

JOINT RESOLUTION OF THE OKLAHOMA CITY WATER UTILITIES TRUST AND THE CITY OF OKLAHOMA CITY AUTHORIZING THE GENERAL MANAGER OF THE OKLAHOMA CITY WATER UTILITIES TRUST TO RECEIVE AND APPROVE SECURITIES APPLICATIONS IN LIEU OF RETAINAGE AND THE CITY OF OKLAHOMA CITY TREASURER TO TAKE POSSESSION AND TO SECURE SECURITIES ENDORSED OR ASSIGNED TO THE OKLAHOMA CITY WATER UTILITIES TRUST DESIGNATED AS "OWNER" IN THE CONSTRUCTION CONTRACT DOCUMENTS AS AUTHORIZED BY OKLAHOMA LAW; AND AUTHORIZING THE GENERAL MANAGER OF THE OKLAHOMA CITY WATER UTILITIES TRUST AND THE TREASURER OF THE CITY OF OKLAHOMA CITY TO NEGOTIATE SUCH SECURITIES TO THE EXTENT NECESSARY TO CAUSE THE CONSTRUCTION CONTRACT TO BE FULFILLED.

WHEREAS, Section 113.2 of the Oklahoma Competitive Bidding Act, Title 61, Oklahoma Statutes, authorizes that the contractor may, from time to time, withdraw any part, or the whole, of the amount which has been retained from partial payments to the contractor pursuant to the terms of contract, upon depositing with or delivery to the awarding public agency, or other appropriate public official designated in the contract document: (1) United States Treasury bonds, United States Treasury notes, United States Treasury bills, or (2) general obligation bonds of the state of Oklahoma, or (3) certificates of deposit from a state or national bank having its principal office in the state of Oklahoma (collectively called Securities); and

WHEREAS, Section 113.2 further provides that no retained amount shall be withdrawn which would represent an amount in excess of the market value of the Securities at the time of deposit or of the par value of such Securities, whichever is lower; and

WHEREAS, Section 113.2 further provides that at the time of deposit of any Securities, the Securities must be endorsed, if necessary, and shall be accompanied by a conditional assignment to the Oklahoma City Water Utilities Trust (OCWUT), which will empower OCWUT, or other authorized designee to have custody of the Securities and withdraw funds from the Securities, to negotiate the same at any time to the extent necessary to cause the construction contract to be fulfilled; and

WHEREAS, Section 113.2 further provides that the Securities provided by the contractor shall remain on deposit in a state or national bank in the state of Oklahoma until the completion

of the contract and observance by the parties to the contract of any other statutory obligations relative thereto, and

WHEREAS, the release of Securities in lieu of retainage will require authorization from OCWUT and the City Treasurer after the contractor has satisfactorily demonstrated completion of the construction contract; and

WHEREAS, upon timely completion and acceptance of the project, the Securities remaining, after any authorized withdrawal by OCWUT, shall be released to the contractor; and

WHEREAS, although the Securities are pledged by the contractor and the awarding public agency or other public agency is designated as “owner” in the contract documents to fulfill the requirements of Section 113.2 of the Oklahoma Competitive Bidding Act, OCWUT and the City have no responsibility or liability of safekeeping related to these funds given the contractor selected the provider(s) of the Securities and any responsibility, liability of safekeeping or replacement of lost funds is solely between the contractor and its selected Securities provider(s); and

WHEREAS, the contractor shall, regardless of any contingency of whatsoever nature, indemnify OCWUT and the City for all reasonable expenses, costs, and obligations incurred by OCWUT under the provisions of the Securities application and related forms to the end that OCWUT and the City will not suffer any out-of-pocket expenses or contractual losses; and

WHEREAS OCWUT has need to establish a process for receiving Securities in lieu of retainage, authorizing the payment of retainage not in excess of the value of the Securities, and for endorsing the remaining Securities upon the completion and acceptance of the project; and

WHEREAS, current procedures require the Trustees approve applications and the City to authorize the Treasurer to take possession and secure Securities in lieu of retainage; and

WHEREAS, contractors have expressed interest in simplifying the current procedures for approval of Securities; and

WHEREAS, authorizing the General Manager of OCWUT to receive and approve Securities applications in lieu of retainage and authorizing the Treasurer to take possession and to secure Securities endorsed or assigned to OCWUT designated as “owner” in the construction contract documents as authorized by the Oklahoma law can expedite the process; and

WHEREAS, should OCWUT need to negotiate of such Securities, the General Manager and/or the Treasurer would negotiate the Securities, on behalf of OCWUT, to the extent necessary to cause the construction contract to be fulfilled.

NOW, THEREFORE, BE IT JOINTLY RESOLVED by the Trustees of the Oklahoma City Water Utilities Trust and The City of Oklahoma City that they do hereby authorize the General Manager of the Oklahoma City Water Utilities Trust to receive and approve Securities applications in lieu of retainage and The City of Oklahoma City Treasurer to take possession and to secure Securities endorsed or assigned to the Oklahoma City Water Utilities Trust designated as "owner" in the construction contract documents as authorized by Oklahoma law; and

BE IT FURTHER JOINTLY RESOLVED by the Trustees of the Oklahoma City Water Utilities Trust and The City of Oklahoma City that they do hereby authorize the General Manager of the Oklahoma City Water Utilities Trust and the Treasurer of The City of Oklahoma City to negotiate such Securities to the extent necessary to cause the construction contract to be fulfilled.

ADOPTED by the Trustees and signed by the Chairman of the Oklahoma City Water Utilities Trust this 1ST day of AUGUST, 2023.

ATTEST:

Amy K. Simpson
SECRETARY

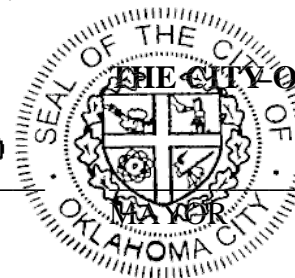


John D. Couch
CHAIRMAN

ADOPTED by the Council and signed by the Mayor of The City of Oklahoma City this 15TH day of AUGUST, 2023.

ATTEST:

Amy K. Simpson
CITY CLERK



David Holt
MAYOR

REVIEWED for form and legality.

Craig Keith
ASSISTANT MUNICIPAL COUNSELOR