

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

This meeting shall be held at the Town Hall of the Town of Carlton Landing  
44 Water Street, Carlton Landing, OK 74432:  
**Wednesday; May19, 2021; 10:00 a.m.**

**MINUTES**

1. Call to Order

The meeting was called to order at 10:07 a.m. by Mayor Chinnici.

2. Roll Call

PRESENT: Joanne Chinnici  
Clay Chapman  
Chuck Mai

ABSENT: Mary Myrick  
Kris Brule

3. Consider, discuss and possibly approve, amend, revise or deny the Acknowledge and Consent to Collateral Assignment of Concession Agreement (Marina Lease) between the Town of Carlton Landing, Carlton Landing Enterprises, LLC., and Crossfirst Bank for the development and certain improvements of the Marina, or take any other appropriate action. Exhibit: Acknowledge Consent Agreement

Through continued discussion the terms of the original draft, presented in January, have changed and worked to incorporate the comments from the Corps. In addition, improvements to be made as part of the Marina Development Project Agreement and re-imbursed by the Town are not eligible to be claimed by the Lender if there is a default on the loan.

The Phase 1 of the Marina Center has been designed in accordance with the requirement of the Eufaula Lakeshore Management Plan Revisions and Master Plan Supplemental Final Environmental Impact Statement, Lease No. DCW56-1-15-268. The Developer, Humphrey's Partners 2009, LLC. is wanting to move forward with the relocation of the Marina and docks to its final identified location, per the Lease agreement. The Marina Concession Lease is with Carlton Landing Enterprises, LLC. This process is intertwined with the Marina Development Agreement which contracts with the Humphrey's Partners 2009 to perform the Marina improvements.

The Collateral Assignment allows Crossfirst Bank to take a first security interest in the Marina Lease Agreement. Under the Town's Master Lease Agreement with the U.S. Corps of Engineers, the Corps has to also agree to any amendment, changes or assignments related to any sub-lease Agreement. The Town Administrator submitted the proposed Agreement to the Corps. The Corps provided a couple amendments to the proposed Agreement, which incorporates the Town and the Corp's approval on an assignment of the lease based on a default of the loan.

Carlton Landing Enterprises and Crossfirst Bank were provided the Corps language changes and evaluated those changes.

MOTION: A motion was made by Chinnici and seconded by Mai to approve, acknowledge and consent to Collateral Assignment of Concession Agreement (Marina Lease) between the Town of Carlton Landing, Carlton Landing Enterprises, LLC., and Crossfirst Bank for the development and certain improvements of the Marina.

AYE: Chinnici, Mai, Chapman  
NAY: None

4. Consider, discuss and possibly establish a Fire Service Task Force to examine fire service options for the Town of Carlton Landing to include supporting Carlton Landing Volunteer Rural Fire Department, a fire station, sustainability of fire service, or take any other appropriate action.

MOTION: A motion was made by Chinnici and seconded by Chapman to establish a task force to explore options for the Town of Carlton Landing to support a Fire Department.

AYE: Chinnici, Mai, Chapman  
NAY: None

Task Force may be: Chuck Mai, Daryl Nieto, Susan Zubik, Jennifer Lafferty, Jeremy Tolman, Joel Baine, Joanne Chinnici

5. Recognize Citizens wishing to comment on non-Agenda Items  
None
6. Comments and questions by Governing Body members regarding items for future consideration. None
7. Adjournment

There being no further business, a motion was made and seconded to adjourn the meeting at 10:17 a.m., May 19, 2021

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Mayor

Attest:

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Town Clerk

**ACKNOWLEDGMENT AND CONSENT TO  
COLLATERAL ASSIGNMENT OF CONCESSION AGREEMENT a/k/a  
MARINA LEASE**

**THIS AGREEMENT** (the “Agreement”) is executed to be effective as of the 14<sup>th</sup> day of May, 2021, by and between the **TOWN OF CARLTON LANDING**, a public municipality (herein “Town”), **CARLTON LANDING ENTERPRISES, LLC**, an Oklahoma limited liability company (“CLE”), and **CROSSFIRST BANK**, a Kansas state-chartered bank (“Lender”) located at 5001 Gaillardia Corporate Place, Oklahoma City, OK 73142.

**RECITALS:**

A. Through Lease DACW 56-1-15-268 dated June 23, 2015 (the “Master Lease”), the Town leased 420 acres of federal land and water (the “Leased Premises”) from the United States Army Corps of Engineers (the “Corps”). The Leased Premises is generally depicted on Exhibit A attached hereto.

B. The Master Lease obligates the Town to provide certain facilities and services according to the Use Plan and Development Plan detailed herein, and the Master Lease further provides that the facilities and services may be provided by the Town directly or through Concession Agreements approved by the Corps.

C. The Town and CLE entered into that certain Concession Agreement dated effective May 20, 2017, (the “Marina Lease” or “Concession Agreement”). The Marina Lease covers the same Leased Premises that is the subject of the Master Lease.

D. The Marina Lease was approved by the Corps on June 19, 2017.

E. The Marina Lease generally provides that for the period May 20, 2017 through June 14, 2040, CLE will operate a marina business in accordance with the Use Plan of the Master Lease and provide the following minimum services:

1. Furnish facilities for mooring and docking privately owned boats;
2. Service, repair, maintain, and care for privately owned boats;
3. Sell gasoline and oil;
4. Sell food, refreshments, fishing tackle, bait, fishing licenses and other supplies; and
5. Provide a marine sanitary boat pump-out system.

F. The consideration payable by CLE to the Town pursuant to the Marina Lease is \$1.00 per year for the term of the Marina Lease.

G. CLE has obtained a \$2,150,000.00 loan from Lender (the “Lender’s Loan”), for the purposes of expanding the existing facilities and services, and operating the marina business, including, but not limited to, providing the minimum services required by the Master Lease as detailed above.

H. Lender's Loan of \$2,150,00.00 is made upon the terms and conditions set forth in the Loan Agreement of even date and the Loan Documents detailed therein, including CLE's grant to Lender of a valid first priority collateral assignment of CLE's right, title and interest in and to the Marina Lease and a first priority security interest in and to all of CLE's business assets, now owned or hereafter acquired, including, but not limited to, the business assets described in paragraph 4(f) below ("Collateral").

I. The Town, subject to the Corps consent, is willing to acknowledge and consent to the collateral assignment of the Marina Lease to Lender and to Lender's first priority security interest in and to the Marina Lease on the terms set forth herein.

J. The Corps has consented to the collateral assignment of the Marina Lease to Lender and has consented to the Town's execution of this Agreement.

NOW THEREFORE, as an inducement to Lender to make the Lender's Loan of \$2,150,000.00 to CLE, and for good and other valuable consideration, Town, and CLE with Corps' consent stipulates, represents, covenants, and agrees with Lender as follows:

1. Marina Lease. The Marina Lease respectively represents the entire agreement between the Town and CLE as to CLE's rights and obligations relative to the Leased Premises described therein and has not been modified, changed, altered, or amended in any respect.

2. Status. The Marina Lease is in good standing and in full force and effect. To the best of the Town's knowledge, (a) there is no default by CLE under the Marina Lease, (b) no event has occurred, and no condition exists which, with notice or the passage of time or both, would constitute an event of default by CLE under the Marina Lease, and (c) CLE has performed all of its obligations under the Marina Lease that were due to be performed on or before the date hereof.

3. CLE's Obligations. Nothing herein contained shall be deemed or construed to release CLE from any of CLE's obligations and responsibilities to the Town or the Corps, if any, under the Marina Lease.

4. Agreements with Lender. So long as the Collateral Assignment of the Marina Lease is in effect, the following provisions shall apply:

- (a) With the Corps consent, the Town expressly acknowledges and consents the collateral assignment of the Marina Lease to Lender to secure the Lender's Loan.
- (b) In the event of a default by CLE under the Marina Lease during its term or any extensions thereof, the Town agrees to give to Lender written notice thereof. Lender shall have the right to cure a default within the time period granted in the Marina Lease, commencing upon CLE's failure or refusal to cure such default, but Lender shall have no obligation to do so.

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- (c) In the event of a default by CLE under the Lender's Loan, Lender shall contemporaneously provide notice of such default to CLE, Town and Corps at the addresses provided in Section 6 below. Lender shall refrain from taking any action to enforce the Lender's Loan until thirty (30) business days following the sending of the default notice. CLE and Lender agree that CLE and/or Lender may consult with Town and Corps regarding the default under the Lender's Loan and the method and manner of curing such default and/or CLE's and/or Lender's actions related to the default. Lender agrees to consider such proposals that CLE, Town or Corps submit to Lender to cure such default, if any, however, Lender shall have the right to determine what action it will take as a result of a default, all in accordance with its Loan Agreement, Loan Documents and applicable law.
- (d) Town agrees that Lender and its successors and assigns, including any purchaser at a judicial or non-judicial foreclosure of the Marina Lease or a successor by way of a deed in lieu transfer of the Marina Lease in satisfaction or partial satisfaction of the Lender's Loan (herein the "Transferee"), shall be entitled to the benefits and obligations of the Marina Lease provided that such Transferee shall meet and satisfy the qualifications established by the Corps and Town as part of the requirements to obtain an assignment of interest in and to the Marina Lease. Such approval shall not be arbitrarily or unreasonably withheld.
- (e) Should Lender or a third party become a Transferee of the Lease, such Lender or third party shall be bound by the terms of the Concession Agreement.
- (f) The parties hereby irrevocably stipulate, acknowledge and agree that all improvements to the Marina Lease previously or hereafter made by CLE, including but not limited to (1) All furniture, fixtures, and equipment now owned or hereafter existing on or at the Marina Lease shall be subject to the lien of Lender's Security Agreement. Furniture, fixtures and equipment as used herein, includes, but is not limited to: all of CLE's right, title and interest in and to all buildings, structures and other improvements now or hereafter existing or hereafter constructed on the Marina Lease and includes, but is not limited to all piers, boat ramps, docks, causeways, boat slips, dry dock storage, other storage, all facilities (leased or owned), all mechanical systems, fixtures, compressors, engines, electrical systems, heating fixtures, systems and equipment, air conditioning fixtures, systems and equipment, walks, fencing lighting, landscaping, gas and oil tanks, gas pumps, equipment, pipes, wires, plumbing, vent hoods, trash compactors, disposals and fans; (2) any and all contracts and subcontracts relating to the construction and development of the Marina Lease including any contracts or subcontracts relating to improvements, any and all plans and specifications for development of or for construction on the Marina Lease, any and all permits, licenses, franchises, certificates, warranties, and/or other rights and privileges obtained in connection with the construction, development, and operation of the Marina Lease; (3) any and all proceeds payable or to be payable under a policy of insurance relating to the construction, development, and operation of the Marina Lease or any and all proceeds arising

from the taking of all or part of the Marina Lease for any public or quasi-public use under any law or by right of eminent domain the foregoing improvements (herein "Improvements" or "Collateral"). As between Lender, CLE and Town and any person claiming by or through any of them, the Improvements and Collateral are stipulated to be personal property. The parties hereto stipulate, acknowledge and agree that said Improvements and Collateral, are intended to be personal property and subject to the rights of Lender and, at Lender's option, shall be removable from the Marina Lease free and clear of all ownership or other claims of any party hereto, or any assignee or successor of either. However, notwithstanding the above provisions of this section 4(f) the items identified in Section 1.5(d) of that certain Marina Project Management Agreement between Humphreys Partners 2009, LLC, the Carlton Landing Economic Development Trust, and the Town described as follows: (a) the road from the end of Water Street to the Marina and parking area; (b) the gangway and dock walkway at the Marina; and (c) the water and sewer utilities, shall not be claimed as Improvements or Collateral that are subject to Lender's security interest.

- (g) In the event of a default or foreclosure of Lender's security interest in and to the Collateral described above, the Town stipulates, acknowledges and agrees, in addition to Lender's right to foreclose its Collateral Assignment Agreement, Lender may exercise its rights as a Secured Lender under Article 9 of Oklahoma's Uniform Commercial Code, including but not limited to seizing, removing and selling its Collateral, including but not limited to the Improvements, excluding however the specific items excluded in section 4(f) above.
- (h) To the extent necessary to permit the collateral assignment of CLE's interest in the Marina Lease, the Marina Lease is hereby deemed amended to permit the collateral assignment of CLE's interest to Lender.

5. Non-waiver. Except as specifically provided herein, nothing contained in this Acknowledgment and Consent to Collateral Assignment of Concession Agreement shall be deemed or construed to prohibit the Town from exercising any of its rights or remedies under the Marina Lease.

6. Inconsistencies. To the extent there is an inconsistency between the terms of the Concession Agreement and the terms of this Agreement, the terms of the Concession Agreement shall control; notwithstanding each party hereto shall be bound by the terms and conditions of this Agreement.

7. Notices. All notices to be delivered in accordance with the notice provisions of the Marina Lease or this Agreement shall be provided at the following addresses (or such other address designated in writing):

CrossFirst Bank  
Attn: Amy Bailey

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5001 Gaillardia Corporate Place  
Oklahoma City, OK 73142

Carlton Landing Enterprises, LLC  
Attn: Grant Humphreys  
223 S. Walker  
Oklahoma City, OK 73109

The Town of Carlton Landing  
Attn: Joanne Chinnici, D.O.  
44 Water Street  
Carlton Landing, OK 74432

U.S. Army Corps of Engineers, Tulsa District  
Attn: Chief, Real Estate Division  
1645 South 101<sup>st</sup> East Avenue  
Tulsa, OK 74128-4609

Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope, or wrapper, addressed as aforesaid, and deposited, postage prepaid, in a post office regularly maintained by the United States Postal Service.

8. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Town, Lender and CLE and their respective successors and assigns.

Approved this \_\_\_\_ day of \_\_\_\_\_ 2021.

**TOWN:**

**TOWN OF CARLTON LANDING**, an Oklahoma municipality

By: \_\_\_\_\_  
JOANNE CHINNICI, D.O., Mayor of  
Carlton Landing

**CLE:**

**CARLTON LANDING ENTERPRISES, LLC**, an Oklahoma Limited Liability Company

By: The Humphreys Company, LLC, Manager

By: \_\_\_\_\_  
GRANT HUMPHREYS, CEO



**LENDER:**

**CROSSFIRST BANK**, a Kansas state-chartered bank

By:

\_\_\_\_\_  
AMY BAILEY, MANAGING DIRECTOR  
OKC COMMERCIAL BANKING

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EXHIBIT A

That certain area depicted in Contract No. DACW 56-1-15-268 dated June 15, 2015 between the Town of Carlton Landing, a public municipality and the United States Army Corps of Engineers, located in Sections 5 and 6, T8N, R17E and Sections 31, 32, T9N, R17E, Pittsburg County, Oklahoma, containing 420 acres of which 297 acres are land and 123 acres are water, commonly known as Roundtree Landing a/k/a Carlton Landing Marina.



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