The City of Durant encourages participation from all its citizens. If participation at any public meeting is not possible due to a disability, notification to the City Clerk at least 48 hours prior to the scheduled meeting is encouraged in order to make the necessary accommodations. The City of Durant may waive the 48-hour rule if interpreters for the deaf (signing) or translation services for limited English proficient (LEP) individuals are not the necessary accommodation.

DURANT CITY COUNCIL

4:45 PM **Roscoe J. Hatfield Council Chambers** **August 23, 2016**

SPECIAL AGENDA

CALL TO ORDER

ROLL CALL

ORDER OF BUSINESS

1. Consider Approval of Memorandum of Understanding Between the City of Durant and Commercial Metals Company (C-2016-71)

2. Consider Ordinance No. 1792, Amending The Code Of Ordinances Of The City Of Durant, Oklahoma, By Adding To Title Iii, “Tourism Tax,” Consisting Of New Sections 37.120 Through 37.148, Inclusive; Levying A Five Percent (5%) Tax Upon The Gross Proceeds Or Gross Receipts Derived From Occupancy Of A Room Or Rooms In This City, With Said Tax To Be Used For Enhancing And Promoting Tourism Development; Providing Citation And Definitions; Providing For Tax Rate, Exemptions, And Exemption Certificates; Requiring Tax To Be Separately Stated On Bills; Requiring Records To Be Kept; Providing For Tax Returns, Bonds, Assessment, Determination Of Tax, Refunds, And Notices; Providing That Remedies Are Exclusive; Providing General Powers Of The City Clerk; Providing For Administration Of Oaths And Compelling Testimony; Providing For Certificates Of Registration, Interest, And Penalties; Providing For Handling Of Delinquent Taxes; Providing For Collection By Suit; Providing For Use Of Funds; Providing For Confidentiality Of Records; Providing For Proceedings To Collect Tax And Penalties For Failure To Comply With This Article; Providing For Operator's Discount; Providing That Provisions Are Cumulative; Providing For Severability; And Providing Effective Date And Codification

3. Consider Resolution 2016-19 Authorizing The Calling And Holding Of An Election In The City Of Durant, Oklahoma, On The 8th Day Of November, 2016, For The Purpose Of Submitting To The Qualified Electors Of The City Of Durant, Oklahoma, The Question Of Their Approval Or Rejection Of Ordinance No. 1792 Levying A Five Percent (5%) Tax Upon The Gross Proceeds Or Gross Receipts Derived From Occupancy Of A Room Or Rooms In This City; Providing That The Revenues From Such

Tax Shall Be Used For Enhancing And Promoting Tourism Development; Providing Effective Date; Providing For Administration And Collection Of Such Tax; Providing The Provisions Are Cumulative; And Providing For Severability.

4. Executive Session

a. Consider Entering into Executive Session As Authorized By Title 25 O.S. Section 307 B(1) To Discuss The Hiring Of A City Manager

b. Consider Action Pursuant To Agenda Item 4a To Discuss The Hiring Of A City Manager

ADJOURNMENT

CERTIFICATE

This is to certify that in conformity with the Oklahoma Open Meeting Act, public notice of the date, time and place of this meeting was filed with the City Clerk of Durant on the 17th day of August, 2016 and that an agenda of said meeting was posted at the place of such meeting at 5:30 p.m. on the 19th day of August, 2016.

____

Cynthia J. Price, City of Durant

DURANT
· OKLAHOMA ·

The City of Durant
Office of City Clerk

Memorandum

Date:	8/19/2016
To:	Mayor and City Council
From:	Jacque Wilson, Projects Manager
Re:	Consider Approval of Memorandum of Understanding Between the City of Durant and Commercial Metals Company (C-2016-71)

Council Information / Action Requested

Action on Memorandum of Understanding Between the City of Durant and Commercial Metals Company (C-2016-71)

City Staff Information / Action Follow-up, if Council authorizes this action:

ATTACHMENTS:

Description	Type	Upload Date
Memorandum of Understanding (C-2016-71)	Exhibit	8/19/2016

C-2016-71
MEMORANDUM OF UNDERSTANDING
CITY OF DURANT AND COMMERCIAL METAL COMPANY

For and in consideration of the mutual promises and benefits to each party this Memorandum of Understanding is entered into by and between Commercial Metals Company (hereinafter referred to as “CMC”), and the City of Durant (hereinafter referred to as “City”),

WHEREAS, CMC has initiated construction of a Micro Steel Mill (the “Mill”) on property owned by CMC

WHEREAS, the CMC property requires water and sanitary sewer service for the safety and convenience of the CMC’s employees and to support operations, and

WHEREAS, the City being the owner of the wastewater treatment facility and sewer collection system in the area, it is necessary that permission be granted to allow construction thereon and connection thereto; and

WHEREAS, the construction of sanitary sewer improvements, as described herein, to serve CMC’s Properties will inure to CMC's exclusive benefit.

In consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration, the parties hereto agree to the following terms and understandings:

1. The primary lift station located at the property facility will be funded by and constructed by CMC. CMC will maintain and operate this facility for the life of the infrastructure.
2. The secondary lift station located on the City right of way (ROW) will be funded by the Community Development Block Grant (CDBG) and constructed using contractor labor. Further infrastructure improvements at this location will include a magnetic flow meter and

a 6” sewer force main to the connection point to City Sewer which will define the point of separation between responsibilities the City and CMC. The City will perform maintenance and operation of this secondary lift station and the 6" sewer force main for the life of these improvements.

3. The CDBG grant will be used to purchase all material for the water infrastructure and the interconnecting force main between the primary lift station (CMC), and the secondary lift station (City). All labor for the project will be paid for by the CDBG grant with the exception of the 10" water main.
4. Each party shall fully defend, indemnify, and hold harmless the other party from any and all claims, lawsuits, demands, causes of action, liability, loss, damage and/or injury of any kind whatsoever (including without limitation all claims for monetary loss, property damage, equitable relief, personal injury and wrongful death), whether brought by an individual or other entity, or imposed by a court of law or by administrative action of any federal, state, or local government body or agency, that are related to the Improvements and arising out of, in any way whatsoever, any acts, omissions, negligence, or willful misconduct on the part of the indemnifying party, its officers, owners, personnel, employees, grants, contractors, invitees, or volunteers. This indemnification applies to and includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorneys’ fees, and related costs or expense.

WHEREFORE, we have set our hand and seal the day and year indicated with our signatures.

Approved this date by CMC	**Commercial Metals Company**
________________, 2016	
	By: ________________________________
Approved this date by the City	**CITY OF DURANT**
_________________, 2016	
	By:______________________________ Stewart Hoffman, Mayor
Attest:	
____________________________ Cynthia J. Price, City Clerk	

DURANT
· OKLAHOMA ·

The City of Durant

Office of City Clerk

Memorandum

Date:	8/18/2016
To:	Mayor and City Council
From:	Pat Phelps, City Attorney
Re:	Consider Ordinance No. 1792, Amending The Code Of Ordinances Of The City Of Durant, Oklahoma, By Adding To Title Iii, "Tourism Tax," Consisting Of New Sections 37.120 Through 37.148, Inclusive; Levying A Five Percent (5%) Tax Upon The Gross Proceeds Or Gross Receipts Derived From Occupancy Of A Room Or Rooms In This City, With Said Tax To Be Used For Enhancing And Promoting Tourism Development; Providing Citation And Definitions; Providing For Tax Rate, Exemptions, And Exemption Certificates; Requiring Tax To Be Separately Stated On Bills; Requiring Records To Be Kept; Providing For Tax Returns, Bonds, Assessment, Determination Of Tax, Refunds, And Notices; Providing That Remedies Are Exclusive; Providing General Powers Of The City Clerk; Providing For Administration Of Oaths And Compelling Testimony; Providing For Certificates Of Registration, Interest, And Penalties; Providing For Handling Of Delinquent Taxes; Providing For Collection By Suit; Providing For Use Of Funds; Providing For Confidentiality Of Records; Providing For Proceedings To Collect Tax And Penalties For Failure To Comply With This Article; Providing For Operator's Discount; Providing That Provisions Are Cumulative; Providing For Severability; And Providing Effective Date And Codification

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Herewith you will find Ordinance 1792 prepared for your consideration in order to call an election of the registered voters to approve or disapprove the levying of a sales tax derived from occupancy of rooms (hotels, etc.) within the city. This election is called for on November 8, 2016, and if approved by a majority of the registered voters, become effective on January 1, 2017. The ordinance contains, but is not limited to, multiple provisions including collection procedure, requiring records to be kept, general powers of the city clerk.

Council Information / Action Requested

Action on Ordinance No. 1792, Amending The Code Of Ordinances Of The City Of Durant, Oklahoma, By Adding To Title Iii, "Tourism Tax," Consisting Of New Sections 37.120 Through 37.148, Inclusive; Levying A Five Percent (5%) Tax Upon The Gross Proceeds Or Gross Receipts Derived From Occupancy Of A Room Or Rooms In This City, With Said Tax To Be Used For Enhancing And Promoting Tourism Development; Providing Citation And Definitions; Providing For Tax Rate, Exemptions, And Exemption Certificates; Requiring Tax To Be Separately Stated On

Bills; Requiring Records To Be Kept; Providing For Tax Returns, Bonds, Assessment, Determination Of Tax, Refunds, And Notices; Providing That Remedies Are Exclusive; Providing General Powers Of The City Clerk; Providing For Administration Of Oaths And Compelling Testimony; Providing For Certificates Of Registration, Interest, And Penalties; Providing For Handling Of Delinquent Taxes; Providing For Collection By Suit; Providing For Use Of Funds; Providing For Confidentiality Of Records; Providing For Proceedings To Collect Tax And Penalties For Failure To Comply With This Article; Providing For Operator's Discount; Providing That Provisions Are Cumulative; Providing For Severability; And Providing Effective Date And Codification

City Staff Information / Action Follow-up, if Council authorizes this action:

If approved the city clerk should furnish the Secretary of the Bryan County Election Board a signed copy of the Ordinance. The Ordinance should be published once in the local newspaper at least 10 days prior to the November 8th election.

ATTACHMENTS:

Description	Type	Upload Date
Ordinance No. 1792	Ordinance	8/22/2016

ORDINANCE NO. 1792

AN ORDINANCE OF THE CITY OF DURANT, OKLAHOMA (THE "CITY"), LEVYING AND ASSESSING AN EXCISE TAX (SALES TAX) OF FIVE PERCENT (5%) (IN ADDITION TO ANY **AND ALL OTHER EXCISE TAXES NOW IN FORCE), UPON THE GROSS PROCEEDS OR GROSS RECEIPTS DERIVED FROM RENTS RECEIVED FROM OCCUPANCY OF HOTEL OR MOTEL ROOMS, PROVIDING FOR USE OF TAX FUNDS; PROVIDING FOR TAX RATE; PROVIDING EXEMPTIONS; PROVIDING TAX TO BE SEPARATELY DESIGNATED ON BILLS; PROVIDING FOR OPERATOR'S DUTIES; PROVIDING FOR BOND REQUIREMENTS; PROVIDING FOR ASSESSMENT AND DETERMINATION OF TAX; PROVIDING FOR REFUNDS; PROVIDING FOR NOTICES; PROVIDING FOR REMEDIES EXCLUSIVE; PROVIDING FOR AN AGREEMENT OF ADMINISTRATION; PROVIDING GENERAL POWERS OF THE CITY MANAGER; REQUIRING CERTIFICATES OF REGISTRATION; MAKING RECORDS CONFIDENTIAL; PROVIDING FOR CRIMINAL PENALTIES; PROVIDING FOR CIVIL REMEDIES; REQUIRING APPROVAL OF ORDINANCE BY MAJORITY OF REGISTERED VOTERS VOTING AT AN ELECTION HELD FOR SUCH PURPOSE AS PROVIDED BY LAW; FIXING EFFECTIVE DATES; PROVIDING FOR SEVERABILITY; AND CONTAINING OTHER PROVISIONS RELATED THERETO.**

BE IT ORDAINED BY THE CITY OF DURANT, OKLAHOMA:

ARTICLE I. Subject to the approval by a majority of the qualified electors of the City of Durant, Oklahoma, at an election held November 8, 2016, the following shall be codified and incorporated into the Code of Ordinances, City of Durant, Oklahoma:

Section 1. Citation and Codification.

This Ordinance shall be known and cited as the City of Durant Tourism Tax Ordinance.

Section 2. Definitions.

As used in this Ordinance:

"City" shall mean the City of Durant, Oklahoma.

"Hotel" shall mean any building or buildings, structures, trailer, or other facility in which the public may, for consideration, obtain sleeping accommodations, and in which rooms are used for the accommodation of such occupant whether such rooms are in one or several structures. The term shall include hotels, apartment hotels, motels, tourist courts, lodging houses, inns, rooming houses, and all other facilities where rooms or sleeping facilities or space are furnished for a consideration. The term shall not include hospitals, sanitariums or nursing homes.

"Occupancy" shall mean the use or possession, or the right to the use or possession of any room or rooms in a Hotel.

"Occupant" shall mean the person, who for a consideration, uses, possesses, or has the right to the use or possession of any room or rooms in a Hotel under any lease, concession, permit, right of access, license to use, or other agreement.

"Operator" shall mean any person operating a Hotel within the City, including, but not limited to, the owner, proprietor, manager, lessee, sublessee, mortgagee in possession, licensee, or any other person otherwise operating such Hotel.

"Person" shall mean any individual, corporation, company, partnership, voluntary association, firm, club, society, organization or any other entity of whatever kind or nature.

"Rent" shall mean the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash credits, and property or services of any kind or nature, and also any amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.

"Return" shall mean any report filed or required to be filed as herein provided.

"Room" shall mean any room or suite of rooms of any kind in any part or portion of a Hotel which is available for or let out for use or possessed for sleeping facilities.

"Tax" shall mean the tax levied pursuant to this Ordinance.

Section 3. Tax Rate.

There is hereby levied an excise tax of five percent (5%) (in addition to any and all other excise taxes now in force) upon the gross proceeds or gross receipts derived from all rent for every occupancy of a room or rooms in a Hotel in this City. Rooms provided free of charge, through barter, trade or any other arrangement or agreement of any kind or nature, are also subject to such tax at the sales value of the room so provided (with "sales value" to mean the price at which the room would be rented to the operator's best customer in the ordinary course of business).

Section 4. Exemptions. The exemptions from excise tax enumerated in Title 68, Oklahoma Statutes, Section 1350 *et. seq.* (the "Oklahoma Sales Tax Code") are hereby adopted and incorporated herein by reference. To the extent any conflicts in connection with the permitted exemptions should arise under this Ordinance and the Oklahoma Sales Tax Code, the Oklahoma Sales Tax Code shall prevail.

Section 5. Tax to be Separately Designated on Bills.

The operator shall separately designate, charge and show the Tax on all bills, statements, receipts or any other evidence of charge or payment of rent for occupancy issued or delivered by the operator.

Section 6. Operator's Duties.

(a) *Operator responsible for collections.* The operator shall be responsible for the collection of the tax from the occupant and shall be liable to the City for the tax which shall be held in trust by the operator until paid to the City or the Oklahoma Tax Commission pursuant to an agreement to collect municipal lodging taxes as set forth in Title 68, Oklahoma Statutes, Section 2701 *et. seq.* of the State Tax Code. The operator shall join the City as a party to any action brought by the operator to enforce collection of the tax.

(b) *Records to be kept.* Every operator shall keep records of every occupancy and of all rent paid, charged, or due thereon and of the tax payable thereon in such form as the city manager or Oklahoma Tax Commission may by regulation require. Such records shall be available for inspection and examination at any time upon demand by the city manager, or a duly authorized agent or employee of the City or the Oklahoma Tax Commission, and shall be preserved for a period of three years.

(c) *Returns.*

(1) In the event of collection of the Tax levied pursuant to this Ordinance by the Oklahoma Tax Commission, each operator shall file with the city manager a copy of their completed Oklahoma State Sales Tax Form within twenty (20) days after the end of each month following the effective date of this Ordinance.

(2) In the event of collection of the Tax levied pursuant to this Ordinance by the City, every operator shall file with the city manager a return as prescribed by the City and shall contain such information as may be deemed necessary and proper for the administration of this Ordinance, of any occupancy and of rents, and of the taxes payable thereon for the period ending on the last day of each month following the effective date of this Ordinance. Such return shall be filed within the first twenty (20) days after the end of each such month. The city manager may require amended returns to be filed within ten (10) days after notice and to contain the information specified in the notice.

(d) *Payment of tax.* The payment of the tax levied pursuant to this Ordinance shall be due prior to the twentieth (20") day following the month during which the charge for the occupancy of a Hotel is incurred by the occupant. At the time of filing a return of occupancy and of rents, each operator shall pay to the city treasurer or the Oklahoma Tax Commission (in the manner and form prescribed for payment of the municipal lodging tax under the State Tax Law of the State of Oklahoma) the taxes imposed by this Ordinance upon the rents included in such return. All taxes not paid with a timely return shall be delinquent. All the taxes for the period for which a return is required to be filed shall be due from the operator and payable to the city treasurer or Oklahoma Tax Commission on or before the date fixed for the filing of the return for such period without regard to whether a return is filed or whether the return which is filed correctly shows the amount of rents and the taxes due thereon.

(e) *Deduction for Record Keeping.* For so long as the operator maintains compliance with the collection and remittance of the Tax due hereunder, the Operator shall be allowed a deduction in accordance with the provisions of Title 68, Oklahoma Statutes, as amended, Section 1367.l as compensation for the keeping and maintaining of sales tax records, filing reports and remitting the tax when due.

(f) *Delinquent taxes.* All taxes not paid within twenty (20) calendar days following the last day of the period for the collection of the tax levied by this Ordinance shall be delinquent.

(g) *Interest and penalties on unpaid taxes.* If any tax levied by this Ordinance becomes delinquent, the person responsible and liable for remittance of such tax shall pay penalties on such unpaid tax at the rates and charges as established in Title 68, Oklahoma Statutes, Section 217.

Section 7. Bond Required; City Collection.

In the event of initial collection of the Tax levied hereunder shall be collected by the City, or after such termination of an Agreement of Administration authorized in Section 12 hereof; where the city manager believes that any Operator is about to cease business, leave the state, or remove or dissipate assets, or for any other similar reason the city manager deems it necessary in order to protect revenues under this Ordinance may require such operator to file with the city a bond issued by a surety company authorized to transact business in the state in such amount as the city manager may fix to secure the payment of any tax or penalties and interest due, or which may become due from such operator. In the event that the city manager determines that an operator is to file such bond, the city manager shall give notice to such operator specif5ring the amount of security required. The operator shall file such security as a performance bond or irrevocable letter of credit within five (5) days after the filing of such notice unless within such five *(5)* days the operator shall request in writing a hearing before the city council, at which time the necessary propriety and amount of the bond shall be determined by the city council. Such determination shall be final and shall be complied with within fifteen *(15)* days thereafter. In lieu of such bond, a cash or securities escrow, in an amount and under terms approved by the city manager, may be deposited with the city manager, who may at any time after five days notice to the depositor, apply them to any tax and/or any penalties due and for that purpose the securities may be sold at private or public sale.

Section 8. Assessment and Determination of Tax.

If a return required by this Ordinance is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be assessed by the city manager or the Oklahoma Tax Commission from such information as may be obtainable and, if necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, types of accommodations and services, number of employees, or other factors. Written notice of such assessments shall be given to the person liable for the collection and payment of the tax. Such assessment shall finally and irrevocably fix and determine the tax:

(a) Unless the person against whom it is assessed shall apply in writing to the city council for a hearing within sixty (60) days after the city gives notice of such assessment;

or

(b) Unless the city manager decides to reassess the same.

After such hearing, the city council shall give written notice of its determination within thirty (30) days to the person against whom the tax is assessed and such determination shall be final.

Section 9. Refunds.

(a) *Procedure.*

i. *Oklahoma Tax Commission Collection of Tax.* If collection of the tax levied pursuant to this ordinance is delegated to the Oklahoma Tax Commission pursuant to an agreement for the collection of municipally imposed lodging tax, the Oklahoma Tax Commission shall be responsible for making refunds to taxpayers previously collected by the Oklahoma Tax Commission on the City's behalf in accordance with the guidelines, procedures and regulations previously adopted by the Oklahoma Tax Commission.

ii. *City Collection of Tax.* The city manager shall direct the refund or credit of any tax erroneously, illegally or unconstitutionally collected if written application to the city manager for such refund is made within two years from the date of payment thereof For like causes, and in the same period, a refund may be so made upon the initiative of the city manager, subject to existing limits on the authority of the city manager as to amount. The city manager, in lieu of any refund required to be made, may allow credit thereof on payments due from the applicant. Whenever a refund is made, the reasons therefor shall be stated in writing. Such application may be made by the person who has collected and paid such tax to the city treasurer; however, no refund of money shall be made to the operator until the operator has repaid to the occupant the amount for which the application for refund is made.

1) *Determination and hearing.* Upon application for a refund the city manager may receive evidence with respect thereto, and make such investigation as is deemed necessary. After making a determination as to the refund, the city manager shall give written notice thereof to the applicant. Such determination shall be final unless the applicant, within thirty (30) days after such notice, shall apply in writing to the city council for a hearing. After such hearing the city council shall give written notice of its decision to the applicant.

Section 10. Notices.

Notices provided for under this Ordinance shall be deemed to have been given when such notice has been delivered personally to the operator or deposited in the United States mail, postage prepaid, to the last known address of the operator. In the absence of written evidence received by the city to the contrary, the last known address shall be presumed to be the address shown on the certificate of registration as required by Section 14 herein.

Section 11. Remedies Exclusive.

The remedies provided in this Ordinance shall be the exclusive remedies available to any person for the review of tax liability imposed by this Ordinance.

Section 12. Agreement of Administration.

Upon approval of the Tax by a majority of the qualified voters of the City, the City shall be authorized, but not obligated, to enter into an Agreement of Administration (the "Agreement") with the Oklahoma Tax Commission for collection of the Tax levied hereunder. Should the City elect to enter into said Agreement, Operators shall follow the normal rules and procedures of collection and administration of excise tax as prescribed by the Oklahoma Tax Commission. In the event of a subsequent change in administration and collection of the Tax, Operators shall be notified in accordance with the notice provisions required under state law and the rules of the Oklahoma Tax Commission of the date of such change in collection practices and any requirements of Operators enumerated under this Ordinance where the City shall serve as the collector of the Tax.

Section 13. General Powers of the City Manager.

In addition to all other powers granted to the city manager, the city manager is hereby authorized:

(a) To make, adopt and amend rules and regulations appropriate to the execution of this Ordinance and for the purposes hereof;

(b) To extend for cause shown the time for filing any return for a period not exceeding thirty (30) days; and for cause shown to waive, remit, or reduce penalties or interest;

(c) To delegate functions hereunder to authorized designees for the city;

(d) To assess, reassess, determine, revise and readjust the amount of taxes (but not the tax rate) imposed by this Ordinance;

(e) To prescribe methods for determining the taxable and nontaxable rents;

(f) To administer oaths and take affidavits concerning any matter or proceeding under this Ordinance; and

(g) To subpoena and require the attendance of witnesses and the production of books, papers and documents to secure information pertinent to the performance and the enforcement of this Ordinance and to examine them in relation thereto.

Section 14. Certificates of Registration.

Every operator shall file with the city manager a certificate of registration in a form prescribed by the city manager within ten days after the effective date of this Ordinance, or in the case of operators commencing business or opening new Hotels after such effective date, within three days after such commencement or opening. The city manager shall, within five days after such registration, issue, without charge, to each operator a certificate of authority empowering such operator to collect the tax from the occupant and duplicates thereof for each additional Hotel. Each certificate or duplicate shall state the Hotel to which it is applicable. Such certificate of authority shall be permanently displayed by the operator in such manner that it may be seen and will come to the notice of all occupants and persons seeking occupancy. Such certificates shall be nonassignable, nontransferable, and shall be surrendered immediately to the city manager upon the cessation of business at the Hotel named, or upon its sale or transfer.

Section 15. Use of Funds.

All taxes collected pursuant to provisions of this article shall be set aside and used exclusively for enhancing and promoting tourism development. Provided, however, that the expenditures specified for the above purposes may be reduced in the amount determined by the City Council to be necessary to defray any or all reasonable and necessary expenses and costs of the City or its agents or contractors in collecting, enforcing and administering the taxes levied by this article; and/or in administering and implementing the expenditures specified in this article; provided further, the tax levied by this article may also be expended to pay principal and interest on and costs of issuance and/or administration of bonds, notes or other obligations issued by a City public trust for the purposes set forth above.

Section 16. Records Confidential.

The confidential and privileged nature of the records file concerning the administration of the Hotel tax is legislatively recognized and declared and, in order to protect the same, the provisions of Title 68, Oklahoma Statutes, Section 205 of the State Sales Tax Code, and each subsection thereof and all amendments thereto, as hereby adopted by reference and made fully effective and applicable to the administration of this Ordinance as if here set forth.

Section 17. Criminal Penalties.

(a) The willful intent or refusal of any taxpayer to make reports and remittances therein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this Ordinance, shall constitute a violation of the Code of Ordinances of the City and shall be subject to the General Penalty set forth in Section 10.99 of the City Code of the City.

(b) The failure by an operator to file a security bond as required, to register or to display the certificate of registration, or to separately state the tax on the bill or to collect such tax from the occupant, shall constitute a violation of the Code of Ordinances of the City and shall be subject to the General Penalty set forth in Section 10.99 of the City Code of the City.

Section 18. Civil Remedies.

(a) Whenever any operator, occupant or other person shall fail to collect and/or pay over any tax, or to owe any tax, penalty or interest imposed by this Ordinance as herein provided, the mayor may authorize the director of finance to file notice of liens on behalf of the City against the real estate upon which the Hotel is located and/or against all franchises, property and rights to property, whether real or personal, then belonging to or thereafter acquired by the person owing the tax pursuant to Title 68, Oklahoma Statutes, Section 2701 and Section 2704.

(b) The liens shall, upon proper filing, attach to the real estate and/or personal property then owned or thereafter acquired by the debtor, whether such property is used by the debtor in the operation of business or is under the authority of an assignee, trustee, or receiver for the benefit of creditors, from the date such taxes are due and payable as allowed by Title 68, Oklahoma Statutes, Section 2704.

(c) The city manager shall notify the person owing the tax by personal service or by certified mail that the City will file such liens if any delinquent taxes, interest and/or penalties are not paid within fifteen (15) days of receiving such notice.

(d) The city manager may also authorize the city attorney to institute an action in personam and in rem to enforce payment and collect any delinquent taxes, penalties and/or interest.

Section 19. Amendments.

The people of the City, by their approval of this Ordinance at the election hereinabove provided for, hereby authorize the City by Ordinance duly enacted to make such administrative and technical changes or additions in the method and manner of administration and enforcing this Ordinance as may be necessary or proper for efficiency and fairness or in order to make the same consistent with the State Tax Code, except that the rate of the tax and the purpose of the tax herein provided for shall not be changed without approval of the qualified electors of the City as provided by law.

Section 20, Advisory Committee.

There is hereby created and established an advisory committee to be composed of seven (7) citizens of the city who shall reside within the corporate limits of the city during their term of appointment. The committee members shall be appointed by the city council and shall be composed of three members who are owners or operators of hotel operations within the city, a representative of the Durant Industrial Authority, a representative of the Durant Chamber of Commerce, the Mayor or his/her designee and one member at large The Advisory Committee's duties shall be to make recommendations to the city council as to the expenditure of proceeds from the tax imposed by this ordinance.

Section 21. Provisions Cumulative.

The provisions hereof shall be cumulative and in addition to any and all other taxing provisions of City Ordinances.

Section 22. Severability.

The provisions of this Ordinance are severable, and if any part or provision hereof shall be adjudged invalid by any court of competent jurisdiction, such adjudication shall not affect or impair any of the remaining parts or provisions hereof.

Section 23. Effective Date and No Termination Date.

The provisions of this Ordinance and the collection of the excise tax referenced herein shall become effective on and after January 1, 2017, subject to approval by a majority of the qualified electors of the City voting on the same in the manner

prescribed by law. The provisions of this Ordinance and the collection of the excise tax referenced herein shall have no stated termination date.

ARTICLE II. Any ordinance or parts of ordinances of the City, found to be in conflict herewith are hereby repealed.

PASSED AND APPROVED THIS 23RD DAY OF AUGUST, 2016.

CITY OF DURANT, OKLAHOMA

By: ______________________________

STEWART HOFFMAN, Mayor

(SEAL)

ATTEST:

____

CYNTHIA J. PRICE, City Clerk

CERTIFICATE

OF

COUNCIL ACTION

I, the undersigned, hereby certifies that I am the duly qualified and acting City Clerk of the City of Durant, Oklahoma.

I further certify that the Durant City Council of the City of Durant, Oklahoma, held a Special Meeting at 4:45 o'clock p.m., on the23rd day of August, 2016, after due notice was given in full compliance with the Oklahoma Open Meeting Act.

I further certify that attached hereto is a full and complete copy of Ordinance No. 1792 that was passed and approved by said City Council at said meeting as the same appears in the official records of my office.

I further certify that below is listed those Council members present and absent at said meeting; those making and seconding the motion that said Ordinance be passed and approved, and those voting for and against such motion:

PRESENT:

ABSENT:

MOTION MADE BY:

MOTION SECONDED BY:

AYE:

NAY:

WITNESS MY HAND THIS 23RD DAY OF AUGUST, 2016.

CITY OF DURANT, OKLAHOMA

BY: ______________________________

CYNTHIA J. PRICE, City Clerk

DURANT
· OKLAHOMA ·

The City of Durant

Office of City Clerk

Memorandum

Date: 8/19/2016

To: Mayor and City Council

From: Pat Phelps, City Attorney

Re: Consider Resolution 2016-19 Authorizing The Calling And Holding Of An Election In The City Of Durant, Oklahoma, On The 8th Day Of November, 2016, For The Purpose Of Submitting To The Qualified Electors Of The City Of Durant, Oklahoma, The Question Of Their Approval Or Rejection Of Ordinance No. 1792 Levying A Five Percent (5%) Tax Upon The Gross Proceeds Or Gross Receipts Derived From Occupancy Of A Room Or Rooms In This City; Providing That The Revenues From Such Tax Shall Be Used For Enhancing And Promoting Tourism Development; Providing Effective Date; Providing For Administration And Collection Of Such Tax; Providing The Provisions Are Cumulative; And Providing For Severability.

Resolution 2016-19 provides the statutory manner for requesting a public vote on the issue of establishing a tax on rental rooms in the city of Durant. It must be approved by the council and furnished to the Election Board Secretary at least 60 days before the date of the election, which is November 8, 2016.

Council Information / Action Requested

Approval of Resolution 2016-19 is required in order to place the tourism tax issue before the registered voters of the city.

City Staff Information / Action Follow-up, if Council authorizes this action:

If approved the City Clerk should provide an original signed copy of the Resolution and Proclamation to the Secretary of the Election Board. Also, Resolution 2016-19 should be published one time in the local newspaper not less than 10 days before the election (11 O.S. 16-101).

ATTACHMENTS:

Description	Type	Upload Date
Resolution 2016-19	Resolution Letter	8/22/2016

RESOLUTION NO. 2016-19

A RESOLUTION AUTHORIZING THE CALLING AND HOLDING OF AN ELECTION IN THE CITY OF DURANT, OKLAHOMA, ON THE 8th DAY OF NOVEMBER, 2016, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF DURANT, OKLAHOMA, THE QUESTION OF THEIR APPROVAL OR REJECTION OF ORDINANCE NO. 1792 LEVYING A FIVE PERCENT (5%) TAX UPON THE GROSS PROCEEDS OR GROSS RECEIPTS DERIVED FROM OCCUPANCY OF A ROOM OR ROOMS IN THIS CITY; PROVIDING THAT THE REVENUES FROM SUCH TAX SHALL BE USED FOR ENHANCING AND PROMOTING TOURISM DEVELOPMENT; PROVIDING EFFECTIVE DATE; PROVIDING FOR ADMINISTRATION AND COLLECTION OF SUCH TAX; PROVIDING THE PROVISIONS ARE CUMULATIVE; AND PROVIDING FOR SEVERABILITY.

WHEREAS, the City Council of the City of Durant, Oklahoma, on the 17th day of August, 2016**,** enacted **Ordinance No. 1792,** levying a five percent *(5%)* city excise tax upon the gross proceeds or gross receipts derived from all rent for every occupancy of a room or rooms in a hotel in this city; providing that the revenues from such tax shall be used for enhancing and promoting tourism development; providing effective date; providing for administration and collection of such tax; providing the provisions are cumulative; and providing for severability.

WHEREAS, under the provisions of Oklahoma law, an ordinance levying such a tax must be submitted to and approved by a majority of registered voters at such election before said ordinance shall become effective.

THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF DURANT, **OKLAHOMA:**

<u>Section 1</u>: The Mayor of the City of Durant, Oklahoma, is hereby authorized and directed to call an election to be held in the City of Durant, Oklahoma, on the 8^{th} day of November, 2016, for the purpose of submitting to the qualified electors of the City of Durant, Oklahoma, for their approval or rejection, the following proposition:

PROPOSITION 1

(City of **Durant 5% Tourism Tax)**

Shall Ordinance No.1792 be approved by the City Council of the City of Durant, Oklahoma, which levies and assesses a five percent *(5%)* city excise tax upon the gross proceeds or gross receipts derived from all rent for every occupancy of a room or rooms in a hotel in this city; providing that the revenues from such tax shall be used for enhancing and promoting tourism development; providing for administration and collection of such tax; providing the provisions are cumulative; providing for severability; and providing that such tax shall be effective on January 1, 2017; be approved?

<u>Section 2</u>: That the call for such election shall be by proclamation signed by the Mayor and attested by the City Clerk setting forth the proposition to be voted upon and the hours of opening and closing of the polls. The ballots for said election shall set

forth the proposition substantially as set out in Section 1 hereof, and the returns of such election shall be made to and canvassed by the Bryan County Election Board.

PASSED AND APPROVED this 23rd of August, 2016.

CITY OF DURANT

By______________________________

STEWART HOFFMAN, Mayor

ATTEST: (Seal)

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CYNTHIA J. PRICE, City Clerk

I, the undersigned City Clerk of the City of Durant, Oklahoma, hereby certify that the above and foregoing is a true, correct and complete copy of the resolution of said city duly adopted by the governing body of said city at a meeting held on the date therein stated as the same appears in the minutes of said meeting on file in my office as a part of the official record thereof.

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CYNTHIA J. PRICE, City Clerk
City of Durant, Oklahoma

ELECTION PROCLAMATION

Pursuant to a Resolution duly adopted by the governing body of the City of Durant, Oklahoma, the undersigned Mayor of said City hereby calls an election to be held in said City on the 8th day of November, 2016, for the purpose of submitting to all of the registered qualified electors residing within said City the following proposition:

PROPOSITION 1

(City of Durant 5% Tourism Tax)

Shall Ordinance No. 1792, approved by the City Council of the City of Durant, Oklahoma, which levies and assesses a FIVE percent (5%) city excise tax upon the gross proceeds or gross receipts derived from all rent for every occupancy of a room or rooms in a hotel in this city; providing that the revenues from such tax shall be used for enhancing and promoting tourism development; providing for administration and collection of such tax; providing the provisions are cumulative; providing for severability; and providing that such tax shall be effective on January 1, 2017, be approved?

/ _____/ Yes - For the above Proposition

/ _____/ No - Against the above Proposition

The polls shall be open at 7:00 o'clock a.m. and shall remain open continuously until and be closed at 7:00 o'clock p.m. on said day.

All registered qualified electors residing within the corporate limits of said City, shall be entitled to vote on the foregoing proposition at said election.

DATED AND ISSUED this 23rd day of August, 2016.

CITY OF DURANT

By:______________________________

STEWART HOFFMAN, Mayor

(Seal)

ATTEST:

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CYNTHIA J. PRICE, City Clerk

Agenda Item: 4.a.

The City of Durant

Office of City Clerk

Memorandum

Date:	8/18/2016
To:	Mayor and City Council
From:	Cynthia J. Price, City Clerk
Re:	Consider Entering into Executive Session As Authorized By Title 25 O.S. Section 307 B(1) To Discuss The Hiring Of A City Manager

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Council Information / Action Requested

City Staff Information / Action Follow-up, if Council authorizes this action:

Agenda Item: 4.b.

The City of Durant

Office of City Clerk

Memorandum

Date:	8/18/2016
To:	Mayor and City Council
From:	Cynthia J. Price, City Clerk
Re:	Consider Action Pursuant To Agenda Item 4a To Discuss The Hiring Of A City Manager

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Council Information / Action Requested

City Staff Information / Action Follow-up, if Council authorizes this action: