily provided by the City, the MWCEDA, and/or the Trust. Implementation and financing of the Urban Renewal Plan may be phased. The scope, complexity, and execution times of the many projects and activities required to achieve the objectives of this Urban Renewal Plan may necessitate such an implementation and financing method. The Urban Renewal Plan may be undertaken in conjunction with other local and state economic development and redevelopment tools and programs, including by way of example, capital improvement bond issues, the Oklahoma Local Development Act, 62 O.S. §850, *et seq.*, and the Oklahoma Local Development and Enterprise Zone Incentive Leverage Act, 62 O.S. §840, *et seq.* Financing approvals and authorizations shall be provided from time to time as deemed appropriate by the City, the MWCEDA, and the Trust.

**VI. Relocation Plan**

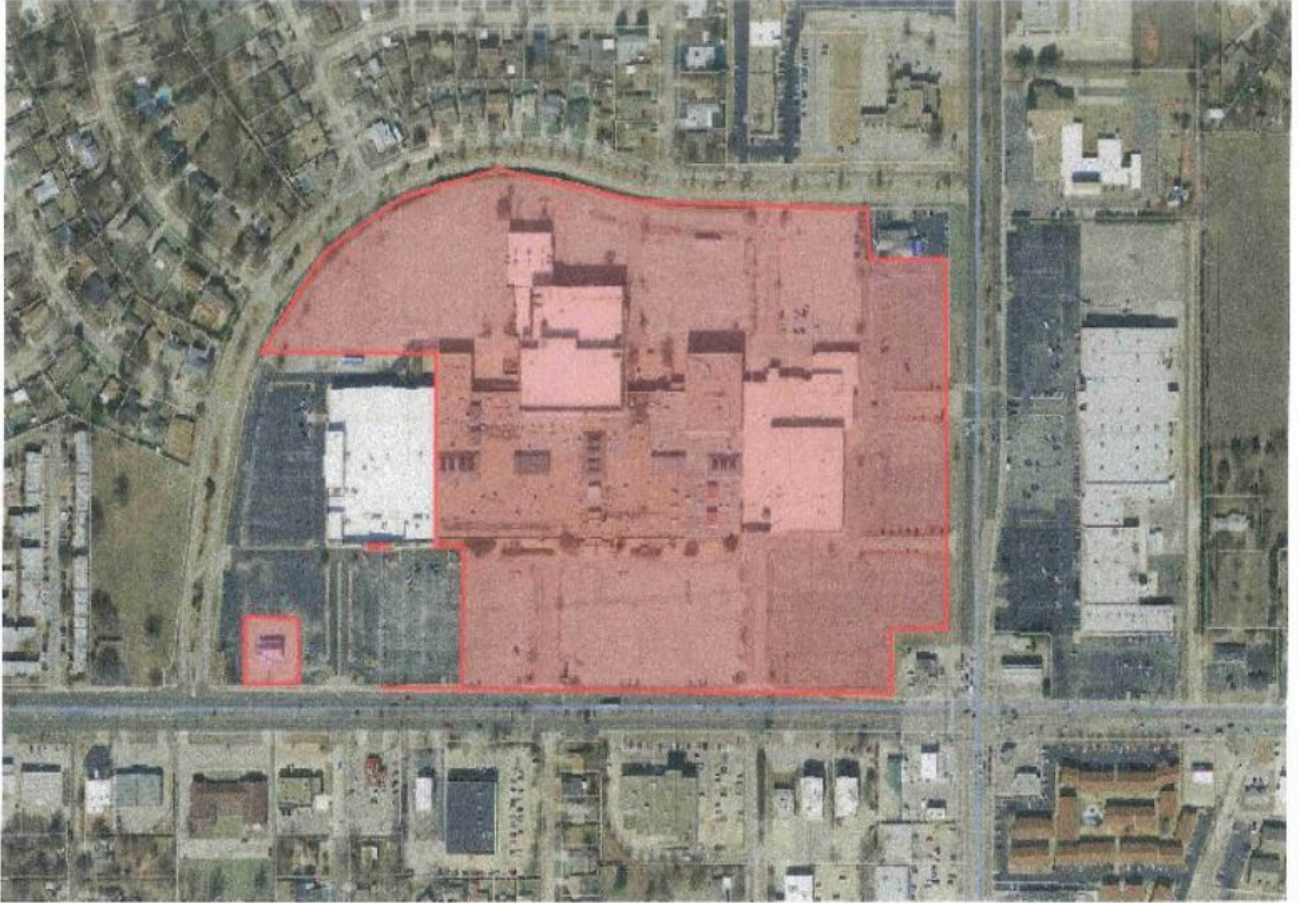
MWCURA shall carry out all relocation activities in accordance with 11 O.S. §38-108(8) of the Oklahoma Urban Redevelopment Law, this Urban Renewal Plan, and the Midwest City Urban Renewal Authority Relocation Policy and Procedures, as adopted and amended from time to time (“Policy”), in order to provide a feasible method for the relocation of families and businesses displaced by its actions into decent, safe, and sanitary accommodations within their means and without undue hardship to such families and businesses. The City may direct further benefits and financial assistance in a manner that is clear, uniform, and nondiscriminatory, in addition to the relocation assistance offered through the Policy.

MWCURA will provide reasonable notice to relocatees of all relocation actions as set out in the Policy. Likewise, appeals procedures shall be provided to all those to be relocated or displaced. MWCURA shall perform ongoing monitoring of all relocation or displacement activities, including adequate records keeping, site occupants’ needs and concerns, counseling and advisory services, claims processing, appeals processing, and other such activities.

Relocation activities shall be reviewed periodically to assure compliance with applicable laws and policies.

**EXHIBIT 1**

**Urban Renewal Area Map**





## **EXHIBIT 2**

### **Legal Description of Urban Renewal Area**

Blocks 5, 6, 7, and 8 in Heritage Park Mall, a Re-Subdivision of Blocks 3, 4, and 5 of Miracle Mile Addition, an Addition to Midwest City, Oklahoma County, Oklahoma, as shown by the recorded plat thereof (former What-A-Burger and Remainder of Heritage Park Mall); and

Lot 3 in Heritage Park Mall (a Re-Subdivision of Block 3, 4, and 5 of Miracle Mile Addition) in Midwest City, Oklahoma County, Oklahoma, according to the recorded plat thereof, recorded in Book 47 at Page 96, Oklahoma County Records, Oklahoma; (former Montgomery Wards building) and

Block 2 of Heritage Park Map, a Re-Subdivision of Blocks 3, 4, and 5 of Miracle Mile Addition, an Addition to the City of Midwest City, Oklahoma County, Oklahoma, according to the recorded plat thereof. Together with Construction, Operation and Reciprocal Easement Agreement recorded August 1, 1977, in Book 4388, Page 784; and Amendment, Ratification and Adoption of Construction, Operation and Reciprocal Easement Agreement recorded November 14, 1977, in Book 4415, Page 935 together will all improvement thereon and the appurtenances thereunto belonging. (Former Sears building).

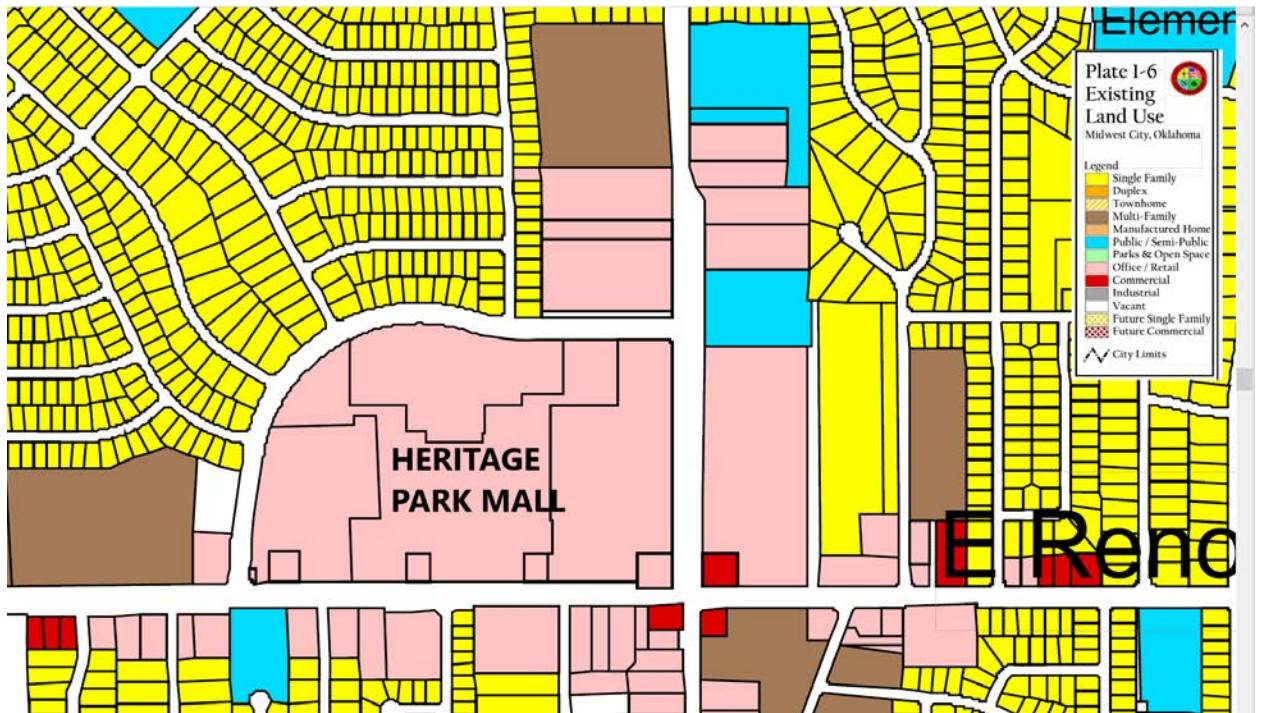
**EXHIBIT 3**

**Land Acquisition Map**



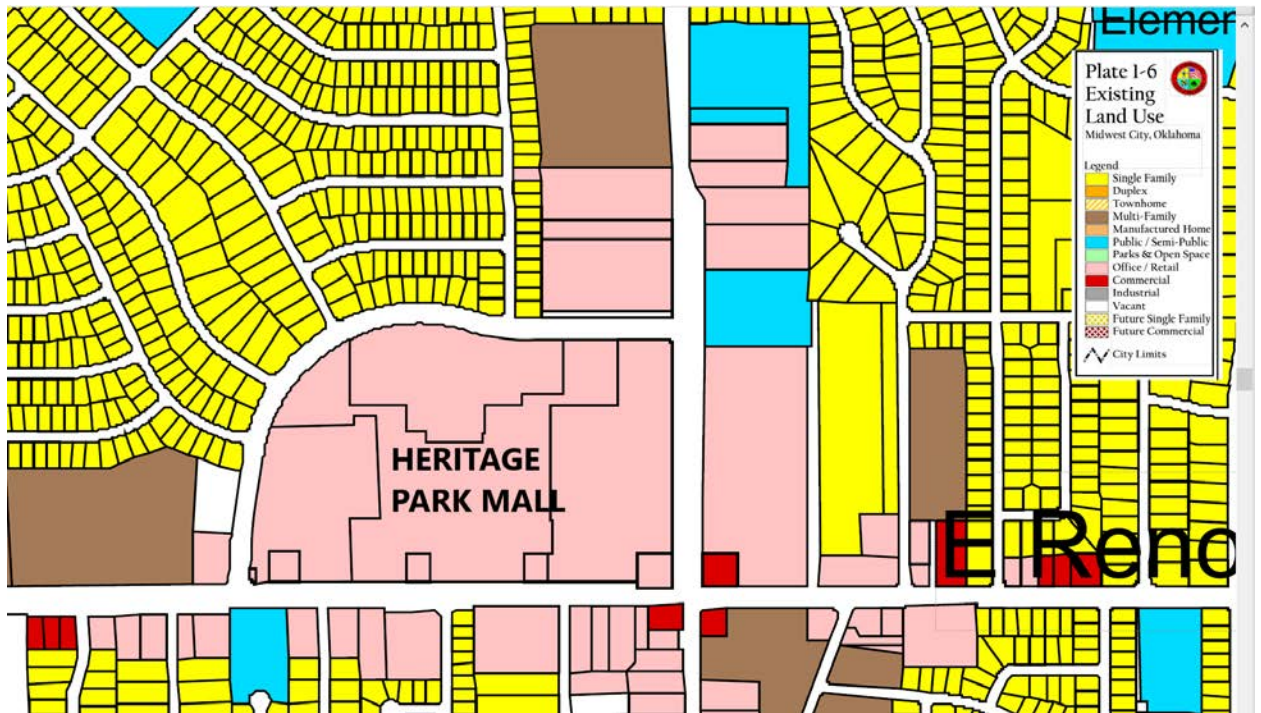
# EXHIBIT 4

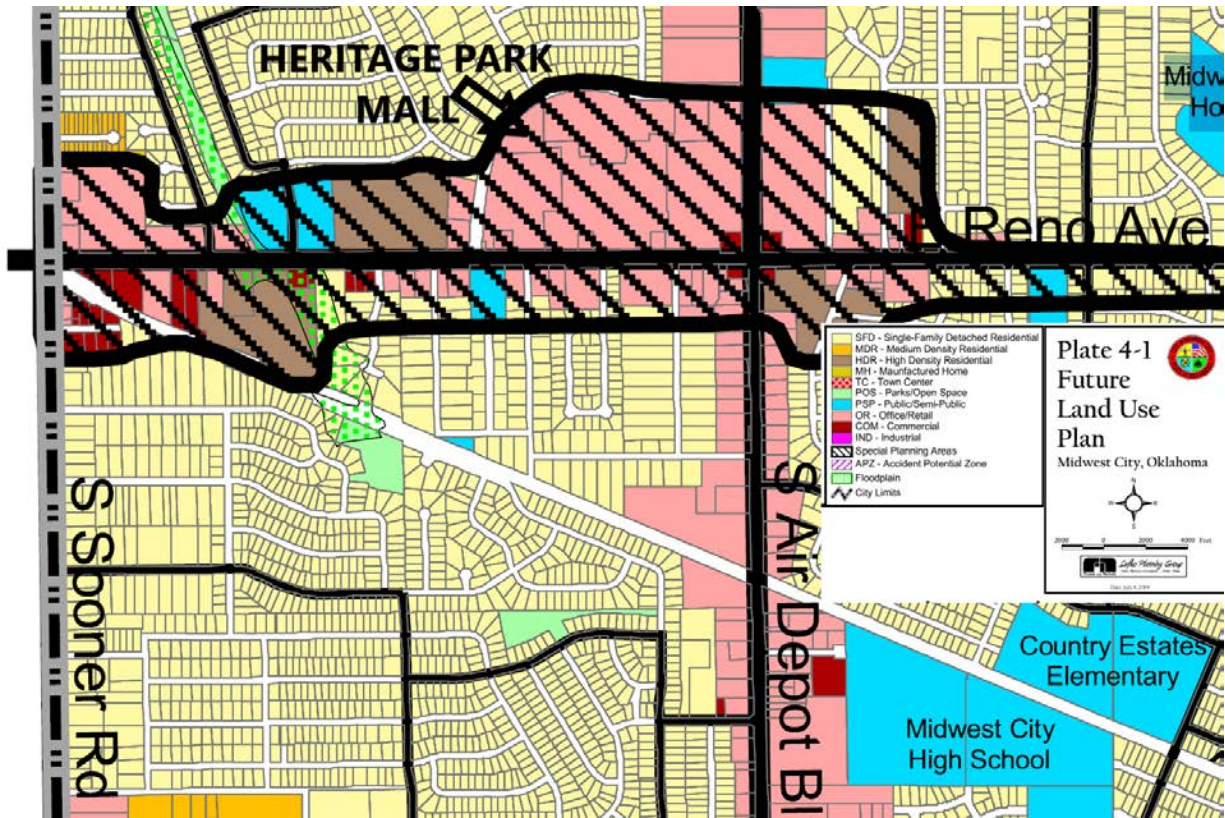
## Existing Land Use Map



# EXHIBIT 5

## Land Use Plan





Specific land uses will be controlled by applicable zoning approved by the City. The Land Use Plan Maps are a general guide subject to specific adjustment and modification by the City without amendment to the Urban Renewal Plan.



**City Manager**  
100 N. Midwest Boulevard  
Midwest City, OK 73110  
office 405.739.1204

## MEMORANDUM

**TO:** Urban Renewal Authority Board Members

**FROM:** Tim Lyon, General Manager/Administrator

**DATE:** October 10, 2023

**SUBJECT:** Discussion and consideration for adoption, including any possible amendments, on a Resolution approving and adopting the Relocation Policy and Procedures for the Heritage Park Mall Area Urban Renewal Plan.

The City of Midwest City recently approved the Heritage Park Mall Area Urban Renewal Plan, pursuant to and consistent with the Oklahoma Urban Redevelopment Act, 11 O.S. §38-101, et seq. ("Act"). The Heritage Park Mall Area Urban Renewal Plan references the Relocation Policy and Procedures, adopted and amended from time to time by the Midwest City Urban Renewal Authority.

The attached Relocation Policy and Procedures for the Heritage Park Mall Urban Renewal Plan provides a feasible method for the relocation of persons who may be displaced from the urban renewal area, which, consistent with the Act, is determined to be a feasible method for the relocation of families and businesses displaced from the urban renewal area in decent, safe and sanitary accommodations, within their means and without undue hardship to such families and businesses. Consistent with the Act, the goal of the Relocation Policy and Procedures for the Heritage Park Mall Urban Renewal Area is to help ensure fair, consistent, and equitable treatment in acquisition and relocation so that displaced persons will not suffer disproportionate injuries as a result of the project.

Staff recommends approval.

A handwritten signature in black ink, appearing to read "Tim Lyon", is written over a horizontal line.

Tim Lyon  
General Manager/Administrator

**Attachments:** Resolution  
Policy Summary  
Relocation Policy and Procedures for the Heritage Park Mall Area Urban Area Plan

**RESOLUTION NO. \_\_\_\_**

**A RESOLUTION OF THE MIDWEST CITY URBAN RENEWAL AUTHORITY APPROVING AND ADOPTING RELOCATION POLICY AND PROCEDURES FOR THE HERITAGE PARK MALL AREA URBAN RENEWAL PLAN**

**WHEREAS**, on April 25, 2023, the City Council of the City of Midwest City (“City”) approved the Heritage Park Mall Area Urban Renewal Plan (“Urban Renewal Plan”) in accordance with the Oklahoma Urban Redevelopment Law, 11 O.S. §38-101, *et seq.* (“Act”), and authorized the Midwest City Urban Renewal Authority (“Authority”) to carry out the Urban Renewal Plan; and

**WHEREAS**, the Urban Renewal Plan states that the Authority shall carry out any acquisition and relocation activities in the Urban Renewal Area in accordance with the Act and the Midwest City Urban Renewal Authority Relocation Policy and Procedures, as adopted and amended from time to time; and

**WHEREAS**, the Midwest City Urban Renewal Authority Relocation Policy and Procedures for the Heritage Park Mall Area Urban Renewal Plan (“Policy”) have been presented to and reviewed by the Authority, which Policy is an amendment and restatement of Midwest City Urban Renewal Authority Relocation Policy and Procedures heretofore adopted, which are superseded and replaced by the Policy for the Urban Renewal Plan; and

**WHEREAS**, the relocation plan outlined in the Policy and the Urban Renewal Plan presents a feasible method for the relocation of persons who may be displaced from the area included within the Urban Renewal Plan, which is determined to be a feasible method for the relocation of families and businesses displaced from the urban renewal area in decent, safe and sanitary accommodations within their means and without undue hardship to such families and businesses; and

**WHEREAS**, the Authority deems it appropriate and desirable to approve the Policy in order to provide timely relocation benefits and prompt availability of relocation funds for displaced persons; and

**WHEREAS**, such Policy shall be utilized by the Authority, consistent with the Act and the City’s authorization for the Authority to implement the Urban Renewal Plan.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of the Midwest City Urban Renewal Authority that the foregoing is adopted and approved, and further:

1. The Midwest City Urban Renewal Authority Relocation Policy and Procedures for the Heritage Park Mall Area Urban Renewal Plan are hereby approved and adopted by the Authority.

2. The Policy presents a feasible method for the relocation of persons who may be displaced from the Urban Renewal Area.
3. The Secretary of the Authority is hereby directed to file a copy of the Policy with the minutes of the meeting at which this resolution is approved.
4. The Chairman and the Executive Director of the Authority are authorized to take such actions and approve and execute such documents as may be necessary to implement the authorizations in this resolution.

**ADOPTED and APPROVED** by the Board of Commissioners of the Midwest City Urban Renewal Authority this \_\_\_ day of October, 2023.

I, \_\_\_\_\_, Secretary of the Board of Commissioners for the Midwest City Urban Renewal Authority, certify that the foregoing resolution was duly adopted at a meeting of the Board of Commissioners of the Midwest City Urban Renewal Authority, held in City Hall at 100 N. Midwest Boulevard, Midwest City, Oklahoma, on the \_\_\_ day of October, 2023; that said meeting was held in accordance with the Bylaws of the Authority and the Oklahoma Open Meetings Act; that any notice required to be given of such meeting was properly given; that a quorum was present at all times during said meeting; and that the resolution was duly adopted by a legally sufficient number of the Commissioners.

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SECRETARY

(SEAL)



# **THE MIDWEST CITY URBAN RENEWAL AUTHORITY RELOCATION POLICY AND PROCEDURES FOR THE HERITAGE PARK MALL AREA URBAN RENEWAL PLAN (“POLICY”)**

## Overview

- Consistent with Oklahoma Urban Redevelopment Law (“Act”), City Council approved Heritage Park Mall Area Urban Renewal Plan (“Plan”)
- Plan references Policy, as adopted and amended from time to time
- Policy provides a feasible method for the relocation of persons who may be displaced from the area included within the Plan, which is determined to be a feasible method for the relocation of families and businesses displaced from the urban renewal area in decent, safe and sanitary accommodations within their means and without undue hardship to such families and businesses, consistent with the Act
- Goal is to help ensure fair, consistent, and equitable treatment in acquisition and relocation so that displaced person will not suffer disproportionate injuries as a result of the project

## Acquisition Process

- Notice of intent to acquire and protections afforded property owner
- Appraisal, review appraisal
- Good faith offer
- Negotiation
- Use of eminent domain if negotiation is unsuccessful

## Relocation Benefits

- Notice and information
- Moving expenses
  - Actual and reasonable costs
  - Eligible and ineligible moving expenses

## Authorizations

- Heritage Park Mall Area Urban Renewal Plan
  - Approved by the City April 25, 2023
  - Authorizes acquisition by MWCURA, by negotiation or eminent domain, if necessary, consistent with Policy
- Policy to meet requirements of Act and Plan
- Authorization of acquisition, by negotiation or eminent domain, if necessary, consistent with Act, Plan, and Policy



**MIDWEST CITY URBAN RENEWAL AUTHORITY  
RELOCATION POLICY AND PROCEDURES FOR  
THE HERITAGE PARK MALL AREA  
URBAN RENEWAL PLAN**

Adopted by The Midwest City Urban Renewal Authority on \_\_\_\_\_, 2023

**THE MIDWEST CITY URBAN RENEWAL AUTHORITY**  
**RELOCATION POLICY AND PROCEDURES**  
**FOR THE HERITAGE PARK MALL AREA URBAN RENEWAL PLAN**

**Policies Introduction and Applicability**

The Midwest City Urban Renewal Authority Relocation Policy and Procedures for the Heritage Park Mall Area Urban Renewal Plan (“Policy”) are adopted consistent with the Oklahoma Urban Redevelopment Law, 11 O.S. §38-101, *et seq.* In connection with the Heritage Park Mall Area Urban Renewal Plan (“Urban Renewal Plan”), which contemplates utilizing the acquisition powers contained in the Oklahoma Urban Redevelopment Law, 11 O.S. §38-101, *et seq.*, it is the policy of the Midwest City Urban Renewal Authority (“Authority”), and any agent of the Authority, collectively the “Public Entity,” to utilize the following Policy for both voluntary and involuntary acquisitions.

The Policy is designed to effectively achieve the objectives of the acquisition program for the City of Midwest City’s Heritage Park Mall Area Urban Renewal Project. The Policy is established to undertake the acquisition of the property authorized for such under the Urban Renewal Plan and to comply with the requirements of the Oklahoma Urban Redevelopment Law regarding relocation activities. The Policy provides a feasible method for the relocation of displaced persons from the Urban Renewal Plan area without undue hardship.

**I. General**

**§1.1 Purpose.**

The purpose of this Policy is to promulgate rules in accordance with the following objectives:

- (a) To ensure that owners of real property to be acquired are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners, to minimize litigation and relieve congestion in the courts, and to promote public confidence;
- (b) To ensure that persons displaced as a direct result of the projects are treated fairly, consistently, and equitably so that such displaced persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole;
- (c) To ensure that a feasible method exists for the relocation of displaced persons from an urban renewal area without undue hardship;
- (d) To ensure that the Public Entity implements these regulations in a manner that is efficient and cost effective.

## §1.2 Definitions and acronyms.

(a) *Definitions.* Unless otherwise noted, the following terms used in this Policy shall be understood as defined in this section:

(1) *Public Entity.* The Public Entity is the Midwest City Urban Renewal Authority (Authority), the Executive Director of the Authority, or any person designated by the Executive Director to carry out property acquisition.

(2) *Alien.* Alien means a person who is not “lawfully present” in the United States as defined in 8 CFR 103.12 and includes:

(i) An alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Nationality Act (8 U.S.C. §1101, *et seq.*) and whose stay in the United States has not been authorized by the United States Attorney General; and

(ii) An alien who is present in the United States after the expiration of the period of stay authorized by the United States Attorney General or who otherwise violates the terms and conditions of admission, parole or authorization to stay in the United States.

(3) *Appraisal.* The term *appraisal* means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

(4) *Citizen.* The term *citizen* for purposes of this Policy includes both citizens of the United States and noncitizen nationals.

(5) *Displaced person.*

(i) *General.* The term *displaced person* means, except as provided in paragraph (a)(5)(ii) of this section, any person who moves their personal property from the real property:

(A) As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project; or

(B) As a direct result of rehabilitation or demolition for a project.

(ii) *Persons not displaced.* The following is a nonexclusive listing of persons who do not qualify as displaced persons under this Policy:

(A) A person who moves personal property on to the real property before the initiation of negotiations, unless the Public Entity determines that the person was displaced as a direct result of the program or project;

(B) A person who moved personal property on to the real property after the date of its acquisition for the project;

(C) A person who has moved personal property on to the real property for the purpose of obtaining assistance under this Policy;

(D) A person who is determined to be in unlawful occupancy prior to or after the initiation of negotiations, or a person who has been evicted for cause, under applicable law;

(E) An alien.

(6) *Initiation of negotiations.* The term *initiation of negotiations* means the following:

(i) Whenever the displacement results from the acquisition of the real property by the Public Entity, the *initiation of negotiations* means the delivery of the initial written offer of just compensation by the Public Entity to the owner or the owner's representative to purchase the real property for the project. However, if the Public Entity issues a notice of its intent to acquire the real property, and a person moves after that notice, but before delivery of the initial written purchase offer, the *initiation of negotiations* means the actual move of the person from the property.

(ii) Whenever the displacement is caused by rehabilitation, demolition, or privately undertaken acquisition of the real property (and there is no related acquisition by the Public Entity), the *initiation of negotiations* means the notice to the person that they will be displaced by the project or, if there is no notice, the actual move of the person from the property.

(7) *Person.* The term *person* means any individual, family, partnership, corporation, or association.

(8) *Program or project.* The phrase *program or project* means any activity or series of activities undertaken by the Public Entity in any phase of an undertaking in accordance with the Public Entity guidelines.

(9) *State.* The term *state* means The State of Oklahoma.

(10) *Uneconomic remnant.* The term *uneconomic remnant* means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, and which the Public Entity has determined has little or no value or utility to the owner.

(11) *Unlawful occupant.* A person who places personal property on real property that it does not own without property right, title or payment of rent.

### **§1.3 No duplication of payments.**

No person shall receive any payment under this Policy if that person receives a payment under Federal, State, local law, or insurance proceeds which is determined by the Public Entity to have the same purpose and effect as such payment under this Policy. This section prohibits the Public Entity from making a payment to a person under these regulations that would duplicate another payment the person receives under Federal, State, or local law. The Public Entity is not required to conduct an exhaustive search for such other payments; it is only required to avoid creating a duplication based on the Public Entity's knowledge at the time a payment is computed.

### **§1.4 Manner of notices.**

Each notice which the Public Entity is required to provide to a property owner under this Policy shall be personally served or sent by certified or registered first-class mail, return receipt requested, and documented in Public Entity files. Each notice shall be written in plain, understandable language. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help.

### **§1.5 Recordkeeping and reports**

(a) *Records.* The Public Entity shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with this Policy. The Public Entity will retain the records in accordance with the City's Record Retention Policy.

(b) *Confidentiality of records.* Records maintained by the Public Entity in accordance with this Policy are confidential regarding their use as public information unless applicable law provides otherwise.

### **§1.6 Appeals.**

(a) *General.* The Public Entity shall promptly review appeals in accordance with the requirements of applicable law and this Policy.

(b) *Actions which may be appealed.* Any aggrieved person may file a written appeal with the Public Entity in any case in which the person believes that the Public Entity has failed to properly consider the person's assistance under this Policy. Such assistance may include, but is not limited to, the person's eligibility for, or the amount of, a payment required under this Policy. The Public Entity shall consider a written appeal regardless of form.

(c) *Time limit for initiating appeal.* The time limit for a person to file an appeal is 60 days after the person receives written notification of the Public Entity's determination on the person's claim.

(d) *Right to representation.* A person has a right to be represented by legal counsel or other representative in connection with their appeal, but solely at the person's own expense.

(e) *Review of files by person making appeal.* The Public Entity shall permit a person to inspect and copy all materials pertinent to their appeal, except materials which are classified as confidential by the Public Entity. The Public Entity may, however, impose reasonable conditions on the person's right to inspect, consistent with applicable laws.

(f) *Scope of review of appeal.* In deciding an appeal, the Public Entity shall consider all pertinent justification and other material submitted by the person, and all other available information that is needed to ensure a fair and full review of the appeal.

(g) *Determination and notification after appeal.* Promptly after receipt of all information submitted by a person in support of an appeal, the Public Entity shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish the person a copy. If the full relief requested is not granted, the Public Entity shall advise the person of their right to seek judicial review of the Public Entity decision.

(h) *The Public Entity officials to review appeal.* The Public Entity officials conducting the review of the appeal shall be a panel that consists of the City Manager or his/her authorized designee, a representative of the Urban Renewal Authority, and a designee of the City's Municipal Counselor's office.

## **II. Real Property Acquisition**

### **§2.1 Basic acquisition policies.**

(a) *Expeditious acquisition.* The Public Entity shall make every reasonable effort to acquire the real property expeditiously by negotiation.

(b) *Notice to owner.* As soon as feasible, the Public Entity shall notify the owner in writing of the Public Entity's interest in acquiring the real property and the basic protections provided to the owner by law and this Policy.

(c) *Appraisal, waiver thereof, and invitation to owner.*

(1) Before the initiation of negotiations, the real property to be acquired shall be appraised, and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.

(2) An appraisal is not required if the owner is donating the property and releases the Public Entity from its obligation to appraise the property.

(d) *Establishment and offer of just compensation.* Before the initiation of negotiations, the Public Entity shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal of the fair market value of the property,

taking into account the value of allowable damages or benefits to any remaining property. A Public Entity official must establish the amount believed to be just compensation. Promptly thereafter, the Public Entity shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation. The initial offer to the property owner may not be less than the amount of the Public Entity approved appraisal but may exceed that amount if the Public Entity determines that a greater amount reflects just compensation for the property.

(e) *Summary statement.* Along with the initial written purchase offer, the owner shall be given a written statement of the basis for the offer of just compensation, which shall include:

(1) A statement of the amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated.

(2) A description and location identification of the real property and the interest in the real property to be acquired.

(3) An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are included as part of the offer of just compensation. Where appropriate, the statement shall identify any other separately held ownership interest in the property, *e.g.*, a tenant-owned improvement, and indicate that such interest is not covered by this offer.

(f) *Basic negotiation procedures.* The Public Entity shall make all reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation and explain its acquisition policies and procedures. The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modification in the proposed terms and conditions of the purchase. The Public Entity shall consider the owner's presentation. If the owner expresses intent to provide an appraisal report, the Public Entity is encouraged to provide the owner and/or his/her appraiser a copy of the Public Entity appraisal requirements and inform them that their appraisal should be based on those requirements.

(g) *Updating offer of just compensation.* If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the Public Entity shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the Public Entity shall promptly reestablish just compensation and offer that amount to the owner in writing.

(h) *Administrative settlement.* The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized Public Entity official approves such administrative settlement as being reasonable, prudent, and in the public interest.



This section provides guidance on administrative settlement as an alternative to judicial resolution of a difference of opinion on the value of a property, in order to avoid unnecessary litigation and congestion in the courts. All relevant facts and circumstances should be considered by a Public Entity official delegated this authority.

(i) *Payment before taking possession.* Before requiring the owner to surrender possession of the real property, the Public Entity shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the court, for the benefit of the owner, an amount not less than the Public Entity's approved appraisal of the fair market value of such property, or the court award of compensation in the condemnation proceeding for the property. In exceptional circumstances, with the prior approval of the owner, the Public Entity may obtain a right-of-entry for construction purposes before making payment available to an owner.

(j) *Uneconomic remnant.* If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the Public Entity shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project.

(k) *Inverse condemnation.* If the Public Entity intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of the real property.

(l) *Conflict of interest.*

(1) The appraiser, review appraiser or person performing the waiver valuation shall not have any interest, direct or indirect, in the real property being valued for the Public Entity.

(2) No person shall attempt to unduly influence or coerce an appraiser, review appraiser, or waiver valuation preparer regarding any valuation or other aspect of an appraisal, review or waiver valuation. Persons functioning as negotiators may not supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work, except that, for a Public Entity project the Public Entity may waive this requirement if it determines it would create a hardship for the Public Entity.

## **§2.2 Criteria for appraisals.**

(a) *Appraisal requirements.* This section sets forth the requirements for real property acquisition appraisals involving interests in land and improvements. Such appraisals are to be prepared according to these requirements, which are intended to be consistent with the Uniform Standards of Professional Appraisal Practice (USPAP).<sup>1</sup> Appraisals of interests in special types of property, such as oil, gas, and other minerals, shall generally comply with these requirements, except where more specific accepted standards and practices apply. The Public Entity may have appraisal requirements that supplement these requirements.

<sup>1</sup> Uniform Standards of Professional Appraisal Practice (USPAP). Published by The Appraisal Foundation, a nonprofit educational organization. Copies may be ordered from The Appraisal Foundation at the following URL:

<http://www.appraisalfoundation.org/htm/USPAP2004/toc.htm>.

(1) The Public Entity acquiring real property has a legitimate role in contributing to the appraisal process, especially in developing the scope of work and defining the appraisal problem. The scope of work and development of an appraisal under these requirements depends on the complexity of the appraisal problem.

(2) The Public Entity has the responsibility to assure that the appraisals it obtains are relevant to its program needs, reflect established and commonly accepted appraisal practice, and as a minimum, complies with the definition of appraisal in §1.2(3) and the five following requirements:

(i) An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including items identified as personal property, a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a 5-year sales history of the property.

(ii) All relevant and reliable approaches to value consistent with established appraisal practices. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the appraiser's opinion of value.

(iii) A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.

(iv) A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property, where appropriate.

(v) The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

(b) *Influence of the project on just compensation.* The appraiser shall disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner. As used in this section, the term “project” means an undertaking which is planned, designed, and intended to operate as a unit. When the public is aware of the proposed project, project area property values may be affected. Therefore, property owners should not be penalized because of a decrease in

value caused by the proposed project nor reap a windfall at public expense because of increased value created by the proposed project.

(c) *Qualifications of appraisers and review appraisers.* The Public Entity shall establish criteria for determining the minimum qualifications and competency of appraisers and review appraisers. Qualifications shall be consistent with the scope of work for the assignment. The Public Entity shall review the experience, education, training, certification/licensing, designation(s) and other qualifications of appraisers, and review appraisers, and use only those determined by the Public Entity to be qualified. The appraiser and review appraiser must each be qualified and competent to perform the appraisal and appraisal review assignments, respectively. Among other qualifications, State licensing or certification and professional society designations can help provide an indication of an appraiser's abilities.

### **§2.3 Review of appraisals.**

The Public Entity shall have an appraisal review process and, at a minimum:

(a) A qualified review appraiser shall examine the presentation and analysis of market information in all appraisals to assure that they meet the definition of appraisal found in §1.2(3), appraisal requirements found in §2.2 and other applicable requirements and support the appraiser's opinion of value. The level of review analysis depends on the complexity of the appraisal problem. As needed, the review appraiser shall, prior to acceptance, seek necessary corrections or revisions. The review appraiser shall identify each appraisal report as recommended (as the basis for the establishment of the amount believed to be just compensation), accepted (meets all requirements, but not selected as recommended or approved), or not accepted. If authorized by the Public Entity to do so, the staff review appraiser shall also approve the appraisal (as the basis for the establishment of the amount believed to be just compensation), and, if also authorized to do so, develop and report the amount believed to be just compensation.

(b) If the review appraiser is unable to recommend (or approve) an appraisal as an adequate basis for the establishment of the offer of just compensation, and it is determined by the Public Entity that it is not practical to obtain an additional appraisal, the review appraiser may, as part of the review, present and analyze market information to support a recommended (or approved) value. In developing an independent approved or recommended value, the review appraiser may reference any acceptable resource, including acceptable parts of any appraisal, including an otherwise unacceptable appraisal. When a review appraiser develops an independent value, while retaining the appraisal review, that independent value also becomes the approved appraisal of the fair market value. It is within the Public Entity's discretion to decide whether a second review is needed if the first review appraiser establishes a value different from that in the appraisal report or reports on the property.

(c) The review appraiser shall prepare a written report that identifies the appraisal reports reviewed and documents the findings and conclusions arrived at during the review of the appraisal(s). Any damages or benefits to any remaining property shall be identified in the review appraiser's report. The review appraiser shall also prepare a signed certification that states the

parameters of the review. The certification shall state the approved value, and, if the review appraiser is authorized to do so, the amount believed to be just compensation for the acquisition.

Before acceptance of an appraisal, the review appraiser must determine that the appraiser's documentation, including valuation data and analysis of that data, demonstrates the soundness of the appraiser's opinion of value. For the purposes of this Policy, an acceptable appraisal is any appraisal that, on its own, meets the requirements of §2.2. An approved appraisal is the one acceptable appraisal that is determined to best fulfill the requirement to be the basis for the amount believed to be just compensation. Recognizing that appraisal is not an exact science, there may be more than one acceptable appraisal of a property, but for the purposes of this Policy, there can be only one approved appraisal. At the Public Entity's discretion, for a low value property requiring only a simple appraisal process, the review appraiser's recommendation (or approval), endorsing the appraiser's report, may be determined to satisfy the requirement for the review appraiser's signed report and certification.

#### **§2.4 Expenses incidental to transfer of title to the Public Entity.**

(a) The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for:

(1) Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to the Public Entity. However, the Public Entity is not required to pay costs solely required to perfect the owner's title to the real property; and

(2) The pro rata portion of any prepaid real property taxes which are allocable to the period after the Public Entity obtains title to the property or effective possession of it, whichever is earlier.

(b) Whenever feasible, the Public Entity shall pay these costs directly to the billing agent so that the owner will not have to pay such costs and then seek reimbursement from the Public Entity. Generally, the Public Entity is able to pay such incidental costs directly and, where feasible, is required to do so. In order to prevent the property owner from making unnecessary out-of-pocket expenditures and to avoid duplication of expenses, the property owner should be informed early in the acquisition process of the Public Entity's intent to make such arrangements. Such expenses must be reasonable and necessary.

#### **§2.5 Donations.**

An owner whose real property is being acquired may, after being fully informed by the Public Entity of the right to receive just compensation for such property, donate such property or any part thereof, any interest therein, or any compensation paid therefore, to the Public Entity as such owner shall determine. The Public Entity is responsible for ensuring that an appraisal of the real property is obtained unless the owner releases the Public Entity from such obligation.

### III. Relocation Assistance and Payments for Moving and Related Expenses

#### §3.1 Applicability.

These requirements apply to the relocation of any displaced person as defined at §1.2(7). Any person who qualifies as a displaced person must be fully informed of their claim to relocation assistance provided by this Policy.

#### §3.2 Relocation notices.

(a) *General information notice.* As soon as feasible, an owner shall be furnished with a general written description of the Public Entity's relocation policy which does at least the following:

- (1) Informs the person that they may be displaced for the project and generally describes the relocation payment for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment;
- (2) Informs the displaced person that they will be given reasonable relocation assistance to help the displaced person successfully relocate;
- (3) Informs the displaced person that they will not be required to move without at least 90 days advance written notice (see paragraph (c) of this section); and
- (4) Informs the displaced person that any person who is an alien not lawfully present in the United States is ineligible for relocation assistance.

(b) *Notice of relocation eligibility.* Eligibility for relocation assistance shall begin on the date of a notice of intent to acquire, the initiation of negotiations, or actual acquisition, whichever occurs first. When this occurs, the Public Entity shall promptly notify in writing of eligibility for applicable relocation assistance.

(c) *Ninety-day notice* —

- (1) *General.* No lawful occupant shall be required to move their personal property unless they have received at least 90 days advance written notice of the earliest date by which they may be required to move such personal property.
- (2) *Timing of notice.* The Public Entity may issue the notice 90 days or earlier before it expects the person to be displaced.
- (3) *Content of notice.* The 90-day notice shall either state a specific date as the earliest date by which the occupant may be required to move, or state that the occupant will receive a further notice indicating, at least 30 days in advance, the specific date by which they must move.

(4) *Urgent need.* In unusual circumstances, an occupant may be required to vacate the property on less than 90 days advance written notice if the Public Entity determines that a 90-day notice is impracticable, such as when there is a substantial danger to health or safety. A copy of the Public Entity's determination shall be included in the applicable case file.

(d) *Notice of intent to acquire.* A notice of intent to acquire is the Public Entity's written communication that is provided to a person to be displaced, including those to be displaced by rehabilitation or demolition activities from property which clearly sets forth that the Public Entity intends to acquire the property. A notice of intent to acquire establishes eligibility for relocation assistance prior to the initiation of negotiations.

### **§3.3 Payment for actual reasonable moving and related expenses.**

(a) *General.* Any owner who qualifies as a displaced person and who moves their personal property is entitled to payment of their actual moving and related expenses, as the Public Entity determines to be reasonable and necessary.

(b) *Personal property.* Eligible expenses for a person who is required to move personal property from real property include those expenses described in paragraph (c). The owner of the personal property has the option of moving the personal property by using a commercial mover or a self-move. If a question arises concerning the reasonableness of an actual cost move, the Public Entity may obtain estimates from qualified movers to use as the standard in determining the payment.

(c) *Eligible actual moving expenses.*

(1) Transportation of the displaced person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Public Entity determines that relocation beyond 50 miles is justified.

(2) Moving-related expenses that are not listed as ineligible, as the Public Entity determines to be reasonable and necessary.

(3) Professional services as the Public Entity determines to be actual, reasonable and necessary for planning the move of the personal property.

(4) When the personal property to be moved is of low value and high bulk, and the cost of moving the property would be disproportionate to its value in the judgment of the Public Entity, the allowable moving cost payment shall not exceed the lesser of: the amount which would be received if the property were sold at the site or the replacement cost of a comparable quantity delivered to the new location. Examples of personal property covered by this provision include, but are not limited to, sand, gravel, minerals, metals, salvage vehicles, equipment and appliances, and other similar items of personal property as determined by the Public Entity.

(d) *Ineligible moving and related expenses.* A displaced person is not entitled to payment for:

- (1) Moving personal property that is held or located at the real property in violation of any local, state, or federal law, including any present or future law, statute, ordinance, regulation, code (fire, building, property maintenance), judgment, injunction, arbitral award, order, rule, directive, proclamation, decree, common law, or other requirements, ordinary or extraordinary, foreseen or unforeseen, and of any nature, including but not limited to zoning, environmental, regulatory, legislative, or judicial.
- (2) Interest on a loan to cover moving expenses.
- (3) Loss of goodwill.
- (4) Personal injury.
- (5) Any legal fee or other cost for preparing a claim for a payment or for representing the claimant before the Public Entity.
- (6) Expenses for searching for a replacement location.
- (7) Physical changes to the real property at a new location.
- (8) Costs for storage of personal property.
- (9) Refundable security and utility deposits.

(e) *Notification and inspection.* The Public Entity shall inform the displaced person, in writing, of the requirements of this section as soon as possible after the initiation of negotiations. To be eligible for payments under this section the displaced person must:

- (1) Provide the Public Entity reasonable advance notice of the approximate date of the start of the move or disposition of the personal property and an inventory of the items to be moved; and
- (2) Permit the Public Entity to make reasonable and timely inspections of the personal property and to monitor the move.

(f) *Transfer of ownership.* Upon request and by bill of sale, the claimant shall transfer to the Public Entity ownership of any personal property that remains on the real property.