

AGENDAS

FOR THE AMARILLO CITY COUNCIL WORK SESSION TO BE HELD ON TUESDAY, SEPTEMBER 27, 2016 AT 3:30 P.M. AND THE REGULAR MEETING OF THE AMARILLO CITY COUNCIL AT 5:00 P.M., CITY HALL, 509 SOUTHEAST 7th AVENUE, COUNCIL CHAMBER ON THE THIRD FLOOR OF CITY HALL, AMARILLO, TEXAS.

Please note: The City Council may take up items out of the order shown on any Agenda. The City Council reserves the right to discuss all or part of any item in an executive session at any time during a meeting or work session, as necessary and allowed by state law. Votes or final decisions are made only in open Regular or Special meetings, not in either a work session or executive session.

WORK SESSION

- A. City Council will discuss or receive reports on the following current matters or projects.
- (1) Review agenda items for regular meeting and attachments;
 - (2) Presentation and discussion of Boards and Commissions Application Process;
 - (3) Presentation and discussion of Higher than Expected Water Bills;
 - (4) Discuss IT Cyber Security; and
 - (5) Consider future Agenda items and request reports from City Manager.
- B. City Council may convene in Executive Session to receive reports on or discuss any of the following pending projects or matters:
- (1) Section 552.139 of the Government Code (Information that relates to computer network security, or to the design, operation or defense of a computer network).
 - (2) Section 551.076 of the Government Code (Relating to the deployment, or specific occasions for implementation of security personnel or devices, and/or a security audit).

REGULAR MEETING ITEMS

INVOCATION: Burt Palmer, Polk Street United Methodist Church

1. **MINUTES:**
Approval of the City Council minutes of the regular meeting held on September 20, 2016.
2. **RESOLUTION:**
This resolution honors the services of City employee Officer Justin Scherlen.
3. **PRESENTATION AND CONSIDERATION OF ORDINANCE NO. 7624:**
This is the first reading of an ordinance rezoning Lots 12 and 13, Block 58, Mrs. M.D. Oliver Eakle, in Section 171, Block 2, AB&M Survey, Potter County, Texas, plus one-half of all bounding streets, alleys and public ways to change from General Retail (GR) District to Light Commercial (LC) District. This item was denied by the Planning and Zoning Commission.
4. **ORDINANCE NO. 7622:**
This is the second and final reading of an ordinance rezoning of Heritage Hills Unit No. 7, Section 65, Block 9, BS&F Survey, Randall County, Texas, plus one-half of all bounding streets, alleys and public ways, to change from Agricultural District to Residential District 2 for the next phase in Heritage Hills Subdivision, in the vicinity of Soncy Road/Loop 335 and Heritage Hills Parkway.
5. **ORDINANCE NO. 7623:**
This is the second and final reading of an ordinance rezoning of Lot 13, Block 38, Grandview Addition Unit No. 11, Section 139, Block 2, AB&M Survey, Randall County, Texas, plus one-half of all bounding streets, alleys and public ways, to change from Residential District 1 to Residential District 1 with a Specific Use Permit for placement of a carport. (Address: 3124 Browning Street.)

6. **APPOINTMENTS – BOARDS AND COMMISSIONS:**

Appointments are needed for the following boards:

Airport Advisory Board (3-year terms)

11/23/2010	Robert Dempsey	10/01/2016
10/01/2013	John S. Denton	10/01/2016
10/01/2013	Bill Harris	10/01/2016
01/12/2010	Jim Mitchell	10/01/2016
11/23/2010	John Whitaker	10/01/2016

Board of Review-Landmarks & Historic District (3-year terms)

06/19/2001	Carson Burgess	05/21/2015
11/27/2012	L.V. Perkins	05/21/2015
11/27/2012	Tom Thatcher	05/21/2015
08/27/2008	Kim Crawford	05/21/2016

Downtown Urban Design Review Board (3-year terms)

08/17/2010	David Horsley	08/17/2016
03/10/2015	Steve Pair	08/17/2016
08/17/2010	Dana Walton	08/17/2016
08/17/2010	Wes Reeves	08/17/2016

Greenways Public Improvement District Advisory Board (3-year terms)

10/15/2013	Stephen Carter	09/30/2016
------------	----------------	------------

Planning and Zoning Commission (3-year terms)

06/28/2011	David Craig	05/15/2016
------------	-------------	------------

Texas Panhandle Centers (2-year terms)

09/19/2000	Sam Reeves	10/04/2016
------------	------------	------------

Zoning Board of Adjustment (2-year terms)

10/08/2013	Craig Davis	09/01/2016
10/08/2013	Chris Rhynehart	09/01/2016
02/27/2009	Richard Walton	09/01/2016
10/08/2013	Tom Kolius	09/01/2016

7. **CONSENT AGENDA:**

It is recommended that the following items be approved and that the City Manager be authorized to execute all documents necessary for each transaction:

A. Award – Environmental Lab Addition and Remodel:

Tri-State General Contractors -- \$1,183,490.00

This item recommends that the Construction Contract for the Environmental Lab Addition and Remodel at 3701 South Osage be awarded to the low bidder Tri-State General Contracting.

B. Award – Vaccine Contract:

Award to Minnesota Multistate Contracting Alliance for Pharmacy Co-op -- \$648,802.00

This award is to approve a contract for the purchase of vaccine.

C. Award – Radio Read Water Meters:

Award to HD Supply Waterworks -- \$153,615.29

This award is to approve a contract for the purchase of Radio Read Water Meters.

D. Award – WIC Fiber Optic link from WIC to Fire Administration:

Franklin Drilling -- \$185,658.00

Change Order #1 will be submitted changing the price within 25% margin reducing it to \$142,956.66 WIC Fiber Optic link from WIC to Fire Administration.

- E. Approval – Southwest Airlines Co:
This item approves a three-year Airline Use and Lease Agreement (AULA) between Southwest Airlines, Co. and Rick Husband Amarillo International Airport.
- F. Approval -- Interlocal Agreement between Amarillo Police Department and Amarillo Independent School District for School Resource Officers:
This item approves an Interlocal Agreement between the Amarillo Police Department and Amarillo Independent School District for School Resource Officers.

PUBLIC FORUM

Comments from interested citizens on matters not on the Agenda pertaining to City policies, programs or services. *(This is the opportunity for visitors and guests to address the City Council on any issue. The City Council may not discuss any presented issue, nor may any action be taken on any issue at this time. Texas Attorney General Opinion JC-0169)*

MISCELLANEOUS

1. Boards and Commissions – appointments as listed on attached.

Amarillo City Hall is accessible to individuals with disabilities through its main entry on the south side (Southeast 7th Avenue) of the building. An access ramp leading to the main entry is located at the southwest corner of the building. Parking spaces for individuals with disabilities are available in the south parking lot. City Hall is equipped with restroom facilities, communications equipment and elevators that are accessible. Individuals with disabilities who require special accommodations or a sign language interpreter must contact the City Secretary's Office 48 hours prior to meeting time by telephoning 378-3013 or the City TDD number at 378-4229.

Posted this 23rd day of September 2016.

Amarillo City Council meetings stream live on Cable Channel 110 and are available online at:
www.amarillo.gov/granicus
Archived meetings are also available.



STATE OF TEXAS
 COUNTIES OF POTTER
 AND RANDALL
 CITY OF AMARILLO

On the 20th day of September 2016, the Amarillo City Council met at 3:30 p.m. for a work session, and the regular session was held at 5:00 p.m. in the Council Chamber located on the third floor of City Hall at 509 Southeast 7th Avenue, with the following members present:

PAUL HARPOLE
 ELISHA L. DEMERSON
 LISA BLAKE
 RANDY BURKETT
 MARK NAIR

MAYOR
 COUNCILMEMBER NO. 1
 COUNCILMEMBER NO. 2
 COUNCILMEMBER NO. 3
 COUNCILMEMBER NO. 4

Absent were none. Also in attendance were the following administrative officials:

TERRY CHILDERS
 BOB COWELL
 MICK MCKAMIE
 BLAIR SNOW
 FRANCES HIBBS

INTERIM CITY MANAGER
 DEPUTY CITY MANAGER
 CITY ATTORNEY
 MANAGEMENT ANALYST
 CITY SECRETARY

The invocation was given by Davlyn Duesterhaus, Baptist St. Anthony's. Mayor Harpole led the audience in the Pledge of Allegiance.

A proclamation was given to "Texas Tech University Veterinary School."

Mayor Harpole established a quorum, called the meeting to order, welcomed those in attendance and the following items of business were conducted:

ITEM 1: Mayor Harpole presented the minutes for September 13, 2016. Motion was made by Councilmember Burkett to approve the minutes; motion was seconded by Councilmember Blake, and unanimously carried to approve the minutes.

Item taken out of order.

ITEM 4B: Consideration and approval of Economic Development project in support of Texas Tech School of Veterinary Medicine. Doug Nelson, Amarillo Economic Development Corporation (AEDC), stated the AEDC Board of Directors approved an incentive to Texas Tech University System in the amount of \$15 million for the Veterinary medicine building for a 10-year period, \$1.5 million per year which includes fallback provisions starting in year 2022. Chancellor Robert Duncan, stated this was historical for the State of Texas. There have been shortages in rural America for mixed animal practices and this is a huge industry. There is a shortage of veterinarians and Texas Tech will work to develop a uniquely created program and collaborate with the City, the industry and veterinarians for a curriculum. The City displayed community support for Texas Tech 20-years ago when it stepped up for the pharmacy school and the Health Science Center in 1964. Mr. Nelson stated the AEDC Board recommends approval of this project. Motion was made by Councilmember Burkett, seconded by Councilmember Blake.

Voting AYE were Mayor Harpole, Councilmembers Blake, Demerson, Burkett and Nair; voting NO were none; the motion carried by a 5:0 vote of the Council.

ITEM 2: Mayor Harpole presented the first reading of an ordinance rezoning of Heritage Hills Unit No. 7, Section 65, Block 9, BS&F Survey, Randall County, Texas, plus one-half of all bounding streets, alleys and public ways, to change from Agricultural District to Residential District 2 for the next phase in Heritage Hills Subdivision, in the vicinity of Soncy Road/Loop 335 and Heritage Hills Parkway. This item was recommended for approval by a 4:0 vote of the Planning and Zoning Commission. AJ Fawver, Planning Director presented this ordinance. Mr. Childers stated a need to update the

Comprehensive Plan. Motion was made by Councilmember Demerson, seconded by Councilmember Nair, that the following captioned ordinance be passed on first reading:

ORDINANCE NO. 7622

AN ORDINANCE OF THE CITY OF AMARILLO, TEXAS: PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF AMARILLO, TEAS; PROVIDING FOR CHANGE OF USE DISTRICT CLASSIFICATION OF SPECIFIED PROPERTY IN THE VICINITY OF VINEYARD BOULEVARD AND BROADWAY DRIVE, POTTER COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE, PROVIDING A REPEALER CLAUSE, AND PROVIDING AN EFFECTIVE DATE.

Voting AYE were Mayor Harpole, Councilmembers Blake, Demerson, Burkett and Nair; voting NO were none; the motion carried by a 5:0 vote of the Council.

ITEM 3: Mayor Harpole presented the first reading of an ordinance rezoning of Lot 13, Block 3B, Grandview Addition Unit No. 11, Section 139, Block 2, AB&M Survey, Randall County, Texas, plus one-half of all bounding streets, alleys and public ways, to change from Residential District 1 to Residential District 1 with a Specific Use Permit for placement of a carport (address: 3124 Browning Street). AJ Fawver, Planning Director presented this ordinance. Ms. Fawver stated they check the surrounding neighborhood and for safety issues. Mr. Demerson inquired if there were any other carports in this area. Ms. Fawver replied there were three in the immediate area. Motion was made by Councilmember Nair, seconded by Councilmember Demerson, that the following captioned ordinance be passed on first reading:

ORDINANCE NO. 7623

AN ORDINANCE OF THE CITY OF AMARILLO, TEXAS: PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF AMARILLO, TEXAS; PROVIDING FOR CHANGE OF USE DISTRICT CLASSIFICATION OF SPECIFIED PROPERTY IN THE VICINITY OF SOUTHEAST 34TH AVENUE AND BROWNING STREET, RANDALL COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Voting AYE were Mayor Harpole, Councilmembers Blake, Demerson, Burkett and Nair; voting NO were none; the motion carried by a 5:0 vote of the Council.

ITEM 4: Mayor Harpole presented the consent agenda and asked if any item should be removed for discussion or separate consideration. Item 4B was moved to the regular agenda. Motion was made by Councilmember Demerson to approve the consent agenda, seconded by Councilmember Burkett.

- A. Award – Demolition and Debris Removal of City Owned Building (Old Coke Building) Located at 701 South Lincoln Street:
Awarded to the low bidder: Lloyd D Nabors Demolition -- \$297,600.00
It is recommended that the Demolition and Debris Removal of City Owned Building located at 701 South Lincoln Street be awarded to Lloyd D. Nabors Demolition.
- B. Consideration and approval of Economic Development project in support of Texas Tech School of Veterinary Medicine.
- C. Confirmation of Ed Drain as Chief of Police for City of Amarillo in accordance with Texas Local Government Code Chapter 143: Municipal Civil Service for Firefighters and Police Officers Section 143.013(a)(1).

Paul Gross, 4012 Gatewood, stated he was a graduate of Texas Tech in 1952. He worked for Texas Tech for 44 years and was now a small cattle operator. He stated a need for additional veterinarians. Dipak Patel, 46 Colonial Drive, invited Council to a meeting at the Chamber of Commerce at 9:00 a.m. on Thursday to discuss CVC's numbers and misinformation. Beth Duke, 3141 West 28th Avenue, stated Amarillo was designated on September 7 as a Cultural District. She stated the Community Market has been a success and there were two more sale days left this year. She further stated

that Jazztober will begin on Tuesdays at 6:00 p.m. Tom Warren, III, 1510 Johnson Street, thanked Councilmembers Demerson, Burkett and Nair for their interviews with the Pioneer Newspaper. Allen Finegold, 2601 North Grand Street, urged the City of Amarillo to do a joint project with Potter County to study historical documents including the acquisitions of the Santa Fe and Denver Railroads. He further asked Council to speak to the Regents of Texas Tech to adopt Theodore Smith as the primary or secondary name. He stated Mr. Smith links the history of this area as it pertains to the cattle industry in the 1890s. Cheryl Austin, 166 Cliffside Drive, inquired about Section B on the agenda regarding the professional conduct statement. She inquired as to the Library's limit of one-hour a day on their computers. She further inquired about the requirements for public notices in the newspaper. Kit Rudd, 6850 Grande, stated he had asked for full support of the Council regarding his upcoming trip. He further stated the Yellow City Community Outreach program will work with the Amarillo Police Department regarding the homeless. He stated in order for the Housing First Program to work they need to partner with the City of Amarillo. There were no further comments.

Mayor Harpole advised that the meeting was adjourned.

ATTEST:

Frances Hibbs, City Secretary

Paul Harpole, Mayor

DRAFT



RESOLUTION NO. _____

A RESOLUTION HONORING CITY EMPLOYEE OFFICER JUSTIN SCHERLEN.

WHEREAS, Officer Justin Scherlen served as a licensed police officer for the Amarillo Police Department since 2004; and

WHEREAS, Officer Scherlen was dedicated to preserving public safety and performing his duties in an exemplary manner. His mantra was, "How can I better serve you?"; and

WHEREAS, Officer Justin Scherlen was wounded in an automobile accident in September 2015; and

WHEREAS, Officer Scherlen was awarded the law enforcement Purple Heart in November 2015 for injuries sustained while in the performance of his official duties; and

WHEREAS, the passing of Officer Scherlen has caused a deep void of sadness at the City; and the City Council would like to honor the service and memory of Officer Justin Scherlen and express their profound sympathy to the family, fellow officers, friends and loved ones of Officer Justin Scherlen;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS:

SECTION 1. The City Council recognizes and thanks Officer Scherlen for his professional and personal dedication to the City of Amarillo.

SECTION 2. The City of Amarillo hereby expresses its deep appreciation for his dedication to the City and extends to his family our sincere sympathy upon his passing.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, this 27th day of September, 2016.

Paul Harpole, Mayor

Elisha Demerson, Councilmember

Lisa Blake, Councilmember

Randy Burkett, Councilmember

Mark Nair, Councilmember

ATTEST:

Frances Hibbs, City Secretary



Amarillo City Council Agenda Transmittal Memo



Meeting Date	August 27, 2016	Council Priority	Community Appearance
---------------------	-----------------	-------------------------	----------------------

Department	Planning Department
-------------------	---------------------

Agenda Caption

Address: 2224 Canyon Dr.

This is an ordinance rezoning lots 12 & 13, Block 58, Mrs M D Oliver Eakle, in Section 171, Block 2, AB&M Survey, Potter County, Texas, plus one-half of all bounding streets, alleys and public ways to change from General Retail (GR) District to Light Commercial (LC) District.

Agenda Item Summary

Background

The applicant's tract is located in Central Amarillo and within the Oliver Eakle Historic District. Originally, the Oliver Eakle Historic District was residentially developed. However, in order to take advantage of increased traffic generated by I-27, land along I-27 (from the interchange to SW 28th Ave) began to develop with non-residential land uses.

The non-residential uses that do exist in the area are predominately uses that are allowed in General Retail (GR) while a majority of the remaining Oliver Eakle Subdivision continues to be residential and function as a neighborhood. Staff informed the applicant the zoning request would be recommended for denial, due to circumstances in the immediate area.

The use category "New or Used Auto Sales & Rental, Outdoor Lot" is not allowed under any circumstances in residential, office, or neighborhood service zoning districts; the Light Commercial (LC) district allows this use by right.

Relevant Case History

Staff discovered this same property had a similar rezoning request back in 2013 (Z-13-24). Initially, the request was withdrawn, and then refilled. This case (requesting rezoning to a PD to allow this same use) was denied by Planning & Zoning Commission on October 28, 2013.

Assessment

Whenever a rezoning request is submitted, staff looks at several factors when assessing whether or not the amendment is warranted.

- What the existing zoning and development patterns, and would the requested change result in logical and orderly development? Are there changed conditions in the area which warrant the change? Is there a compelling community need?
- Does the requested change conform to the adopted 2010 Comprehensive Plan? What do the themes, action strategies, and implementation steps within the plan suggest for the request? Is the requested change consistent with the adopted future land use and character map?
- Does the requested change conform to other adopted plans, policies, and ordinances – such as

Amarillo City Council Agenda Transmittal Memo



the Zoning Ordinance?

Analysis

The existing zoning and development patterns in the area are largely residential, with some commercial development of a retail nature. The subject request would incorporate a higher-intensity type of zoning not currently present on this side of I-27 which is inconsistent and does not result in logical and orderly development. Conditions in the area indicate a stability of both neighborhood and compatible retail usage, and appear to be relatively unchanged from the conditions noted by staff in their 2013 review of this request.

The adopted Comprehensive Plan contains a number of action strategies which are important to remember in this case. These include:

- Protection from Encroachment – neighborhood integrity (pg. 2.24)
- Compatibility of Neighborhood Commercial/Services Uses – restrict certain commercial uses that, by their very nature, should be not be permitted in close proximity to homes (pg. 2.25)

The Neighborhood Unit Concept is also a key piece of the adopted plan, in which zoning transitions from areas of lower density at section corners to areas of high density. This concept is developed so that commercial areas will have less of an impact to residential areas.

The adopted Future Land Use & Character map indicates this area to be “Neighborhood Conservation”. Neighborhood Conservation is specifically defined in the adopted plan as an area with “detached residential dwellings, public/institutional [uses], and parks and public spaces” on pg 2.13. Characteristics allow for – depending on the neighborhood – “small-scale office or retail uses on vacant sites at the edge of the neighborhood or other appropriate locations” and are designed to “ensure compatibility”.

Spot Zoning

Lastly, staff informed the applicant that this type of request falls into the area “spot zoning”, which would be permit a different land use type within a larger area that is already zoned General Retail District (GR). The term “spot zoning” is used when a small piece of land is zoned in a manner that is incompatible with the city’s zoning ordinance and comprehensive plan, and treating it differently from similar surrounding land “without any showing of justifiable changes in conditions” as referenced in the Texas Supreme Court case *City of Pharr v. Tippitt* [616 SW.2d 173, 177 (Tex 1981)].

Conclusion

The increase in intensity that would occur were this request granted (auto sales lot), would be out of character and would negatively impact area residences, regardless of development standards proposed. Such negative impacts typically associated with auto sales include, lighting, outdoor storage of automotive parts, auto repair, and delivery of vehicles.

The existing neighborhood and low-intensity retail character of the area should be protected and therefore, staff recommends denial as submitted.

Amarillo City Council Agenda Transmittal Memo



Requested Action

The applicant is requesting a change in zoning from General Retail (GR) District to Light Commercial (LC) District in order to develop a portion of their lot with an outdoor car sales lot.

Funding Summary

N/A

Community Engagement Summary

The item was distributed to all applicable internal and external entities. Notices have been sent out to property owners within 200 feet regarding this proposed rezoning. At the time of this writing, the Planning Department has not received any comments regarding this request

A motion to approve Z-16-24 failed 2:3 and was therefore denied by the Planning and Zoning Commission at its August 22, 2016 public meeting. The deadline for an appeal to be filed by the applicant was September 1, 2016. The applicant filed an appeal on September 2, 2016; although this was past the deadline, staff proceeded with the appeal because it was received only one day late.

City Manager Recommendation

Planning Staff recommends the City Council to deny the item as presented.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF AMARILLO, TEXAS: PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF AMARILLO, TEXAS; PROVIDING FOR CHANGE OF USE DISTRICT CLASSIFICATION OF SPECIFIED PROPERTY IN THE VICINITY OF CANYON DR. & SE. 24TH AVE., POTTER COUNTY, TEXAS. PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission has held public hearings on proposed zoning changes on the property hereinafter described and has filed its final recommendation and report on such proposed zoning changes with the City Council; and,

WHEREAS, the City Council has considered the final recommendation and report of the Planning and Zoning Commission and has held public hearings on such proposed zoning changes, all as required by law; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AMARILLO:

SECTION 1. The zoning map of the City of Amarillo adopted by Section 4-10 of the Amarillo Municipal Code and on file in the office of the Planning Director is hereby amended to reflect the following zoning use changes:

Rezoning of Lots 12 & 13, Block 58, Mrs M D Oliver Eakle, in Section 171, Block 2, AB&M Survey, Potter County, Texas, plus one-half of all bounding streets, alleys and public ways to change from General Retail District to Light Commercial District.

SECTION 2. All ordinances and resolutions or parts thereof that conflict with this ordinance are hereby repealed, to the extent of such conflict.

SECTION 3. In the event this ordinance or any part hereof is found to be invalid, such invalidity shall not affect the remaining portions of the ordinance, and such remaining portions shall continue to be in full force and effect. The Director of Planning is authorized to make corrections and minor changes to the site plan or development documents to the extent that such does not materially alter the nature, scope, or intent of the approval granted by this ordinance.

SECTION 4. This ordinance shall become effective from and after its date of final passage.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on First Reading on this the ____ day of September, 2016 and PASSED on Second and Final Reading on this the _____ day of October, 2016.

Paul Harpole, Mayor

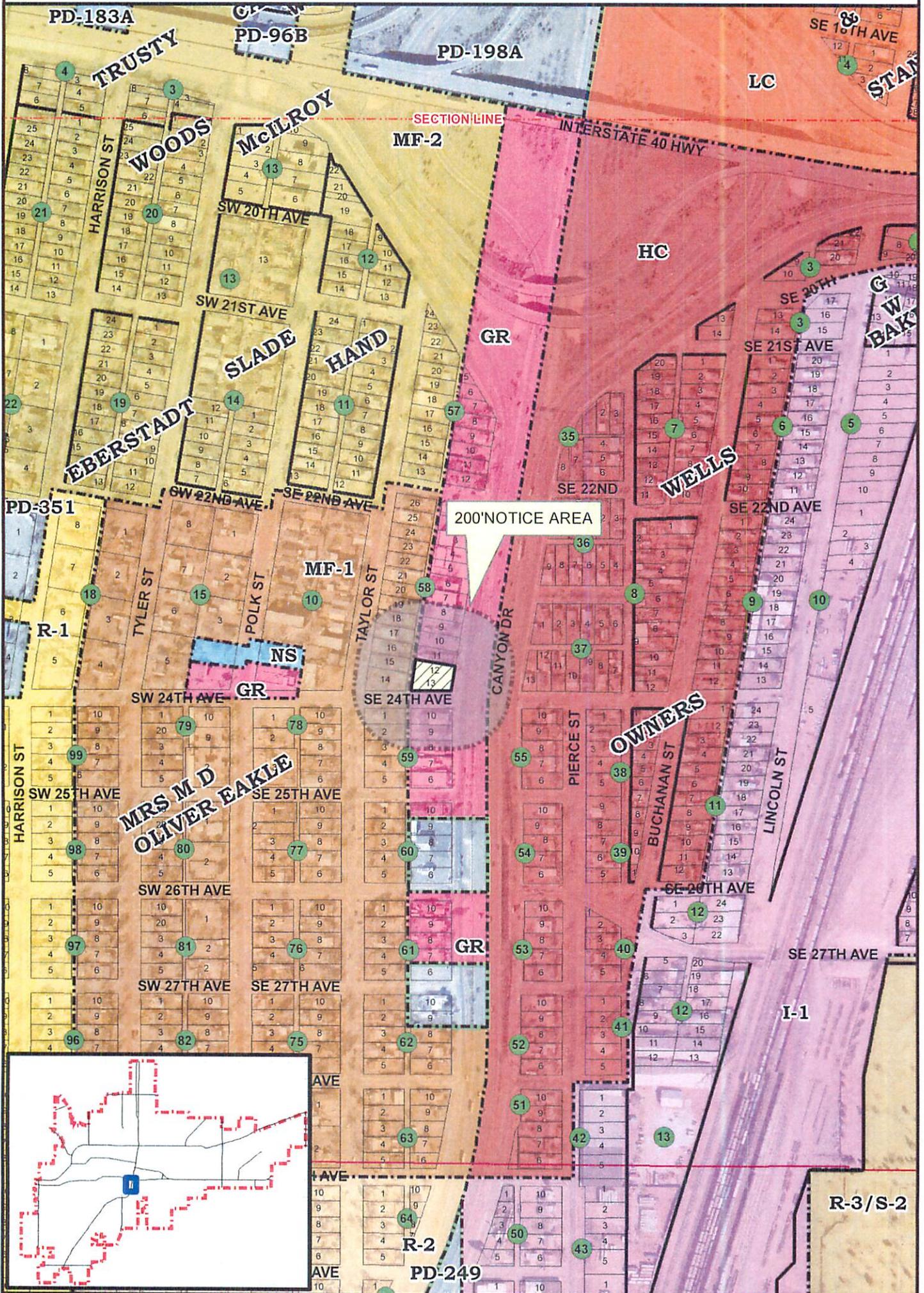
ATTEST:

Frances Hibbs, City Secretary

APPROVED AS TO FORM:

William M. McKamie, City Attorney

REZONING FROM GR TO LC



CITY OF AMARILLO PLANNING DEPARTMENT

Z-16-24 Rezoning of Lots 12 & 13, Block 58, Mrs M D Oliver Eakle, in Section 171, Block 2, AB&M Survey, Potter County, Texas, plus one-half of all bounding streets, alleys and public ways to change from General Retail District to Light Commercial District.

Scale: 1" = 400'
Date: 8-11-16
Case No: Z-16-24



Applicant: Olga Olave

Vicinity: SE 24th Ave & Canyon Dr

AP: N-13



Amarillo City Council Agenda Transmittal Memo



Meeting Date	September 20, 2016	Council Priority	Community Appearance
---------------------	--------------------	-------------------------	----------------------

Department	Planning Department
-------------------	---------------------

Agenda Caption

ORDINANCE NO. _____:

This is the second and final reading of an ordinance rezoning of Heritage Hills Unit No. 7, Section 65, Block 9, BS&F Survey, Randall County, Texas, plus one-half of all bounding streets, alleys and public ways, to change from Agricultural District to Residential District 2 for the next phase in Heritage Hills Subdivision, in the vicinity of Soncy Rd./ Loop 335 & Heritage Hills Pkwy. This item was recommended for approval by a 4:0 vote of the Planning and Zoning Commission

Agenda Item Summary

Adjacent zoning consist of Agricultural District to the north, Residential District 2 to the east, Agricultural District to the south, and Agricultural District to the west, which is east of Helium Road.

The applicant's tract is located in southwest Amarillo and within the Heritage Hills Subdivision.

This tract of land is currently zoned Agricultural as a result of being annexed in 2013. Considering Residential District 2 zonings exist to the east and north of the Heritage Hills subdivision tract, Planning staff is of the opinion that the applicant's request represents a logical continuation of both existing zoning and development patterns in the area.

As recommended by the City's 2010 Comprehensive Plan, City development policies encourage the Neighborhood Unit Concept of development (NUC). This concept recommends that within a typical section of land bordered by section-line arterials, a gradual transition in zoning should occur, whereby non-residential land uses locate at or near section line arterial intersections, higher density residential uses occur mid-section along an arterial, and lower density residential uses along with open space occurring within the section's interior.

Being the next phase of development within the Heritage Hills Subdivision, this zoning request is appropriate as it adheres to the NUC mentioned above.

Given the above, the resulting residential development conforms to the Developer's approved Preliminary Plan. Staff also asserts that the request will not have any detrimental impacts on the nearby area.

Amarillo City Council Agenda Transmittal Memo



Requested Action

The applicant is requesting Residential District 2 zoning in order to develop the above mentioned site with single family homes.

Funding Summary

N/A

Community Engagement Summary

The item was distributed to all applicable internal and external entities. Notices have been sent out to property owners within 200 feet regarding this proposed rezoning. At the time of this writing, the Planning Department has not received any comments regarding this request

The item was recommended for approval by 4:0 vote of the Planning and Zoning Commission at its September 12, 2016 Public Meeting.

City Manager Recommendation

Planning and Legal Staff have reviewed the associated Ordinance and exhibit and recommends the City Council approve the item as submitted.

ORDINANCE NO. 71622

AN ORDINANCE OF THE CITY OF AMARILLO, TEXAS: PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF AMARILLO, TEXAS; PROVIDING FOR CHANGE OF USE DISTRICT CLASSIFICATION OF SPECIFIED PROPERTY IN THE VICINITY OF SONCY RD. & HERITAGE HILLS PKWY., RANDALL COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission has held public hearings on proposed zoning changes on the property hereinafter described and has filed its final recommendation and report on such proposed zoning changes with the City Council; and,

WHEREAS, the City Council has considered the final recommendation and report of the Planning and Zoning Commission and has held public hearings on such proposed zoning changes, all as required by law; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AMARILLO:

SECTION 1. The zoning map of the City of Amarillo adopted by Section 4-10 of the Amarillo Municipal Code and on file in the office of the Planning Director is hereby amended to reflect the following zoning use changes:

Rezoning of a 23.77 acre tract of land out of Section 65, Block 9, BS&F Survey, Randall County, Texas, plus one-half of all bounding streets, alleys, and public ways to change from Agricultural District to Residential District 2.

DESCRIPTION

FIELD NOTES for a 23.77 acre tract of land out of Section 65, Block 9, BS&F Survey, Randall County, Texas.

BEGINNING at a 1/2 inch iron rod with cap stamped "FURMAN RPLS" found for the most Southerly Southwest corner of Heritage Hills Unit No. 4, an addition to the City of Amarillo, Randall County, Texas, according to the map or plat thereof, recorded under Clerk's File No. 2016013683 of the Official Public Records of Randall County, Texas, same being the Southeast corner of this tract of land and the beginning of a curve to right whose radius point bears N. 24° 13' 55" W. 2334.00 feet;

THENCE Southwesterly along said curve to the right an arc distance of 998.03 feet with a long chord bearing S. 78° 01' 05" W., 990.44 feet to a 1/2 inch iron rod with cap stamped "FURMAN RPLS" set for the end of said curve;

THENCE N. 89° 43' 55" W. 191.14 feet to a 1/2 inch iron rod with cap stamped "FURMAN RPLS" set for the Southwest corner of this tract of land;

THENCE N. 00° 12' 25" W., 149.03 feet to a 1/2 inch iron rod with cap stamped "FURMAN RPLS" set for the beginning of a curve to the left whose center point bears S. 89° 47' 35" W., 1790.00 feet;

THENCE Northwesterly along said curve to the left an arc distance of 874.28 feet with a long chord bearing N. 14° 11' 57" W., 865.61 feet to a 1/2 inch iron rod with cap stamped "FURMAN RPLS" set for the end of said curve for the most Westerly Northwest corner of this tract of land;

THENCE N. 61° 48' 30" E., 55.00 feet to a 1/2 inch iron rod with cap stamped "FURMAN RPLS" set for the most Northerly Northwest corner of this tract of land;

THENCE S. 58° 55' 23" E., 8.59 feet to a 1/2 inch iron rod with cap stamped "FURMAN RPLS" set for a jog corner of this tract of land;

THENCE S. 89° 43' 55" E., 352.90 feet to a 1/2 inch iron rod with cap stamped "FURMAN RPLS" set for the beginning of a curve to the left whose center point bears N. 00° 16' 05" E., 1325.00 feet;

THENCE Northeasterly along said curve to the left an arc distance of 537.35 feet with a long chord bearing N. 78° 39' 00" E., 533.67 feet to a 1/2 inch iron rod with cap stamped "FURMAN RPLS" set for the end of said curve;

THENCE N. 20° 39' 30" E., 6.91 feet to a 1/2 inch iron rod with cap stamped "FURMAN RPLS" set for the Northeast corner of this tract of land;

THENCE S. 25° 36' 25" E., Base Line, at 6.12 feet pass a 1/2 inch iron rod with cap stamped "FURMAN RPLS" found for the Northeast corner of said Heritage Hills Unit No. 4, continue for a total distance of 1014.51 to the PLACE OF BEGINNING and containing 23.77 acres of land, more or less.

SECTION 2. All ordinances and resolutions or parts thereof that conflict with this ordinance are hereby repealed, to the extent of such conflict.

SECTION 3. In the event this ordinance or any part hereof is found to be invalid, such invalidity shall not affect the remaining portions of the ordinance, and such remaining portions shall continue to be in full force and effect. The Director of Planning is authorized to make corrections and minor changes to the site plan or development documents to the extent that such does not materially alter the nature, scope, or intent of the approval granted by this ordinance.

SECTION 4. This ordinance shall become effective from and after its date of final passage.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on First Reading on this the ____ day of September, 2016 and PASSED on Second and Final Reading on this the _____ day of September, 2016.

Paul Harpole, Mayor

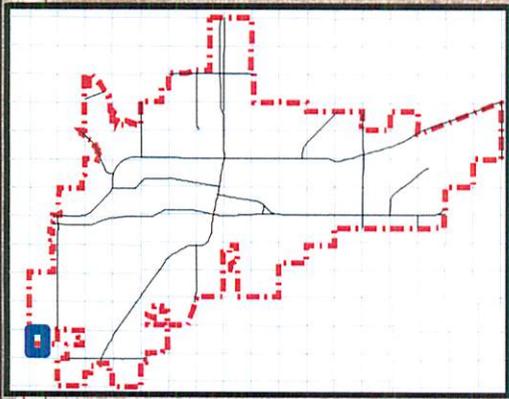
ATTEST:

Frances Hibbs, City Secretary

APPROVED AS TO FORM:

William M. McKamie, City Attorney

REZONING FROM A TO R-2



**CITY OF AMARILLO
PLANNING DEPARTMENT**

Z-16-26 Rezoning of a 23.77 acre tract of land out of Section 65, Block 9, BS&F Survey, Randall County, Texas, plus one-half of all bounding streets, alleys and public ways, to change from Agricultural District to Residential District 2.

Scale: 1" = 400'
Date: 9-1-16
Case No: Z-16-26



Applicant: Seth Williams

Vicinity: Soncy Rd/Loop 335 & Heritage Hills Pkwy

AP: H-17



Amarillo City Council Agenda Transmittal Memo



Meeting Date	September 20, 2016	Council Priority	Community Appearance
---------------------	--------------------	-------------------------	----------------------

Department	Planning Department
-------------------	---------------------

Agenda Caption

Address: 3124 Browning Street

This is an ordinance rezoning of Lot 13, Block 38, Grandview Addition Unit No. 11, Section 139, Block 2, AB&M Survey, Randall County, Texas, plus one-half of all bounding streets, alleys, and public ways to change from Residential District 1 to Residential District 1 with a Specific Use Permit for placement of a carport.

Agenda Item Summary

When analyzing an SUP request, staff observes the surrounding area to see what impacts the proposed carport could have on the overall character of the neighborhood. Staff considers the proposed carport's setbacks, existing trees and fences within the front-yard area, and other existing elements that may disrupt the streetscape character.

In surveying the surrounding area, staff located two other carports positioned within the front-yard setbacks. One of which was approved by Specific Use Permit (SUP) 180 on 3/29/2016. For the other carport, no permit information could be found and should be considered illegal.

As illustrated by the applicant's front-yard and others within the same block, there are several existing fences and mature trees already within the front-yards along this street. As such, Planning staff recommends the request be approved, as a carport within the applicant's front yard will not be readily visible or disrupt the existing streetscape character.

This zoning request does not compromise the adopted comprehensive zoning plan for future land use and character. Therefore, staff views this zoning request as appropriate due to precedence of Specific Use Permit (SUP) 180 and the lack of disruption to the existing streetscape character.

Requested Action

The applicant is requesting a change in zoning from Residential District 1 to Residential District with a SUP in order to allow an existing carport placed within the front-yard setback to remain. The applicant recently purchased a 21' x 18', metal carport from a carport manufacturer and installer. The applicant stated that she understood the installation of the carport involved the company obtaining the necessary permits. However, the applicant recently received a violation notice that no permits were obtained and that the carport, as installed within the front-yard setback of 25', is in violation as well.

Funding Summary

N/A

Amarillo City Council Agenda Transmittal Memo



Community Engagement Summary

The item was distributed to all applicable internal and external entities. Notices have been sent out to property owners within 200 feet regarding this proposed rezoning. At the time of this writing, the Planning Department has received no calls regarding this request.

The item was recommended for approval by 4:0 vote of the Planning and Zoning Commission at its September 12, 2016 public meeting.

City Manager Recommendation

Planning and Legal Staff have reviewed the associated ordinance and exhibit and recommend the City Council approve the item as submitted.

ORDINANCE NO. 7623

AN ORDINANCE OF THE CITY OF AMARILLO, TEXAS; PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF AMARILLO, TEXAS; PROVIDING FOR CHANGE OF USE DISTRICT CLASSIFICATION OF SPECIFIED PROPERTY IN THE VICINITY OF SE 34TH AVENUE & BROWNING STREET, RANDALL COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission has held public hearings on proposed zoning changes on the property hereinafter described and has filed its final recommendation and report on such proposed zoning changes with the City Council; and,

WHEREAS, the City Council has considered the final recommendation and report of the Planning and Zoning Commission and has held public hearings on such proposed zoning changes, all as required by law; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AMARILLO:

SECTION 1. The zoning map of the City of Amarillo adopted by Section 4-10 of the Amarillo Municipal Code and on file in the office of the Planning Director is hereby amended to reflect the following zoning use changes:

Rezoning of Lot 13, Block 38, Grandview Addition Unit No. 11, Section 139, Block 2, AB&M Survey, Randall County, Texas, plus one-half of all bounding streets, alleys, and public ways to change from Residential District 1 to Residential District 1 with a Specific Use Permit for placement of a carport.

SECTION 2. All ordinances and resolutions or parts thereof that conflict with this ordinance are hereby repealed, to the extent of such conflict.

SECTION 3. In the event this ordinance or any part hereof is found to be invalid, such invalidity shall not affect the remaining portions of the ordinance, and such remaining portions shall continue to be in full force and effect. The Director of Planning is authorized to make corrections and minor changes to the site plan or development documents to the extent that such does not materially alter the nature, scope, or intent of the approval granted by this ordinance.

SECTION 4. This ordinance shall become effective from and after its date of final passage.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on First Reading on this the ____ day of September, 2016 and PASSED on Second and Final Reading on this the _____ day of September, 2016.

Paul Harpole, Mayor

ATTEST:

Frances Hibbs, City Secretary

APPROVED AS TO FORM:

William M. McKamie, City Attorney

3124 Browning St - Existing Carport



Surrounding Area

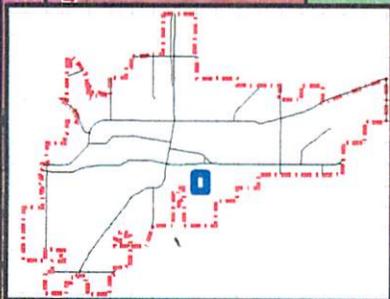
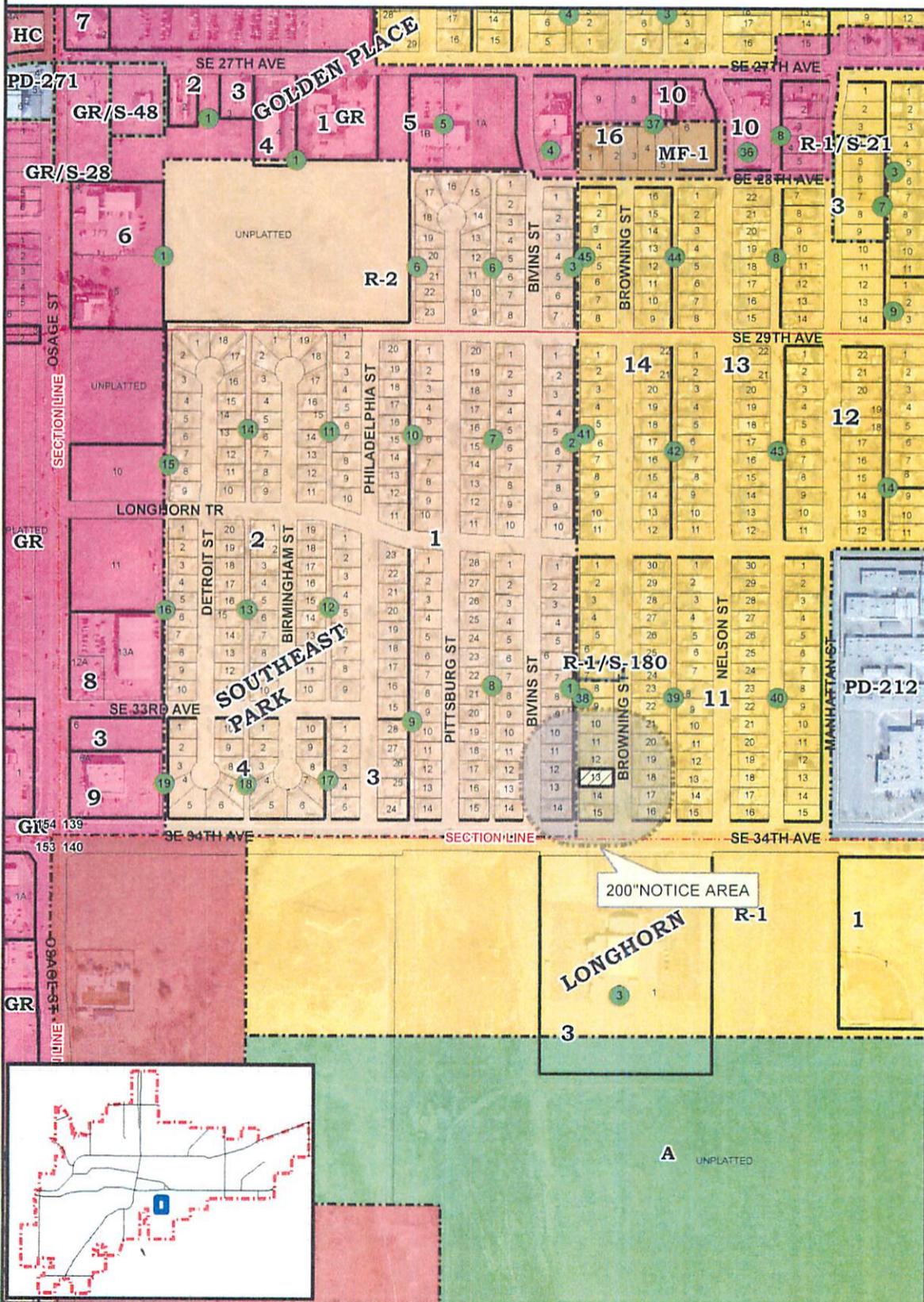
Approved:



Not Approved:



REZONING FROM R-1 TO R-1 W/ SUP



CITY OF AMARILLO PLANNING DEPARTMENT

Scale: 1" = 400'
Date: 8-18-16
Case No: Z-16-27



Z-16-27 Rezoning of Lot 13, Block 38, Grandview Addition Unit No. 11, Section 139, Block 2, AB&M Survey, Randall County, Texas, plus one-half of all bounding streets, alleys, and public ways to change from Residential District 1 to Residential District 1 with a Specific Use Permit for placement of a carport.

Applicant: Maryann Garcia
Vicinity: SE 34th Ave & Browning St



Amarillo City Council Agenda Transmittal Memo



Meeting Date	9/27/2016	Council Priority	Infrastructure
--------------	-----------	------------------	----------------

Department	Facilities 1252
------------	-----------------

Agenda Caption

Award – Environmental Lab Addition and Remodel
Tri-State General Contractors -- \$1,183,490.00

Agenda Item Summary

It is recommended that the Construction Contract for the Environmental Lab Addition and Remodel at 3701 South Osage be awarded to the low bidder Tri-State General Contracting

Requested Action

Approval and Award of Bid

Funding Summary

General Fund account # 521778.17400.1040 account Balance \$1,250,000.00

Community Engagement Summary

N/A

Staff Recommendation

Award – Environmental lab Addition and Remodel

It is recommended that the Construction Contract for the Environmental Lab Addition and Remodel at 3701 South Osage be awarded to the low bidder Tri-State General Contracting in the Amount of \$1,183,490.00

Bid No. 5530 Environmental Lab Addition and Remodel
Opened 4:00 p.m. September 8, 2016

To be awarded as one lot	Tri-State General Contracting Group Inc	A & S General Contractors Inc	Talon LPE
Line 1 Furnish all necessary Superintendence, Labor, Materials, Tools, Equipment, Machinery, Apparatus, and whatever else may be necessary, per specifications			
1 ea			
Unit Price	\$1,183,490.000	\$1,206,952.00	\$1,329,000.000
Extended Price	1,183,490.00	1,206,952.00	1,329,000.00
Bid Total	1,183,490.00	1,206,952.00	1,329,000.00
Award to Vender	1,183,490.00		

B



Amarillo City Council Agenda Transmittal Memo



Meeting Date	September 27, 2016	Council Priority	N/A
---------------------	--------------------	-------------------------	-----

Department	Central Stores
-------------------	----------------

Agenda Caption

Award – Vaccine Contract
 Award to Minnesota Multistate Contracting Alliance for Pharmacy -- \$648,802.00

This award is to approve a contract for the purchase of vaccine

Agenda Item Summary

Award of Vaccine Contract for use by Public Health and City Care.

Requested Action

Consider approval and award for the Vaccine Contract.

Funding Summary

Funding for this award is available in the using departments account t.

Community Engagement Summary

N/A

Staff Recommendation

City Staff is recommending approval and award of the contract.

Bid No. 5191 Vaccine Contract MMCAP

To be awarded as one lot

MMCAP

Line 1 Vaccine Contract

1 ea

Unit Price

\$648,802.000

Extended Price

648,802.00

Bid Total

648,802.00

Award by Vendor

648,802.00

Amarillo City Council Agenda Transmittal Memo



2

Meeting Date	September 27, 2016	Council Priority	N/A
---------------------	--------------------	-------------------------	-----

Department	Central Stores
-------------------	----------------

Agenda Caption

Award – Radio Read Water Meters
Award to HD Supply Waterworks \$153,615.29

This award is to approve a contract for the purchase of Radio Read Water Meters.

Agenda Item Summary

Award of Radio Read Water Meters for use by the Water Distribution Department.

Requested Action

Consider approval and award for the Radio Read Water Meters

Funding Summary

Funding for this award is available in the Central Stores Inventory Account 1000.15400.

Community Engagement Summary

N/A

Staff Recommendation

City Staff is recommending approval and award of the contract.

Bid No. 5571 RADIO READ WATERMETER AND UME SUPPLY AGREEMENT
Opened 4:00 p.m. September 13, 2016

To be awarded as one lot

HD SUPPLY

Line 1 Water meter, 3" comp (request)
bronze, radio read all items must be
neptune to be compatible with our radio
reading equipment, per specifications

10 ea

Unit Price

\$1,913.330

Extended Price

19,133.30

Line 2 Water meter, 4" comp (request)
bronze, radio read, per specifications

6 ea

Unit Price

\$2,508.890

Extended Price

15,053.34

Line 3 Water meter, 6" comp (request)
bronze, radio read, per specifications

3 ea

Unit Price

\$4,077.780

Extended Price

12,233.34

To be awarded as one lot

HD SUPPLY

Line 4 Water meter, 3" turbine (request)
bronze, radio read, per specifications

6 ea

Unit Price

\$927.780

Extended Price

5,566.68

Line 5 Water meter, 4" turbine (request)
bronze, radio read, per specifications

3 ea

Unit Price

\$1,200.000

Extended Price

3,600.00

Line 6 Water meter, 6" turbine (request)
bronze, radio read, per specifications

3 ea

Unit Price

\$2,144.440

Extended Price

6,433.32

Line 7 Ume for 3" (request) compound
meter, per specifications

10 ea

Unit Price

\$994.320

Extended Price

9,943.20

To be awarded as one lot

HD SUPPLY

Line 8 Ume for 4" (request) compound
meter, per specifications

10 ea

Unit Price

\$1,232.950

Extended Price

12,329.50

Line 9 Ume for 6" (request) compound
meter, per specifications

1 ea

Unit Price

\$1,881.250

Extended Price

1,881.25

Line 10 water meter, 3" ,HYD meter,
neptune, radio read, per specifications

10 ea

Unit Price

\$377.270

Extended Price

3,772.70

Line 11 water meter, 5/8" (request)
bronze, radio read, per specifications

100 ea

Unit Price

\$172.220

Extended Price

17,222.00

Line 12 water meter, 1" (request) bronze,
radio read, per specifications

100 ea

Unit Price

\$261.110

Extended Price

26,111.00

To be awarded as one lot

HD SUPPLY

Line 13 water meter, 3" (request) bronze,
radio read, per specifications

1 ea

Unit Price \$546.880

Extended Price 546.88

Line 14 water meter, 4" (request) bronze,
radio read, per specifications

6 ea

Unit Price \$616.480

Extended Price 3,698.88

Line 15 water meter, 8" turbine (request)
bronze, radio read, per specifications

2 ea

Unit Price \$3,151.690

Extended Price 6,303.38

Line 16 water meter, 10" turbine
(request) bronze, radio read, per
specifications

2 ea

Unit Price \$4,893.260

Extended Price 9,786.52

Bid Total

153,615.29

Award by Vendor

153,615.29

Amarillo City Council Agenda Transmittal Memo



D

Meeting Date	September 27, 2016	Council Priority	N/A
---------------------	--------------------	-------------------------	-----

Department	Information Technology
-------------------	------------------------

Agenda Caption

Award – Franklin Drilling: \$185,658.00

Change Order #1 will be submitted changing price within 25% margin reducing it to \$142,956.66

WIC Fiber Optic link from WIC to Fire Admin.

Agenda Item Summary

This is a one-time purchase that will provide a fiber optic link between WIC – Austin St. building to the Fire Admin building allowing the connectivity to extend back to City Hall and the Simms Municipal building.

Requested Action

Approval of award to Franklin Drilling in the amount of \$185,658.00 with Change Order #1 to follow reducing price to \$142,956.66.

Funding Summary

This purchase is 100% funded with State and Federal Grant money.

Community Engagement Summary

N/A

Staff Recommendation

Staff recommends approval of award.

Bid No. 5516 FIBER OPTIC LINK INSTALLATION FROM WIC TO FIRE ADMINISTRATION
Opened 4:00 p.m. August 18, 2016

To be awarded as one lot

FRANKLIN DRILLING

Line 1 Cable Construction, installation
and maintenance, per specifications

1 ea

Unit Price

\$185,658.000

Extended Price

185,658.00

Bid Total

185,658.00

Award by Vendor

185,658.00

Change Order #1

-42701.34

Revised Award Amount

142,956.66 

E



Amarillo City Council Agenda Transmittal Memo

Meeting Date	09/27/2016	Council Priority	Best Practices
---------------------	------------	-------------------------	----------------

Department	Aviation
-------------------	----------

Agenda Caption

Approve a three year Airline Use and Lease Agreement (ALUA) between Southwest Airlines, Co. and Rick Husband Amarillo International Airport.

Agenda Item Summary

This item is a 3 year lease agreement for the use and lease of terminal areas and landing facilities at the Rick Husband Amarillo International Airport. Landings fees and terminal rental rates are calculated each year of the agreement based on a financial model of a combination of enplanements, aircraft landed weights and airport's operating expenses allocated to airline use. There are two one year renewal options that may be exercised at the agreement of both parties.

Requested Action

Recommend approved of the presented lease agreement.

Funding Summary

This is a revenue lease agreement.

Community Engagement Summary

Contract negotiations started in January of 2016.

Staff Recommendation

Airport staff recommends approval of the lease agreement.

**RICK HUSBAND AMARILLO INTERNATIONAL AIRPORT
AIRPORT USE AND LEASE AGREEMENT**

BY AND BETWEEN

THE CITY OF AMARILLO

AND

SOUTHWEST AIRLINES, CO.

AIRPORT USE AND LEASE AGREEMENT

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1	DEFINITIONS1
ARTICLE 2	TERM.....6
ARTICLE 3	RIGHTS AND SPECIFIC PRIVILEGES7
ARTICLE 4	PREMISES12
ARTICLE 5	CAPITAL IMPROVEMENTS AND EQUIPMENT AND CAPITAL OUTLAYS15
ARTICLE 6	REPORTS, RENTALS, CHARGES, AND FEES16
ARTICLE 7	CALCULATION OF RENTALS, CHARGES, AND FEES.....19
ARTICLE 8	BOND ORDINANCE23
ARTICLE 9	MAINTENANCE AND OPERATION OF AIRPORT23
ARTICLE 10	DAMAGE OR DESTRUCTION OF PREMISES27
ARTICLE 11	INSURANCE AND INDEMNIFICATION.....28
ARTICLE 12	ASSIGNMENT OR SUBLEASE.....31
ARTICLE 13	DEFAULTS32
ARTICLE 14	TERMINATION33
ARTICLE 15	GENERAL PROVISIONS34
EXHIBITS	
Exhibit A	Cost Centers
Exhibit B	Preferential and Joint Use Space
Exhibit C	Rate Model Illustration
Exhibit D	Operations, Maintenance, and Service Responsibilities
Exhibit E	Assigned Equipment Parking Areas
Exhibit F	Airport Capital Improvement Program

**RICK HUSBAND AMARILLO INTERNATIONAL AIRPORT
AIRPORT USE AND LEASE AGREEMENT**

THIS AIRPORT USE AND LEASE AGREEMENT (hereinafter referred to as the "Agreement") is entered into this ____ day of _____, 2016, by and between the CITY OF AMARILLO, TEXAS ("City") and, SOUTHWEST AIRLINES, CO., a corporation organized and existing under the laws of the State of Texas ("Airline").

WITNESSETH:

WHEREAS, the Municipal Airports Act of the State of Texas authorizes municipal airports, as governmental entities, to assess charges, rentals or fees for the privilege of supplying goods, commodities, things, services or facilities at municipal airports, with due regard to the property and improvements used and the expenses of operation to the municipality; and

WHEREAS, Airline is engaged in the business of transportation of persons, property, or mail by air and desires to use certain facilities at the Rick Husband Amarillo International Airport ("Airport") and lease from City certain premises and facilities in connection with its use of the Airport; and

WHEREAS, in furtherance of its authority, City desires to lease to Airline certain facilities located at said Airport in accordance with the terms, covenants, and conditions hereinafter set forth in this Agreement; and

WHEREAS, the City and Airline have the power and authority to enter into this Agreement;

NOW, THEREFORE, and in consideration of the mutual covenants, agreements, and conditions contained herein, the parties hereto agree as follows:

ARTICLE 1 - DEFINITIONS

SECTION 1.01 DEFINITIONS

The following words and phrases, wherever used in this Agreement, shall, for the purpose of this Agreement, have the following meanings:

"Affiliate Airline" or "Affiliate" shall mean any (i) contract regional airline that operates flights under the designator code of the Signatory Airline, as designated in writing by such Signatory Airline from time to time; (ii) party that operates under essentially the same trade name, or uses essentially the same livery, as the Signatory Airline at the Airport; or (iii) party controlling, controlled by, or under common control with the Signatory Airline. Affiliate Airline shall have the rights afforded the Signatory

Airline without payment of any additional charges or premiums provided the Signatory Airline: (a) remains a Signatory to this Agreement; (b) agrees and shall be obligated to serve as a financial guarantor for all rents, fees, and charges incurred by the Affiliate Airline of the Signatory Airline and the Signatory Airline has designated the Affiliate Airline to operate on its behalf at the Airport; and (c) has executed an operating agreement with City. A Signatory Airline and any designated Affiliate Airline shall be counted as one airline for the purposes of computing any Joint Use Space charges provided the Affiliate Airline has executed an operating agreement with City; provided however, that the Signatory Airline shall be responsible for the actions and any and all charges of (including the payment of any activity fees incurred by) any such designated Affiliate Airline while such designated Affiliate Airline operates at the Airport on behalf of Signatory Airline. Airline must provide City with a listing in writing of all of Airline's designated Affiliate Airlines, and the relationship each Affiliate Airline has with Airline (i.e., Airline is a parent corporation to Affiliate Airline; Airline is in a partnership / contract with the designated Affiliate Airline, etc.). Airline shall give City reasonable advanced written notice of any change to the Affiliate designation. Airline will use commercially reasonable efforts to assist City in having its designated Affiliates execute an operating agreement with City.

"Agreement" means this Airport Use and Lease Agreement between City and Airline, as the same may be amended, modified, or altered from time to time pursuant to the terms hereof.

"Air Transportation Business" means that business operated by Airline at the Airport for the commercial transportation by air of persons, property, mail, parcels, and/or cargo.

"Air Transportation Company" means the legal entity engaged in the business of scheduled or nonscheduled commercial transportation by air of persons, property, mail, parcels, and/or cargo.

"Aircraft Arrival" means any aircraft arrival at the Airport, including, without limitation, scheduled, non-scheduled, diverted, training, ferry, testing, charter, or any other flight operated by an Air Transportation Company. Aircraft Arrivals exclude flights, which are forced to return and land at the Airport because of meteorological conditions, mechanical causes, or emergency or precautionary reasons.

"Airport" means Rick Husband Amarillo International Airport, as shown in Exhibit A, Cost Centers, attached hereto and made a part hereof, as it may be modified or developed from time to time, including all real property easements or any other interest therein as well as all improvements and appurtenances thereto, structures, buildings, fixtures, and all tangible personal property or interest in any of the foregoing, now or hereafter owned, leased, or operated by City.

"Airport Cost Centers" means the cost centers to be used in accounting for Airport revenues and expenses and for calculating and adjusting certain rentals, fees, and

charges described herein, as they now exist or may hereafter be modified, changed, or developed, as more particularly described below and depicted on Exhibit A as such Exhibit may be modified by the City from time to time:

- **“Terminal Building”** means the passenger terminal building and associated curbside entrance areas and adjoining landscaped areas. This cost center also includes the aircraft aprons at the Terminal Building.
- **“Airfield”** means that portion of the Airport providing for the landing, taking off, and taxiing of aircraft, including runways, taxiways, approach and runway protection zones, safety areas, infield areas, landing and navigational aids, and land areas required by or related to aeronautical use of the Airport.
- **“Other”** means those portions of the Airport not part of the Terminal Building or Airfield cost centers and generally set aside for non-aviation related commercial and industrial uses located, now or as may be located in the future, in any portion of the Airport.

“Airline Terminal Support System” means any system or service supporting Airline operations in the Terminal Building, whether proprietary or common use, including but not limited to, telecommunications, security, access control, paging, flight or baggage information display or similar systems or services.

“Bond Ordinance” means any ordinance of City regulating or authorizing the issuance of bonds, for Airport purposes, or payable from Airport revenues, as the same may from time to time be adopted, amended, or supplemented.

“Bonds” means any airport revenue bonds or any other similar or substitute financing instruments issued for Airport purposes under and pursuant to authorizing legislation.

“Capital Improvement Program” means the Airport’s program of Capital Improvements as such program may be amended from time to time at City’s discretion.

“Capital Improvement” means any single item or project costing more than one hundred thousand and 00/100 dollars (\$100,000) net of PFC revenue and grants-in-aid and having a useful life in excess of five (5) years that is acquired, purchased, or constructed by City to improve, maintain, preserve, or develop the Airport. Capital Improvements shall include, but not be limited to: (1) the acquisition of land or easements; (2) the purchase of machinery, equipment, or rolling stock; (3) the planning, engineering, design, and construction of new facilities; or (4) the performance of any extraordinary, non-recurring major maintenance or replacement of existing facilities.

“City” means the City of Amarillo, a municipal corporation organized under the laws of the State of Texas.

“Coverage” for any series of Bonds means, for any Fiscal Year, the dollar amount computed by multiplying the rate covenant percentage set forth in any Bond Ordinance adopted by City by the annual debt service requirement for such Fiscal Year.

“Director” or “Director of Aviation” means the Director of Aviation of the City’s Department of Aviation or other person properly authorized to act on behalf of Director.

“Enplaned Passengers” means all local, interline transfer, and intraline transfer passengers boarding flights of Airline, Airline’s designated Affiliate(s), or any other Air Transportation Companies using any of the Leased Premises of Airline at the Airport including revenue and non-revenue passengers but excluding Airline employees.

“Environmental Laws” means all present or future local, state or federal statutes, ordinances, rules, regulations, permits, citations, orders, directives, or consent decrees or other enforceable requirement of any federal, state or local entity, agency or body, or subdivision thereof (including specifically but without limitation, the City of Amarillo), having governmental authority, relating to:

- (1) the protection of health, safety and the indoor or outdoor environment;**
- (2) the conservation, management or use of natural resources and wildlife;**
- (3) the protection or use of surface water and ground water;**
- (4) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, release or threatened release, abatement, removal, remediation or handling of, or exposure to any Hazardous Materials (as defined below); or**
- (5) pollution (including any release or threatened release discharge or emission to air, land, surface water, or ground water);**

including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 et seq.), the Hazardous Material Transportation Act (49 U.S.C. §18091 et seq.), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §6901 et seq.), The Clean Water Act (33 U.S.C. §1251 et seq.), the Toxic Substances Control Act of 1976 (15 U.S.C. §2601 et seq.), the Safe Drinking Water Act (U.S.C. §300f-§300j-11 et seq.), the Emergency Planning and Community Right-to-Know Act (42 U.S.C. §11001 et seq.), the Occupational Safety and Health Act, the Clean Air Act, 42 U.S.C. Section 7401 et seq. and any state counterpart, each as heretofore and hereafter amended or supplemented, and any analogous future or present local, state or federal statutes, rules and regulations promulgated thereunder or pursuant thereto, and any other present or future law, ordinance, rule, regulation, permit or permit condition, order, or directive regulating, relating to or imposing liability standards of conduct concerning any Hazardous Materials, or special wastes or by the federal government, any state or any political subdivision thereof, exercising executive, legislative, judicial, regulatory, or administrative functions. The reference to Hazardous Materials in the immediately preceding sentence shall not limit the application of this

paragraph to laws dealing with Hazardous Materials, it being the intention of the parties that all environmental laws dealing with activities having an impact on the environment be included within the scope of this paragraph.

“FAA” means the Federal Aviation Administration of the U.S. Department of Transportation or any agency(s) succeeding to its jurisdiction.

“Fiscal Year” means City’s fiscal year, which is the twelve-month period commencing October 1 and extending to September 30 of the following year, or such other twelve-month period as may be adopted for the operation of City or Airport.

“Hazardous Materials” means any hazardous or toxic substances, materials, or wastes, including, but not limited to, those substances, materials, and wastes listed in the U. S. Department of Transportation Hazardous Materials Table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) or as extremely hazardous substances under 40 CFR Part 355 and amendments thereto, or such substances, materials, and wastes that are or become regulated under any applicable Environmental Laws.

“Joint Use Space or Premises” means those Terminal Building areas which may be assigned to two or more Air Transportation Companies, as shown on Exhibit B, attached hereto. Such space includes baggage make-up, baggage claim, tug drives, and holdrooms.

“Leased Premises” means any areas on the Airport leased by City to Airline, whether on a Joint Use Space, Preferential Use Space, or assigned basis, as depicted on Exhibit B as attached hereto and made a part hereof.

“Maintenance and Operating Expenses” (or **“M&O Expenses”**) means, for any Fiscal Year, all expenses, paid or accrued, to maintain, repair, operate and administer the Airport, including, but not limited to, taxes and assessments, if any, and expenses for defending, settling, or satisfying litigation.

“Maximum Gross Landed Weight” means the maximum allowable landing weight of each aircraft type operated by Airline at the Airport as authorized by the FAA and recited in Airline’s flight manual governing that aircraft.

“Non-Signatory Airline” or **“Non-Signatory”** means those Air Transportation Companies operating at the Airport that are neither a Signatory Airline or an Affiliate Airline, and which Air Transportation Companies shall be subject to a premium fee on its assessed rates and charges.

“Operating Agreement” means an agreement entered into by any third party company and the City that defines the operational rights, responsibilities and liability requirements of the company at the Airport.

“Passenger Facility Charge” or “PFC” means the fees authorized by 49 USC 40117 and regulated by 14 CFR Part 158 as such statutes and regulations currently exist or as they may be amended, modified, or supplemented during the Term of this Agreement.

“Preferential Use Space or Premises” means those portions of the Terminal Building assigned to Airline, as shown on Exhibit B, attached hereto, to which Airline shall have priority over other users. Such space includes ticket counters, ticket counter queue, airline ticket offices and operations space.

“Public Space” means that space in the terminal that is not Rentable Space.

“Rentable Space” means that space made available in the Terminal Building for rental by tenants.

“Rules and Regulations” means those rules, regulations, policies, and procedures that have been established by City for the orderly and efficient use of the Airport by airlines and other tenants and users as the same may be amended, modified, or supplemented from time to time, which Rules and Regulations and any amendments, modification, or supplements thereto, shall not be inconsistent with the financial methodologies set forth in this Agreement. Such Rules and Regulations shall be made available by City to Airline upon request of Airline.

“Signatory Airline(s)” or “Signatory” means those Air Transportation Companies that have executed this Agreement with the City. An Affiliate of a Signatory Airline, as defined herein, shall be treated as a Signatory Airline for the purposes of this Agreement, subject to certain restrictions and requirements as defined herein.

“Total Airline Landed Weight” means the sum of the Maximum Certificated Gross Landing Weights for all Aircraft Arrivals of Airline over a stated period of time.

“TSA” means the Transportation Security Administration of the Department of Homeland Security, or its authorized successor.

Additional words and phrases used in this Agreement but not defined either in this Article 1 or elsewhere herein shall have the meanings as defined under the Bond Ordinance or, if not so set forth, shall have their usual and customary meaning.

SECTION 1.02 CROSS-REFERENCES

References in the text of this Agreement to articles, sections, or exhibits pertain to articles, sections, or exhibits of this Agreement, unless otherwise specified.

ARTICLE 2 - TERM

SECTION 2.01 TERM

This Agreement shall commence on October 1, 2016 ("Effective Date") and terminate at midnight on September 30, 2019, unless cancelled sooner as provided herein ("Term").

SECTION 2.02 TERMINATION OF EXISTING AGREEMENTS

Any Airline lease agreements and Operating Agreements heretofore executed between the parties covering or pertaining to the Airport are canceled and terminated as of the Effective Date of this Agreement, provided that such cancellation and termination shall not be construed as a waiver, relinquishment, or release of any claims, damages, liability, rights of action, or causes of action that either of the parties hereto may have against the other under such existing leases and agreements and that have accrued before the Effective Date of this Agreement.

SECTION 2.03 HOLDING OVER

It is agreed and understood that any holding over by Airline of the Leased Premises at the expiration or cancellation of this Agreement without City's consent shall operate and be construed as a tenancy from month to month at rates, fees, charges, and provisions as set forth herein and the applicable City budget resolution. Airline shall be liable to City for any loss or damage on account of any holding over without City's consent after the expiration or cancellation of this Agreement.

SECTION 2.04 EXTENSION

In the event Airline is not in default of any terms of this Agreement, the Term of this Agreement may be extended for one (1) two-year renewal period, from October 1, 2019 through September 30, 2021. To extend the term of this Agreement, the City shall give written notice to Airline of City's intent to extend the Agreement no less than six (6) months prior to the expiration of the Term of this Agreement. If Airline is willing to renew for the extension period, it will provide the City written notice of its intent within thirty (30) days from the notification of the City's intent to extend the term. Unless a majority of Signatory Airlines (majority, as measured both by number of Airlines and by total enplanements) specifically withhold concurrence to extend the Term, this Agreement shall renew for the designated extension period. If Airline does not provide prompt written notice of its intent to extend, Airline will be released from its obligation to extend the Agreement term and will continue on a month to month holding over pursuant to Section 2.03. During any extension period, the Agreement shall be extended on the same terms and conditions, except Airline shall pay all rates, charges, and fees as set forth herein and any applicable City rate ordinance.

ARTICLE 3 - RIGHTS AND SPECIFIC PRIVILEGES

SECTION 3.01 USE OF THE AIRPORT

Airline, its employees, passengers, guests, patrons, agents, independent contractors and invitees shall have the right to use, in common or jointly with other duly authorized users, those

portions of the Airport, together with all facilities, improvements, equipment, and services that have been or may hereafter be provided for their joint use, subject to the Rules and Regulations.

SECTION 3.02 SPECIFIC RIGHTS OF AIRLINE AT THE AIRPORT

Airline shall have the right, subject to conditions contained herein and in addition to all rights elsewhere granted in this Agreement, to use the Airport for the following purposes, subject to the Rules and Regulations:

- A. The operation of an Air Transportation Business, including all activities reasonably necessary to such operation.
- B. The landing, taking off, flying over, taxiing, pushing, towing, loading, unloading, repairing, maintaining, conditioning, servicing, parking, storing, or testing of aircraft or other equipment of or operated by Airline, subject to the availability of space, and subject to such reasonable charges, regulations, and/or restrictions City may establish; provided however, Airline shall not permit the use of the Airfield by any aircraft operated or controlled by Airline which exceeds the design strength or capability of the Airfield as described in the then-current FAA-approved Airport Layout Plan (ALP) or other engineering evaluations performed subsequent to the then-current ALP.
- C. The sale of air transportation tickets and services, the processing of passengers and their baggage for air travel, the sale, handling, and providing of mail, freight, and express services, and reasonable and customary airline activities.
- D. The training of persons and testing of aircraft and other equipment at the Airport, such training and testing to be limited to that incidental to Airline's Air Transportation Business, and shall not unreasonably hamper or interfere with the use of the Airport and its facilities by others entitled to the use of same. Flight training and aircraft testing shall be undertaken by Airline only to the extent permitted by and subject to the Rules and Regulations and in only those areas designated by Director. City reserves the right to restrict or prohibit such training and testing operations which it deems to interfere with the use of the Airport, including excessive noise as reasonably determined by City.
- E. The servicing by Airline, or by its suppliers of materials or its furnishers of services, of aircraft and other equipment operated by Airline with line maintenance or other materials or supplies, at its Assigned Aircraft Parking Areas or other aircraft parking positions designated by Director subject to the Rules and Regulations. Director reserves the right, at any time, to designate other locations reasonably accessible from the Terminal Building for the performance of aircraft maintenance and service activities if Director believes that such activities would interfere with aircraft operations of other Air Transportation Companies at the Terminal Building.

- F. The installation and operation of identifying signs and graphics on Airline's Preferential Use Space, subject to the prior written approval of Director, provided that such signs shall be: (1) substantially uniform in size, type, and location with those of other Air Transportation Companies; (2) consistent with City's graphics standards as established from time to time by Director; (3) in compliance with the Rules and Regulations; and (4) in compliance with Municipal Code and all local laws and ordinances. However, Airline shall not install any promotional displays or advertising displays in its Joint Use Space unless authorized in writing, in advance, by City at its sole discretion.

- G. The installation, maintenance, and operation of such radio, communication, meteorological, and aerial navigation equipment and facilities at suitable locations on the Airport, including computer equipment at passenger check-in counters in the Terminal Building, as may be necessary for Airline's operations; provided that such equipment and facilities do not interfere with other Airport communication, meteorological, or aerial navigation systems. The location of such equipment and facilities, method of installation and type of equipment shall require the prior written approval of Director and shall conform with all applicable federal, state, and local requirements. Airline is required to use the City's Multi-user Flight Information Display System (MUFIDS) and agrees to abide by the rules established by City for its use.

All rights and privileges not specifically granted to Airline for its use of and operations at the Airport pursuant to the Agreement are reserved for and to City.

SECTION 3.03 EMPLOYEE PARKING FACILITIES

Airline's employees working at the Terminal Building will be provided vehicular parking facilities, if available, in common with other employees. Such facilities must be lit and shall be located in an area designated by Director. City may assess a reasonable charge to Airline or its employees for such parking facilities. Rates for employee parking may be adjusted annually.

SECTION 3.04 LIMITATIONS ON USE BY AIRLINE

In connection with the exercise of its rights under this Agreement, Airline:

- A. Shall not do or permit to be done anything at or about the Airport that may interfere with the use, operation, or maintenance of the Airport, including but not limited to effectiveness or accessibility of the water system, drainage and sewage system, fire protection system, sprinkler system, alarm system, fire hydrants and hoses, heating or ventilation system, air conditioning system, electrical system, natural gas, or other Airport systems installed or located on or within the Leased Premises or the Airport. None of the above systems may be inactivated or altered by Airline or its agents. Water supply lines and electrical supply to the fire protection system cannot be interrupted without scheduling in advance with the Director to coordinate and follow-up to ensure the system is activated in a timely

manner. Any "hot" work (that which produces sparks or flames) must be approved by the Director prior to commencement.

- B. Shall not do or permit to be done anything, either by act or failure to act, that shall cause the cancellation or violation of the provisions, or any part thereof, of any policy of insurance for the Airport, or that shall cause a hazardous condition so as to increase the risks normally attendant upon operations permitted by this Agreement. If Airline shall do or permit to be done any act not permitted under this Agreement, or fail to do any act required under this Agreement, regardless of whether such act shall constitute a breach of this Agreement, which act or failure, in and of itself, causes an increase in City's insurance premiums, Airline shall immediately remedy such actions and/or pay the increase in premiums, upon notice from Director to do so.
- C. Shall not dispose of or permit any employee, agent or contractor to dispose of any waste material taken from, or products used with respect to, its aircraft into the sanitary or storm sewers at the Airport or any other location on the Airport (whether liquid or solid), including but not limited to Hazardous Materials, unless such waste material or products first are properly treated by equipment installed with the approval of City and any other administrative body having appropriate jurisdiction, in accordance with applicable Environmental Laws.
- D. Shall not keep or store any Hazardous Materials such as flammable liquids and solids, corrosive liquids, compressed gases, or magnetized or radioactive materials on the Airport except when all the following conditions are met: (1) in accordance with standards established by the National Board of Fire Underwriters, any liquids having a flash point of less than one hundred degrees (100°) Fahrenheit shall be kept and stored in safety containers of a type approved by the Underwriters Laboratories; (2) said materials shall be under the control and care of designated and properly qualified Airline personnel; (3) said materials shall be packaged, handled and stored in compliance with applicable U.S. Department of Transportation, Environmental Protection Agency, and other applicable regulations for transport, pre-transport and storage of hazardous articles and materials; and (4) said materials shall be only stored in such storage areas as are designated and approved by Director through the Airport Rules and Regulations.
- E. Shall not install fuel storage tanks or pumping facilities for use in fueling any aircraft at the Airport.
- F. Shall not maintain or operate in the Terminal Building or elsewhere at the Airport, a cafeteria, restaurant, bar or cocktail lounge for the purpose of selling or dispensing food or beverages to the public, its employees, or passengers; nor shall Airline in any manner otherwise provide for the sale or dispensing of food and beverages at the Airport except that Airline may dispense food and beverages on board Airline's aircraft and provide vending machines in Airline's Preferential

Use Space and not accessible to the general public solely for the sale beverages, food, and confections to Airline employees. In the event of extraordinary irregular operations where Airline has a designated flight delay program to provide distressed passengers with complimentary food and beverages and Airline may not otherwise utilize the Airport food and beverage concessionaire, then Airline may, on a limited and temporary basis, provide those distressed passengers with complimentary food and beverages. Further, where Airline has a system wide celebratory event, Airline may provide complimentary food and beverages pursuant to that event's criteria.

- G. Agrees to comply with all security measures required of Airline or City by the FAA or contained in City's FAA-approved Master Security Plan for the Airport, as such plan may be amended from time to time, or in any Airport Tenant Security Program as outlined in 49 CFR Part 1542 with respect to Airline's Leased Premises. Any fines and/or penalties levied against City for security violations at the Airport resulting from any non-compliance of Airline, its employees, officers, agents, affiliates, contractors, or suppliers while under its control, shall be immediately due and payable to City by Airline. However, Airline shall have a right to challenge the levy of the fine and the City will cooperate to the extent possible in the challenge, but City shall not be required to incur any expense in the challenge.
- H. The rights and privileges granted Airline under this Agreement with respect to the performance of ground services and activities in connection with its Air Transportation Business at the Airport may be exercised by Airline for and on behalf of Airline's regularly scheduled or unscheduled services and those of its Affiliates. Airline may perform ground services for any other Air Transportation Company using the Airport provided that Airline shall be solely responsible for the reporting to City of all such Air Transportation Company's and its designated Affiliate Airline(s) landings, landed weights, and passengers and for the payment of all fees and amounts payable excluding PFCs, by or on account of such Air Transportation Company to City under this Agreement unless such Air Transportation Company is a Signatory Airline. It is understood and agreed that City reserves the right to control access to restricted areas and to collect reasonable fees or commissions for the provision of inflight catering, vending, ground transportation, ground support, or other services by Airline for any Air Transportation Company other than Airline and for any services or facilities provided by or for Airline in competition with concessionaires and operators operating under an agreement with City. Notwithstanding the foregoing, no such fees or commissions shall be charged for Airline providing such services to its Airline Affiliate or an Airline Affiliate providing such services to Airline.
- I. Shall park ground service or other equipment on the Terminal Building aircraft apron only at areas designated on Exhibit E or otherwise designated by the Director.

- J. Shall not install any coin-operated or card operated machine(s) or device(s), except for: (1) non-concession fee-based machines for the sale of Airline's tickets or other Airline services and travel options, or issuance of boarding passes located on Airline's Leased Premises or other areas approved in writing by Director; or (2) beverage or snack machines as provided in Section 3.04 (F) above.
- K. Shall not modify, alter, or interfere with Airport-owned information technology systems such as IT infrastructure, backbone, fiber, etc. without express permission from the Director and with coordination with Airport staff. Airline staff shall coordinate with Director so as to properly communicate any potential interference by or with Airline systems that may occur so that both parties may prevent disruptions.

SECTION 3.05 AIRPORT USE SUMMARY

Airline shall file with Director an Airport Use Summary, in a form acceptable to Director, providing the information specified below and such other information as Director may reasonably request regarding Airline's operation at the Airport. Airline shall, at all times, maintain a current version of such Airport Use Summary on file with Director. The Airport Use Summary shall include the following information:

- Names, addresses, and telephone numbers of Airline officials responsible for station operations, flight operations, properties, and facilities.
- Airline's aircraft recovery plan for disabled aircraft or contact information for an approved aircraft recovery vendor.

ARTICLE 4 - PREMISES

SECTION 4.01 PREMISES

A. Categories of Space.

Airline shall lease areas in or adjacent to the Terminal Building on a Preferential Use or Joint Use basis as follows and as more particularly delineated on Exhibit B, as such exhibit may be modified.

B. Space in Terminal Building.

At the Effective Date of this Agreement, Airline shall lease or use the areas in or adjacent to the Terminal Building shown on Exhibit B. Airline's Leased Premises in the Terminal Building shall be subject to change from time to time. Any such changes to Airline's Preferential Use Space, to which Director and Airline must mutually agree, shall be incorporated herein by Director transmitting to Airline a replacement Exhibit B.

- C. City may, during the Term of this Agreement, expand or modify the leasehold dimensions or location of Joint Use Space. If City elects to expand or modify the dimensions or location of such space, Director shall consult with and consider any suggestions of Airline, but the approval of Airline shall not be required for any such expansion or modification by Director.
- D. The dimensions on Exhibit B, as such exhibit may be modified, shall be the basis for determining the amount of the rentals payable pursuant to Articles 6 and 7. Director shall issue a new Exhibit B after any Terminal Building expansion or modification.

SECTION 4.02 EQUIPMENT AND AIRCRAFT PARKING AREAS AND HOLDROOMS

- A. Aircraft Parking Areas, including associated aircraft loading positions, apron areas and loading bridges ("gates") as shown on Exhibit B, as such exhibit may be amended from time to time by Director, and other associated Joint Use Space inside the Terminal Building gate areas ("holdrooms"), shall be "assigned" to Airline by Director on a nonexclusive use basis upon execution of this Agreement. Airline shall have "priority use" of the gate(s) and holdroom(s) assigned to it to accommodate its flights provided that Director may authorize other Air Transportation Companies to use such gate(s) and holdroom(s) at the Director's sole discretion. "Priority use" of the gate(s) and holdroom(s) shall mean the designated location for Airline's aircraft parking, loading, unloading, equipment staging, and passenger boarding. Each Airline shall have at least one (1) gate assigned for its "priority use".
- B. Airline shall park all its ground service equipment in its assigned Equipment Parking Area associated with each gate as set forth on Exhibit B. In the event Airline requires additional equipment parking, such parking shall be subject to availability and charges, the written approval of Director, and applicable Rules and Regulations.
- C. Airline shall have the right to park one aircraft overnight per assigned gate. Airline may park more than one aircraft overnight per assigned gate subject to the prior approval of Director and only if such parking does not conflict with the adjacent parking position safety envelope.
- D. Airline shall cooperate with City to accommodate other Air Transportation companies from time to time, as deemed necessary by Director for situations including, but not limited to, aircraft gauge requirements, unscheduled flights (including charters), mechanical problems, and diversions due to weather

SECTION 4.03 USE OF CITY LOADING BRIDGES

- A. All City-owned loading bridges shall be made available to all Air Transportation Companies serving the Airport on a joint use basis.

- B. The use of City-owned loading bridges by Airline shall be subject to the following terms and conditions:**
- 1. The loading bridges shall be operated only by employees, contractors, or agents of Airline, who are fully trained, approved and qualified to operate the loading bridges. Airline shall keep on file the training records of each operator of the loading bridges.**
 - 2. Airline shall be solely responsible for any and all damages, claims, or injuries which may be caused by the operation of the loading bridges by Airline's employees, contractors, or agents, and shall indemnify and hold harmless City for such operation in accordance with Section 11.02.**
 - 3. Airline shall be solely responsible for the costs to replace or repair any damage to loading bridges or other property caused by the operation of the loading bridges by Airline's employees, contractors, or agents.**
 - 4. City, during the Term of this Agreement, shall maintain and keep in good repair the City-owned loading bridges referred to herein.**

SECTION 4.04 SURRENDER OF THE PREMISES

- A. Airline covenants and agrees that on expiration of the Term of this Agreement, or on earlier termination as hereinafter provided, or on reassignment of the Leased Premises as heretofore provided, it will peaceably surrender possession of the Leased Premises hereunder in good condition, reasonable wear and tear excepted, and City shall have the right to take possession of the Leased Premises. City shall not be required to give notice to quit possession at the expiration of the term (or any extension thereof) of this Agreement.**
- B. Airline shall have the right, on expiration or early termination and within thirty (30) calendar days thereafter, at its expense to remove or dispose of all trade fixtures and equipment and other personal property installed or placed by Airline in, on, or about the Airport, subject to any valid lien that City may have thereon for unpaid rents or fees**
- C. Any and all property not removed by Airline within the said thirty (30) day period shall, at the option of City, thereupon become a part of the property on which it is located, and title thereto shall thereupon vest in City. Airline agrees to reimburse City for any costs incurred by City if City elects to remove or dispose of any remaining Airline property after such thirty (30) day period.**

SECTION 4.05 ACCESS

- A. Subject to the provisions herein, the Rules and Regulations, and such other reasonably and non-discriminatory restrictions as City may reasonably impose with respect to Airline's use of Leased Premises, City hereby grants to Airline, its**

agents, suppliers, employees, contractors, passengers, guests, and invitees, the right and privilege of free and unrestricted access, ingress, and egress to Airline's Leased Premises and to public areas and public facilities of the Terminal Building.

- B. The ingress and egress provided for in Section 4.05(A) shall not be used, enjoyed, or extended to any person engaging in any activity or performing any act or furnishing any service for or on behalf of Airline that Airline is not authorized to engage in or perform under the provisions hereof unless expressly authorized in advance and in writing by Director.
- C. City shall have the right at any time or times to close, relocate, reconstruct, change, alter, or modify any such means of access provided for Airline's use pursuant to this Agreement or otherwise, either temporarily or permanently, provided that reasonable written notice to Airline and a reasonably convenient and adequate means of access, ingress, and egress shall exist or be provided in lieu thereof. City shall suffer no liability by reason thereof and such action shall in no way alter or affect any of Airline's obligations under this Agreement.
- D. Airline agrees that all of its tenants, subtenants, patrons, invitees, agents, employees, or independent contractors must be authorized by the City to enter restricted areas. Airline agrees that no person authorized to enter a restricted area by virtue of this Agreement shall permit any person who is not otherwise authorized to enter a restricted area unless such unauthorized person is, at all times while in the restricted area, in the company of an authorized person.
- E. Airline understands and agrees that, in the event the Federal Aviation Administration assesses a civil penalty against the City for any violation of 49 CFR Part 1542 or any successor or additional regulation pertaining to security at the Airport, as a result of any act or failure to act on part of Airline, its tenants, subtenants, patrons, agents, servants, employees, invitees Airline shall immediately reimburse the City in the amount of the civil penalty assessed. City acknowledges Airline's right to challenge the levy of the civil penalty assessed by the Federal Aviation Administration and City will cooperate to the extent possible in the challenge, but City shall not be required to incur any expense in the challenge.

ARTICLE 5 - CAPITAL IMPROVEMENTS

SECTION 5.01 CAPITAL IMPROVEMENTS

During the Term of this Agreement, City shall notify Airline of the Capital Improvements for the subsequent year not previously included on the Airport CIP and attached as Exhibit F, which may be modified from time to time at the Director's sole discretion. After giving consideration to any comments provided by the Signatory Airlines, City may proceed with any of the following Capital Improvements and include the cost of such Capital Improvement in the

subsequent Fiscal Year's calculation, net of PFC's or grants, for the rentals, fees, and charges of the Signatory Airlines:

A Capital Improvement is necessary or prudent to:

- a. Assure or facilitate compliance with a rule, regulation, or order of any federal, state, or other governmental agency that has jurisdiction over the operation of the Airport.
- b. Maintain, operate, or create Airport system functional capability and capacity at a level that is required (i) by public health, safety, access or security or (ii) by the trustee for the security of the Bonds.
- c. Satisfy judgments or fines against City imposed by an agency of federal or state government or rendered by a court of competent jurisdiction.
- d. Repair casualty damage net of insurance proceeds to Airport property.
- e. Acquire land to preserve, protect, or enhance the Airport.
- f. Expenditures for architectural, engineering, or economic studies or other professional services of planned Airport facilities.

ARTICLE 6 - REPORTS, RENTALS, CHARGES, AND FEES

SECTION 6.01 GENERAL

- A. In consideration for use of the Leased Premises and for the various rights, licenses, and privileges granted hereunder and for the undertakings of City, Airline agrees to pay City, during the Term of this Agreement, without deduction or set-off, rentals, charges, and fees to be calculated as set forth herein. City shall invoice Airline monthly for all such rentals, charges, and fees except terminal building rentals, which shall be payable by Airline without invoice. Payment shall be made by Airline in accordance with Section 6.08 hereof.

SECTION 6.02 MONTHLY ACTIVITY REPORT

- A. Airline shall furnish to Director, on or before the tenth (10th) day of each month, an accurate report of Airline's operations at the Airport during the preceding month, setting forth all data necessary to calculate the rentals, fees, and charges due under this Agreement (a "Monthly Activity Report"). Said Monthly Activity Report shall include, but shall not necessarily be limited to: (1) Airline's total number of Aircraft Arrivals for the month by type of aircraft, the Maximum Gross Landed Weight of each aircraft, and the Total Airline Landed Weight for the month to include any non-scheduled and charter operations; (2) the total number of Enplaned Passengers to include any non-scheduled and charter operations; and (3) any other data necessary to establish and assess rates and charges. Airline shall also report the activities set forth herein for any Affiliate or charter of Airline. City shall be able to use its reasonable discretion based on objective historical data to modify Airline's submitted forecasts for the purposes of setting rentals, fees and charges.

SECTION 6.03 TERMINAL BUILDING RENTALS

- A. Airline shall pay to City for its Preferential Use and Joint Use space in the Terminal Building, as set forth on Exhibit B, monthly rentals based on annual rental rates to be calculated each Fiscal Year, as set forth in Section 7.04.
- B. Rentals for Joint Use space shall be prorated among Air Transportation Companies at the Airport on the basis of: (1) 20% of the total monthly rental apportioned evenly among all Air Transportation Companies using such space; and (2) the remaining 80% of the total monthly rental apportioned among all Air Transportation Companies using such space on the ratio of each airline's Enplaned Passengers to the total number of Enplaned Passengers of all such Air Transportation Companies. Airline shall be grouped with its Affiliates as a single entity for apportioning the 20% amount under (1) above. Any Air Transportation Company accounting for less than five percent (5%) of the Airport's total Enplaned Passengers shall be exempt from the calculation of the 20% amount under (1) above and shall pay for Joint Use space based on its percentage of enplanements times the total monthly rental for the Joint Use space. If Airline ceases service at the Airport before the expiration of the Term of this Agreement, Airline shall remain responsible for paying its pro rata share of the 20% apportionment under (1) above throughout the remainder of the Term of this Agreement. Also, included in the rentals for Joint Use space shall be costs for security fees (pursuant to 49 CFR Part 1542).

SECTION 6.04 ELECTRICITY CHARGES FOR EXTRAORDINARY USAGE

Airline shall pay City charges for the extraordinary usage of electrical power in its Preferential Use space and assigned gates based on the cost, without mark-up, to City for such extraordinary usage of electricity by Airline as arrived at through separate metering or computation by City. Airline shall report to Director any plans to decrease or increase its extraordinary usage of electrical equipment or electricity.

SECTION 6.05 LANDING FEES

Airline shall pay to City monthly landing fees to be determined by multiplying the number of one thousand (1,000) pound units of Total Airline Landed Weight for Airline during the month by the then-current Landing Fee Rate established pursuant to Section 7.05 herein.

SECTION 6.06 ADDITIONAL EQUIPMENT PARKING RENTALS

Airline shall pay City, as rent, for any additional equipment parking above and beyond its assigned Equipment Parking Area, a monthly rental computed at the rate set forth in the applicable City budget resolution.

SECTION 6.07 [RESERVED]

SECTION 6.08 PAYMENT PROVISIONS/INTEREST ON OVERDUE AMOUNTS

- A. All Preferential Use and additional Assigned Equipment Parking Area rentals shall be due and payable the first day of each month, in advance, without invoice.
- B. Landing fees shall be due and payable on or before the twentieth (20th) day of each month, without invoice.
- C. Other fees and charges, including Joint Use charges and security fees shall be due and payable on invoice within thirty (30) days of the date of invoice.
- D. The acceptance by City of any payment made by Airline shall not preclude City from identifying the accuracy of computations in Airline's Monthly Activity Report, submitted to Director as provided in Section 6.02, or from recovering any additional payment actually due from Airline.
- E. If any payment is not received by City within five (5) days of the due date, City may, at its discretion, charge Airline interest at eighteen percent (18%) per annum.

All payments due and payable herein shall be paid in lawful money of the United States of America, without set-off, electronically by Automated Clearing House (ACH), or by check made payable to City and delivered or wired, as applicable, to the following address, or to such other address or account as City may notify Airline in writing from time to time:

Via Mail

Accounting Division
Rick Husband Amarillo International Airport
10801 Airport Blvd
Amarillo, Texas 79111

SECTION 6.09 TAXES AND OTHER CHARGES

Airline shall pay all taxes and governmental charges of any kind whatsoever that may be lawfully assessed against Airline or City, with respect to the Leased Premises, Airline's use and/or occupancy of the Leased Premises, or any improvements thereon, during the Term of this Agreement, including any holdovers or extension periods granted thereto.

Airline in good faith may contest any tax or governmental charge; provided that Airline may not permit such tax or governmental charge to remain unpaid during the period of such contest and any appeal therefrom unless, in the opinion of counsel satisfactory to the City, such action will not adversely affect any right or interest of the City.

SECTION 6.10 PASSENGER FACILITY CHARGE

City reserves the right to assess and collect PFC's subject to the terms and conditions set forth in the Aviation Safety and Capacity Expansion Act of 1990, Section 9110 (the PFC Act)

and implementing regulations as may be supplemented or amended from time to time. Airline shall collect and pay all PFC's for which it is responsible under the provisions of 14 CFR Part 158. Failure by Airline to remit PFC's within the time frame required by 14 CFR Part 158 shall be deemed an event of default pursuant to Section 13.01.

SECTION 6.11 RECORDS OF AIRLINE

Airline shall keep and maintain a complete and adequate set of records of all landing weights and other information specified in Section 6.02 hereof or otherwise required for the calculation or payment of fees required under this Agreement for the current Fiscal Year and the three (3) immediately preceding Fiscal Years, and shall make such records available for inspection by Director at any and all reasonable hours and times in Amarillo, Texas.

SECTION 6.12 OTHER FEES AND CHARGES

City expressly reserves the right to assess and collect (1) reasonable and nondiscriminatory fees and charges for services or facilities not enumerated in this Agreement, but provided by City and accepted by Airline, including, but not limited to, special maintenance of Airline Leased Premises, equipment vehicle storage, disposal fees, utility fees, remote ramp aircraft parking fees, and gate usage per turn fees; and (2) reasonable and nondiscriminatory fee for any employee parking area(s) provided at the Airport.

Anything in this Agreement to the contrary notwithstanding, this Section shall not be interpreted or understood as contracting away the City's governmental authority and shall not be construed to waive any lawfully assessed taxes or any governmental charges.

SECTION 6.13 RIGHT OF SET OFF

City shall have the right to set off any past due amount(s) by applying all or a portion of current payments to such past due amount(s). Past due amounts may include sums due under prior agreements, this Agreement, or for usage of the Airport as a Non-Signatory Airline. In the event City exercises the right of set off it shall notify Airline. Airline shall be responsible for immediately submitting such a sum as will reflect the total amount needed to satisfy current amounts due.

SECTION 6.14 SECURITY DEPOSIT

If, at any time during the Term of this Agreement, Airline shall commit an event of default and fails to cure such default as defined under Section 13.01 of this Agreement, City shall thereupon have the right, by written notice to Airline, to require Airline to provide to City an irrevocable letter of credit or acceptable surety bond ("Security Deposit") in an amount equal to three (3) months fees and charges payable by Airline under Article 6 of this Agreement, to guarantee the faithful performance by Airline of its obligations under this Agreement and the payment of all fees and charges due hereunder. Airline shall then be obligated to maintain such Security Deposit in effect until the expiration of this Agreement. Airline shall, within ten (10) days from its receipt of any such written notice, provide City with the required Security Deposit. Such Security Deposit shall be in such form and issued by a bank or other entity as shall be

acceptable to City in its reasonable discretion. In the event that any such Security Deposit shall be for a period of less than the full period required by this Agreement, or if such Security Deposit is canceled, Airline shall provide a renewal or replacement Security Deposit for the period following the expiration or cancellation of such Security Deposit previously provided at least sixty (60) days prior to the date on which such previous Security Deposit expires or at least sixty (60) days prior to the effective date of such cancellation. City's rights under this Section 6.14 shall be in addition to all other rights and remedies provided to the City under this Agreement.

ARTICLE 7 - CALCULATION OF RENTALS, CHARGES, AND FEES

SECTION 7.01 RENTALS, CHARGES, AND FEES

Rentals, charges, and fees shall, subject to the provisions of Section 7.06 hereof, be reviewed and recalculated annually based on the principles and procedures set forth in this Article 7, and shall become effective on the Effective Date of this Agreement and each October 1st thereafter of each year of the Agreement.

SECTION 7.02 ACCOUNTING RECORDS

- A. City shall establish, and thereafter maintain, accounting records that will document the following items for each of the Airport Cost Centers: (1) revenues; (2) Maintenance and Operating Expenses; (3) annual debt service on Bonds; and (4) any other funding requirements imposed by law or judgments.
- B. City shall provide to Airline its annual budget and financial statements as well as any supplemental financial data reasonably required to assess the adequacy of rates and charges established under this Agreement. The annual budget shall be provided as far in advance as reasonably possible of the commencement of the Airport's Fiscal Year.

SECTION 7.03 COORDINATION PROCEDURES, BUDGET REVIEW AND CALCULATION OF RENTALS, CHARGES, AND FEES

- A. Upon request by Director, on or about 120 days prior to the beginning of each Fiscal Year, Airline shall submit to Director, in writing, its Total Airline Landed Weight forecast and Enplanements forecast for that Fiscal Year. City shall combine Airline's forecast with the Landed Weight forecasts of all other Signatory Airlines and make such adjustments as City deems reasonably appropriate to arrive at an estimated Total Airline Landed Weight of all Signatory Airlines to be used in the calculation of Landing Fee Rates established pursuant to Section 7.05 herein.
- B. On or before sixty (60) days prior to the beginning of each Fiscal Year, City shall make available the following reports:

1. The City's proposed annual budget for the Fiscal Year, including all estimated Maintenance and Operating Expenses, estimated annual debt service on Bonds, and proposed expenditures for Capital Improvements for the Airport, all allocated to Airport Cost Centers on a consistent basis from year to year.
 2. City's calculation of proposed airline rentals, charges, and fees for the Fiscal Year, based on the procedures set forth in this Agreement.
- C. Within thirty (30) calendar days after receipt of the reports, a meeting, if requested by Airline or other Signatory Airline, shall be held between Director and the Signatory Airlines to discuss the proposed rentals, charges, and fees. Director shall give due consideration to any comments and suggestions of Airline regarding the proposed annual budget or the proposed rentals, charges, and fees.
- D. The City shall adopt an annual budget, which may, in the sole discretion of City, include revisions made as a result of Director's discussions with Signatory Airlines or otherwise. City shall promptly furnish Airline with a copy of the adopted annual budget, together with the calculation of rentals, charges, and fees that will become effective as of the first day of the Fiscal Year.
- E. If, for any reason, the annual budget has not been adopted by City as of the first day of any Fiscal Year, the rentals, charges, and fees in effect during the preceding Fiscal Year shall continue in effect until: (1) the new annual budget has been adopted by the City; and (2) City has calculated the rentals, charges, and fees in accordance therewith. Once established, the new rentals, charges, and fees shall then be made effective retroactive to the first day of such Fiscal Year.

SECTION 7.04 CALCULATION OF TERMINAL BUILDING RENTAL RATES

Terminal Building Rental Rates shall be calculated for each Fiscal Year in the following manner, as illustrated on Exhibit C attached hereto and made a part hereof:

- A. City's estimated total "Terminal Building Cost" shall be calculated by totaling the following amounts:
1. The total of estimated direct and indirect Maintenance and Operating Expenses, including any bad debt expense, allocable to the Terminal Building.
 2. The pro rata portion of annual debt service on Bonds, net of applicable PFC revenue received, plus Coverage allocable to the Terminal Building.
 3. The estimated amount of any assessment, judgment, settlement, or charge to become payable by City and not covered by the proceeds of City's insurance relating directly to the Airport or its operations and allocable to the Terminal Building.

4. The estimated costs associated with security fees (pursuant to 49 CFR Part 1542).
 5. The annual expense resulting from the depreciation or amortization of any of the City's funds invested in a Capital Improvement at the Airport over the useful life of the Capital Improvement.
- B. The estimated Terminal Building Requirement for the Fiscal Year shall then be divided by the total amount of Rentable Space in the Terminal Building to determine the Average Terminal Building Rental Rate per square foot.
- C. The Average Terminal Building Rental Rate per square foot shall be multiplied by the total square footage leased to Signatory Airlines to determine the annual Signatory Airline Rental Requirement.

SECTION 7.05 CALCULATION OF LANDING FEE RATES

A "Landing Fee Rate" per one thousand (1,000) pounds of landed weight shall be calculated in each Fiscal Year in the following manner, as illustrated on Exhibit C, attached hereto and made a part hereof.

- A. City's estimated "Landing Area Cost" for the Fiscal Year shall be calculated by totaling the following amounts:
1. The total of estimated direct and indirect Maintenance and Operating Expenses including any allocable bad debt expense allocable to the "Landing Area" (airfield cost center).
 2. The pro rata portion of annual debt service on Bonds, net of applicable PFC revenue received, plus Coverage allocable to the Landing Area.
 3. The pro rata portion allocable to the Landing Area of any other deposits to reserve accounts as set forth in Article 8 and established pursuant to the Bond Ordinance.
 4. The estimated amount of any assessment, judgment, or charge to become payable by City net of proceeds of City's insurance relating directly to the Airport or its operation and allocable to the Landing Area.
 5. The annual expense resulting from the depreciation or amortization of any of the City's funds invested in a Capital Improvement at the Airport over the useful life of the Capital Improvement.
- B. The Landing Area Cost shall then be credited with all revenues derived from the operation of the Landing Area (except revenues derived from Signatory Airline landing fees), as estimated by City, to determine the "Landing Fee Requirement."

- C. The Landing Fee Requirement shall then be divided by the estimated Total Airline Landed Weight of all Signatory Airlines to determine the Landing Fee Rate per one thousand pound unit.

SECTION 7.06 EXTRAORDINARY RATE ADJUSTMENTS

- A. In the event that, at any time during a Fiscal Year, any of the components of Terminal Building Cost, Landing Area Cost, Landing Area revenues or the Total Airline Landed Weight of Aircraft Arrivals of all Signatory Airlines varies materially from the estimates used in setting the Average Terminal Building Rental Rate or Landing Fee Rate, such rates may be adjusted either upward or downward for the balance of such Fiscal Year, if such adjustment is deemed necessary by City to ensure that adequate revenues will be available to cover the estimated Terminal Building Requirement and Landing Fee Requirement for the Fiscal Year.
- B. In addition to the provisions of Section 7.06 (A), City reserves the right to adjust the Average Terminal Building Rental Rate or Landing Fee Rate or both in the event that a Signatory Airline is delinquent in the payment of such rentals and fees by more than sixty (60) days.

SECTION 7.07 SETTLEMENT

Within one hundred eighty (180) days following the close of each Fiscal Year, or as soon as audited financial data for said Fiscal Year is available, rates for Landing Fees for the preceding Fiscal Year shall be recalculated using audited financial data and the methods set forth in this Agreement. Upon the determination of any difference(s) between the actual Landing Fees paid by Signatory Airlines (including Affiliates) during the preceding Fiscal Year and the Landing Fees that would have been paid by Signatory Airlines (including Affiliates) using said recalculated rates, City shall, in the event of overpayment, promptly credit to Airline the amount of such overpayment, reduced by any accounts receivable due City greater than sixty (60) days, and in the event of underpayment, invoice Airline for the amount of such underpayment. Said invoiced amount shall be due within thirty (30) days of invoice mailing date.

ARTICLE 8 - BOND ORDINANCE

SECTION 8.01 SUBORDINATION TO BOND ORDINANCE

- A. This Agreement and all rights of Airline hereunder are expressly subordinated and subject to the lien and provisions of any pledge, transfer, hypothecation, or assignment made at any time by City pursuant to the terms, covenants, and conditions of the Bond Ordinance.
- B. In conflicts between this Agreement and the Bond Ordinance, the Bond Ordinance shall govern except that no change in the method of calculation of

rentals and fees payable shall govern to the extent that it materially adversely affects the rights of Airline hereunder.

- C. All definitional terms in this Article 8 that are not specifically defined herein are to have the meanings set forth in the Bond Ordinance.

ARTICLE 9 - MAINTENANCE AND OPERATION OF AIRPORT

SECTION 9.01 DESIGNATION OF OPERATION AND MAINTENANCE

RESPONSIBILITIES.

In addition to the obligations of Airline and City set forth in this Article 9, responsibilities for maintenance, cleaning, and operation of the Airport shall be as set forth in Exhibit D, attached hereto and made a part hereof.

SECTION 9.02 CITY'S RESPONSIBILITIES

- A. City shall, with reasonable diligence, prudently develop, improve, and at all times maintain and operate the Airport in a prudent manner consistent with airports of similar size with qualified personnel and keep the Airport in an orderly, clean, neat and sanitary condition, and good repair, unless such maintenance, operation, or repair shall be Airline's obligation pursuant to Section 9.03 and Exhibit D.
- B. City shall, to the extent it is legally able to do so, use reasonable efforts to keep the Airport and its aerial approaches free from ground obstruction for the safe and proper use thereof by Airline.
- C. City shall not be liable to Airline for temporary failure to furnish all or any of such services to be provided in accordance with this Section 9.02 and Exhibit D when such failure is due to mechanical breakdown or loss of electrical power not caused by City's negligence or any other cause beyond reasonable control of City.
- D. City shall operate the Airport and shall exercise these rights in accordance with applicable laws and regulations.

SECTION 9.03 AIRLINE'S RESPONSIBILITIES

Subject to the provisions of Section 9.05:

- A. Airline shall, at all times, preserve and keep its Preferential Use Space in an orderly, clean, neat, and sanitary condition, free from trash and debris resulting from Airline's operations, provided, however, this requirement shall not be construed to mean Airline shall have janitorial responsibilities designated to be those of City pursuant to Exhibit D.

- B. Airline shall operate and maintain at its own expense any improvements and/or equipment installed by Airline for the exclusive use of Airline.
- C. Airline shall not erect, maintain, or display in its Preferential Use Space or anywhere in the Terminal Building in the public view any billboards, banners, advertising, promotional signs, or materials without the prior written approval of Director. It is understood that Airline may provide corporate related materials at its Preferential Use Space ticket counters for passenger information.

SECTION 9.04 CITY'S RIGHT OF ENTRY

City, by its Director or other authorized officers, employees, agents, contractors, subcontractors, or other representatives, shall have the right during normal business hours upon reasonable written notice or, in the case of emergencies, without notice, to enter upon Airline's Leased Premises space, accompanied by an authorized Airline representative, if practicable, for the following purposes:

- A. To inspect such space to determine whether Airline has complied and is in compliance with the terms and conditions of this Agreement.
- B. Upon reasonable written notice, except in emergencies, to perform such maintenance, cleaning, or repair as City reasonably deems necessary if Airline fails to perform its obligations under this Agreement (after any applicable cure period), and to recover the actual cost of such maintenance, cleaning, or repair from Airline through a separate invoice, plus a fifteen-percent (15%) administrative charge from Airline.
- C. Upon reasonable written notice, except in emergencies, to perform such maintenance, cleaning, or repair as City reasonably deems necessary and which is the responsibility of City under this Agreement.
- D. During the last ninety (90) days of the Term, for the purpose of exhibiting same to prospective tenants, purchasers or others.

The exercise of this right of entry shall not be deemed an eviction or disturbance of Airline's use or possession provided City shall exercise its best efforts not to interfere with Airline's normal operations in the Leased Premises.

SECTION 9.05 ALTERATIONS AND IMPROVEMENTS

- A. Airline shall make no repairs, alterations, additions, improvements to, or installations on the Leased Premises without the prior written approval of Director.
- B. Plans and specifications for any such work shall be filed with and subject to the approval of Director and all work shall be done in accordance with local ordinances and State and Federal laws and regulations.

- C. All Airline alterations and improvements other than movable furniture, personal property, equipment, and trade fixtures shall become part of the realty and title shall vest with City upon expiration, or early termination, of this Agreement.

SECTION 9.06 ENVIRONMENTAL REGULATIONS

Airline shall comply with the following environmental regulations:

- A. Airline shall not cause or permit any Hazardous Materials, as defined in Section 1.01 herein, to be stored or used on or about the Airport by Airline, its agents, or employees, except in compliance with applicable Environmental Laws.
- B. Airline shall, at all times and in all respects in connection with its use and occupancy of the Airport, comply with all applicable Environmental Laws. Airline shall also comply with permits held by City as and to the extent the terms of such permits are applicable to Airlines activities may impact City's ability to comply with such permits including, but not limited to, the Airport stormwater permit issued pursuant to the Clean Water Act, the Municipal Separate Storm Water permit issued pursuant to the Clean Water Act or any reissued version of either permit, whether issued by the US EPA or the Texas Commission on Environmental Quality (TCEQ) or any predecessor agencies. This list of permits is provided by way of example only and is not intended to be fully inclusive. During the term of this Agreement, if City becomes aware of other permits which are impacted by the Airlines activities, it will provide Airline with written notice of those permits.
- C. Airline shall, at its sole expense, procure, maintain in effect, and comply with all conditions of any permits, licenses, and other governmental and regulatory approvals required for Airline's use of the Airport, including, without limitation, discharge of materials or wastes into or through any storm or sanitary sewer serving the Airport. Airline shall cause any and all Hazardous Materials removed from the Airport to be removed and transported solely by duly licensed haulers to duly licensed facilities for disposal. Airline shall in all respects handle, treat and manage any and all Hazardous Materials on or about the Airport in conformity with all applicable Environmental Laws or any successor laws thereto and prudent industry practices regarding the management of such Hazardous Materials. Upon the expiration or earlier termination of the term of this Agreement, Airline shall cause all Hazardous Materials stored or released by Airline at the Airport, to be removed from the Airport and to be transported for use, storage, or disposal in accordance and compliance with all applicable Environmental Laws; provided, however, that Airline shall, except in the case of emergency, not take any remedial action in response to the presence of any Hazardous Materials on or about the Airport, nor enter into any settlement agreement, consent decree, or other compromise with respect to any claims relating to any Hazardous Materials in any way connected with the Airport without first notifying City in writing of Airline's intention to do so and affording City ample opportunity to appear,

intervene, or otherwise appropriately assert and protect City's interest with respect thereto.

- D. If at any time Airline shall become aware, or have reasonable cause to believe, the presence of any Hazardous Material on or about the Airport as a result of Airline's violation or potential violation of Environmental Laws, Airline shall, immediately upon discovering such presence or suspected presence of the Hazardous Material, provide City with written notice of that condition. In addition, Airline shall immediately notify City in writing of: (1) any enforcement, cleanup, removal, or other governmental or regulatory action instituted or threatened against Airline at the Airport pursuant to any Environmental Laws; (2) any claim made or threatened by any person against Airline relating to damage, contribution, cost recovery, compensation, loss, or injury resulting from or claimed to result from any Hazardous Materials at the Airport; and (3) any reports made by Airline to any local, state, or federal environmental agency arising out of or in connection with any violation of Environmental Laws relating to Hazardous Materials on or removed from the Airport, including any complaints, notices, warnings, or asserted violations in connection therewith.

Airline shall also supply to City as promptly as possible, and in any event within five (5) business days after Airline first receives or sends the same, copies of all claims, reports, complaints, notices, warnings, or asserted violations relating in any way to the Airport or Airline's use thereof. Airline, upon request by City, shall promptly deliver to City copies of hazardous waste manifests reflecting the legal and proper disposal of all Hazardous Materials removed from the Airport by or on behalf of Airline.

ARTICLE 10 - DAMAGE OR DESTRUCTION OF PREMISES

SECTION 10.01 DAMAGE OR DESTRUCTION

If the Leased Premises or any portions thereof, or buildings or structures of which such space may be a part, be damaged by fire or other casualty not caused by Airline, Director shall notify Airline within sixty (60) days whether the space shall be repaired. If the space is to be repaired, it shall be repaired with due diligence by City, and the rental allocable to the particular building, rooms, or other portion of the Leased Premises rendered untenable shall be abated for the period from the occurrence of the damage to the completion of the repairs, provided that City shall exert its best effort to provide Airline with temporary substitute space, if available, at such rent as deemed necessary and reasonable by City, until such time as the repairs are completed; provided, however, that rent for the temporary substitute space shall not be greater than rent for the Leased Premises unless such additional space is requested by Airline. If the space shall not be repaired, City may terminate this Agreement upon notice to Airline.

SECTION 10.02 DAMAGE CAUSED BY AIRLINE

If the Leased Premises or any portions thereof, or buildings or structures of which such space may be a part, becomes damaged by fire or other casualty not caused by Airline, Director shall notify Airline within sixty (60) days whether the space shall be repaired. Notwithstanding the provisions of this Article 10, in the event that due to the negligence or willful act or omission of Airline, its employees, its agents, or licensees, the Leased Premises shall be damaged or destroyed by fire, other casualty or otherwise, there shall be no abatement of rent during the repair or replacement of said Leased Premises. To the extent that the costs of repair or replacement shall exceed the amount of any insurance proceeds payable to City by reason of such damage or destruction, Airline shall pay the amount of such additional costs to City. If the space shall not be repaired, City may terminate this Agreement upon notice to Airline.

ARTICLE 11 - INSURANCE AND INDEMNIFICATION

SECTION 11.01 INSURANCE

- A. Airline shall, without expense to City, and upon commencement of the term hereof, obtain and cause to be kept in force liability insurance coverage, with limits as hereinafter stated, insuring against the liabilities set forth in this Section.**
- B. Such insurance shall include, by way of example but not by way of limitation, comprehensive general liability coverage and motor vehicle liability insurance coverage and shall not be in amounts less than hereinafter stated. Such insurance coverage shall be provided by policies issued by a company or companies of sound and adequate financial responsibility. Such insurance policies shall contain an endorsement providing that City will be given not less than thirty (30) calendar days' written notice prior to the cancellation or material adverse change of the provisions or coverages affecting the interest of City provided by said policies. The comprehensive general liability policies shall include contractual liability coverage and shall make reference to this Agreement.**
- C. Airline shall cause a certificate of insurance (along with a letter on company letterhead including equivalent policy language and conferring additional insured rights for the City on all relevant coverages below) to be furnished to City within thirty (30) days from the effective date of this Agreement, evidencing such insurance coverage.. If City is notified that any of the coverage required herein is to be canceled or changed in such a manner as not to comply with the requirements of this Agreement, Airline shall, prior to the effective date of such cancellation or change, obtain and provide City with certificates evidencing the reestablishment of the insurance coverage required hereby. If Airline does not notify City by the effective date of such cancellation or change, this will constitute a breach by Airline and permit City to terminate this Agreement pursuant to Section 14.03.**
- D. The minimum limits of coverage shall be as follows:**

1. Airline, at its own expense, shall procure and maintain for the benefit of City and itself, as their respective interests shall appear, aviation general liability insurance with insurance underwriters authorized to do business in the State of Texas, satisfactory to City and with the following minimum limits:

For Aviation General Liability:

\$200,000,000 Combined Single Limit, Each Occurrence and Aggregate

For Aircraft liability:

\$100,000,000 for all cargo operators and Airlines

2. Comprehensive motor vehicle liability policy in a minimum amount of five million dollars (\$5,000,000) for both bodily injury and property damage.
 3. Comprehensive general liability policy in minimum amount of ten million dollars (\$10,000,000) for bodily injury and property damage.
 4. Workers' compensation insurance in a minimum amount as required by State law and employer's liability in a minimum amount of one million (\$1,000,000) limit each accident, disease aggregate, and disease each employee, and include a waiver of subrogation in favor of City for all work performed for or on behalf of the City.
- E. Insofar as said insurance provides protection against liability for damages to third parties for bodily injury, death, and property damage, City shall be included as an additional insured throughout the term of the Agreement; provided such liability insurance coverage shall also extend to damage, destruction, and injury to City-owned or City-leased property and City personnel, and caused by, or resulting from the negligent work, acts, operations, or omissions of Airline, its officers, agents, employees, invitees, and independent contractors on the Airport. Airline shall show City as an additional insured with respects to Airline's operation at the Airport, provided, that Airline shall then also show on the insurance policy that liability insurance coverage also includes contractual liability coverage. Airline shall name City as an additional insured as respects the comprehensive motor vehicle liability and comprehensive general liability.
- F. Any and all of the above insurance coverages shall be on an "occurrence" basis, not on a "claims made" basis.
- G. City shall have no liability for any premiums charged for such coverage, and the inclusion of City as an additional insured is not intended to, and shall not, make City a partner or joint venturer with Airline in its operations at the Airport.

SECTION 11.02 INDEMNIFICATION

- A. Airline shall indemnify, defend, and hold City and its officers, agents, and employees harmless from and against any and all liabilities, losses, suits, claims, judgments, fines, interest or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorneys' reasonable attorney fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to this Agreement and/or the use of, occupancy of, or operations of Airline at or about the Airport or the acts or omissions of Airline's officers, agents, employees, contractors, subcontractors, licensees, invitees (except passengers in public spaces), or affiliates, on Airport premises except claims and damages arising from the gross negligence or willful misconduct of City, its employees, officers, agents, contractors, subcontractors, licensees, invitees, or affiliates. Director shall give to Airline prompt notice of any such claims or actions. Airline shall also use counsel reasonably acceptable to City in carrying out its obligations hereunder. The provisions of this Section shall survive the expiration or early termination of this Agreement with respect to matters arising before such expiration or early termination.

Furthermore and without limiting the foregoing, Airline shall indemnify, defend and hold harmless City, its officers, employees, successors and assigns, from and against any and all claims, liabilities, penalties, fines, judgments, forfeitures, losses, interest, damages (including damages for the loss or restriction on use of rentable or usable space or of any amenity of the Leased Premises) costs, or expenses (including reasonable attorneys' fees, consultant fees, and expert fees) for the death of or injury to any person or damage to the Airport or any property from which such Airport activity is impacted, arising from or caused by the Airline's alleged failure to comply with any Environmental Laws in connection with the Airlines use and occupancy of the Airport or any covenants, terms or conditions relating to environmental matters, except claims and damages arising from the gross negligence or willful misconduct of City, its employees, officers, agents, contractors, subcontractors, licensees, invitees or affiliates. Airline's obligations under this paragraph shall include, without limitation any and all costs incurred in connection with any investigation of the condition of the Airport, and any and all costs of any required or necessary repair, cleanup, decontamination or remediation of the Airport and the preparation and implementation of any closure, remedial action, or other plans required by applicable Environmental Laws. Airline's obligation to indemnify City under this paragraph shall include the costs of defense of actions seeking injunctive relief related to Airline's failure to comply with Environmental Laws in connection with the Airlines use and occupancy of the Airport. Airline's obligations under this paragraph shall survive the expiration or earlier termination of the term of this Agreement.

- B. Airline agrees to require all independent contractors that enter the Airport to perform work for, or to supply to, Airline to maintain liability insurance coverage. All improvements made on the Leased Premises by contractors shall require the prior written approval of the Director and shall conform to all applicable regulations, building codes and health standards. Prior to commencing work, Airline shall supply Director with the contractor's certificate of insurance and executed payment and performance bonds, as applicable.
- C. Except as provided above, Airline agrees to assume all risks of loss to its personal property resulting from any fire, theft, and/or vandalism, occurring on the Leased Premises, except to the extent caused by the City, its employees, officers, agents, contractors, subcontractors, licensees, invitees or affiliates.

SECTION 11.03 NON-LIABILITY OF CITY

City shall not in any event be liable for any acts or omissions of Airline, its officers, agents, employees, invitees and independent contractors, or for any conditions resulting from the operations or activities of any such lessee, tenant, or concessionaire, Airline officers, agents, employees, invitees, or independent contractors, or for any conditions resulting from the operations or activities of Airline's officers, agents, employees, invitees or independent contractors either to Airline or to any other person.

City shall not be liable for Airline's failure to perform any of the obligations under this Agreement or for any delay in the performance thereof.

SECTION 11.04 RELEASE OF LIABILITY REGARDING CERTAIN DAMAGES

City shall not be liable for, and is hereby released from all liability to Airline, to Airline's insurance carrier, or to anyone claiming under or through Airline for any loss or damage whatsoever to the property or effects of Airline resulting from the accidental discharge or discharge beyond City's control, of water or other substances from pipes, sprinklers, or conduits, containers or appurtenances thereto, or for any damage resulting from the discharge or failure of electrical current regardless of cause or origin, except to the extent caused by the gross negligence or willful misconduct of City. The provisions of this Section 11.04 shall not be construed as a limitation of City's rights pursuant to Section 11.03, but are additional to the rights and exclusions from liability provided in Section 11.03.

ARTICLE 12 - ASSIGNMENT OR SUBLEASE

SECTION 12.01 GENERAL

Airline shall not at any time transfer, convey, sublet, mortgage, pledge, or encumber its interest under this Agreement or any part of the Leased Premises. Airline shall not assign or sublease its interest under this Agreement or any part of the Leased Premises to any party

without prior written approval of Director. Any failure of Airline to obtain City's prior approval shall be a material breach of this Agreement

SECTION 12.02 BANKRUPTCY

Section 12.01 shall not apply to any valid assumption or assignment of this Agreement, the Leased Premises, or any part thereof, by a trustee, or by Airline as a debtor in possession under the Bankruptcy Code of 1978, as amended, provided that adequate assurance of future performance as provided by the Bankruptcy Code of 1978, as amended, is to be provided, in writing, as a condition of the assumption or assignment of this Agreement. Such assurance shall include but shall not be limited to:

- A. Adequate assurance of the reliability of the proposed source for the rentals, fees, and charges due under this Agreement upon the assumption or assignment of this Agreement;
- B. Adequate assurance that all other consideration due under this Agreement shall be forthcoming after the assumption or assignment of this Agreement; and
- C. The procurement of a bond from a financially reputable surety provider covering any costs or damages which City reasonably estimates City would incur in the event that City, within three (3) years following the assumption or assignment of this Agreement, becomes entitled to and exercises any right to reassign the Leased Premises covered by this Agreement.

SECTION 12.03 APPROVAL

Approval by City to any type of transfer provided for by this Article 12 shall not in any way be construed to relieve Airline from obtaining further approval for any subsequent transfer or assignment of any nature whatsoever.

SECTION 12.04 CORPORATE REORGANIZATION

Notwithstanding anything contained in this Article 12 to the contrary, no approval shall be required for any transfer or assignment of Airline's interest in this Agreement by operation of law or otherwise in connection with a merger, consolidation or other corporate reorganizations, or in connection with a sale of all or substantially all of Airline's assets.

ARTICLE 13 – DEFAULTS

SECTION 13.01 DEFAULT

If Airline: (1) fails to pay rent or any other payment past due hereunder within thirty (30) calendar days after receipt of written notice of a past due account; or (2) fails to commence immediately to keep and perform any of its other covenants and agreements within thirty (30) calendar days after receipt of written notice of such failure, or, if by its nature, such failure

cannot be cured within such thirty (30) day period, fails to commence to cure such failure within said thirty (30) day period and to diligently continue to cure the same as promptly as possible:

- A. Without terminating this Agreement, City may reenter the Leased Premises and improve and relet all or any part of it to others at its sole discretion. Any reasonable costs of renovation necessitated by the neglect of Airline, its agents, or its employees and an administrative fee to City for all costs incurred shall be invoice to and promptly paid by Airline. In addition, Airline shall promptly reimburse City for any deficiency in rentals or other payments received under such reletting, as compared to Airline's obligations hereunder.
- B. At any time before or after a reentry and reletting as provided in Section 13.01(A), City may terminate Airline's rights under this Agreement as provided in Section 14.03, without any restriction upon recovery by City for past due rentals and other obligations of Airline. City shall have all additional rights and remedies as may be provided to landlords by law.
- E. If any of the above obligations are not promptly made by Airline, City retains its rights to the Security Deposit provided under Section 6.14.

ARTICLE 14 - TERMINATION

SECTION 14.01 EVENTS PERMITTING TERMINATION BY AIRLINE

Airline may terminate this Agreement and all of its future obligations hereunder, at any time that Airline is not in default in its payments or other obligations to City hereunder, by giving City advance written notice only if: (1) Airline is prohibited by lawful authority from using the Airport for a period exceeding sixty (60) consecutive calendar days because of any deficiency of the Airport or an unsafe operating condition existing at the Airport; or (2) City is in breach of any of the covenants or agreements contained in this Agreement which materially and adversely affect the operation of Airline for a period exceeding thirty (30) consecutive calendar days after receipt of written notice of such breach from Airline and City's failure to cure such breach.

SECTION 14.02 CONDITIONS OF PREMISES AT TERMINATION

Upon termination of this Agreement, Airline shall yield and deliver to City the Leased Premises promptly and in a clean, sanitary condition, and, if necessary, restored to the satisfaction of Director, reasonable wear and tear excepted.

SECTION 14.03 EVENTS PERMITTING TERMINATION BY CITY

City may terminate this Agreement and all of its obligations hereunder upon thirty (30) calendar days' written notice and may thereafter exercise all rights of entry and reentry upon the Leased Premises, with or without process of law, upon or after the occurrence of any one of the following events:

- A. Airline files in any court a petition in bankruptcy or insolvency or for the appointment of a receiver or trustee of all or a portion of Airline's property, or is adjudged bankrupt in involuntary bankruptcy proceedings;
- B. Airline makes any general assignment for the benefit of creditors;
- C. Airline abandons the Leased Premises;
- D. Airline defaults in the performance of any of the covenants and conditions required herein (except rental payments) to be kept and performed by Airline, and such default continues for a period of thirty (30) days after receipt of written notice from Director to cure such default, or, if by its nature, such default cannot be cured within such thirty (30) day period, Airline fails to commence to cure such default within said thirty (30) day period and to diligently continue to cure the same as promptly as possible;
- E. Airline is made a party to any receivership proceeding in which a receiver is appointed for the property or affairs of Airline where such receivership is not vacated within sixty (60) days after the appointment of such receiver;
- F. The abolition, limitation, or restriction by any act of the Texas Legislature or Law of Congress of the powers of City under which these premises are being leased, except with respect to legislation that grants authority to a successor;
- G. Airline fails to remit PFC revenue to City within the time limits established by federal regulation, and such failure continues for ten (10) days after receipt of written notice from Director of such failure;
- H. Required redevelopment of the Airport caused by circumstances unplanned or uncontrolled by the Airport which necessitates relocation of Airline from the Leased Premises; or

In any of the aforesaid events and after the notice period, City may take immediate possession of the Leased Premises including any and all improvements thereon and remove Airline's effects, forcibly if necessary, without being deemed guilty of trespassing.

Failure of City to declare this Agreement terminated upon the default of Airline for any of the reasons set out above shall not operate to bar or destroy the right of City to terminate this Agreement by reason of any subsequent violation of the terms of this Agreement.

No receipt or acceptance of money by City from Airline after the expiration or cancellation of this Agreement, or after the service of any notice, or after the commencement of any suit, or after final judgment for possession of the Leased Premises, shall reinstate, continue, or extend the terms of this Agreement, or affect any such notice, demand or suit or imply consent

for any action for which City's consent is required or operate as a waiver of any right of City to retake and resume possession of the Leased Premises.

ARTICLE 15 - GENERAL PROVISIONS

SECTION 15.01 RULES AND REGULATIONS

- A. Airline shall observe and obey all Rules and Regulations established, promulgated, or adopted consistent with this Agreement from time to time during the term hereof, by City governing conduct on and operations at the Airport and use of its facilities. City shall provide Airline reasonable notice prior to the enactment of any amendment of the Rules and Regulations, and shall duly consider Airline's input. Copies of the current Rules and Regulations are available in the Director's office.**
- B. Airline shall not violate, nor knowingly permit its officers, agents, employees, invitees or independent contractors acting on Airline's behalf to violate any such Rules and Regulations.**

SECTION 15.02 COMPLIANCE WITH LAW

- A. Airline shall not use the Leased Premises or any part thereof, or knowingly permit the same to be used by any of its employees, officers, agents, subtenants, invitees, or licensees for any illegal purposes and shall, at all times during the term of this Agreement, comply with all applicable ordinances and laws of any City, county, or state government or of the U.S. Government, and of any political division or subdivision or agency, authority, or commission thereof which may have jurisdiction to pass laws or ordinances or to make and enforce rules or regulations with respect to the uses hereunder or the Leased Premises.**
- B. At all times during the term of this Agreement, Airline shall, in connection with its activities and operations at the Airport:**
 - 1. Comply with and conform to all present and future statutes and ordinances, rules and regulations promulgated thereunder, of all federal, state, and other government bodies of competent jurisdiction that apply to or affect, either directly or indirectly, Airline or Airline's operations and activities under this Agreement.**
 - 2. Make, at its own expense, all nonstructural improvements, repairs, and alterations to its Preferential Use Space (subject to prior written approval of City), equipment, and personal property that are required to comply with or conform to any such statutes and ordinances, and regulations, which are promulgated or enacted by City.**

3. Be and remain an independent contractor with respect to all installations, construction, and services performed by the Airline or on behalf of Airline hereunder.

SECTION 15.03 NONDISCRIMINATION

Airline, for itself, its heirs, personal representatives, successors in interest and assigns, as part of the consideration hereof, does hereby covenant and agree as follows:

- A. That no person on the grounds of race, creed, color, sex, age, disability, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Leased Premises.
- B. That in the construction of any improvements on, over, or under the Leased Premises and the furnishing of services thereon, no person on the grounds of race, creed, color, sex, age, disability, or national origin shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination.
- C. That Airline shall use the Airport in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulation may be amended. Airline shall also comply with the applicable provisions of Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112) and 49 CFR Part 27.

SECTION 15.04 AFFIRMATIVE ACTION

Airline assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, and any amendments thereto, and any other federal statutes or regulations applicable to the receipt of federal assistance from the Department of Transportation by local governments for Airport use, or otherwise applicable to persons leasing premises from City, to insure that no person shall, on the grounds of race, creed, color, sex, age, disability, or national origin be excluded from participating in or receiving the services or benefits of any program of activity covered by this Section. Airline assures that it will require that its covered suborganizations (sublessees) provide assurances to City, as set forth herein, that they similarly will undertake affirmative action programs, and that they will require assurance from their suborganizations (sublessees) to the same effect.

SECTION 15.05 NOTICES

- A. Except as otherwise provided elsewhere in this Agreement, any notice under the terms of this Agreement shall be in writing. If such notice is given by Airline, it shall be submitted to Director of Aviation, Rick Husband Amarillo International Airport, 10801 Airport Boulevard, Amarillo, Texas 79111, or to such revised address as notified by Director.

If given by Director, such notice shall be submitted to the address of Airline at the following address:

Airline:
Southwest Airlines Co.
2702 Love Field Drive
Dallas, TX 75235
Attn: VP Airport Affairs

- B. If notice is given in any other manner or at any other place, it will also be given at the place and in the manner specified above.
- C. Any notice so given shall be deemed properly delivered, given, served, or received on the date shown for delivery or rejection on the return receipt. Either party may change the address to which notices shall thereafter be given upon five (5) days prior written notice to the other party in the manner set forth in this Section.

SECTION 15.06 SUBORDINATION TO AGREEMENTS WITH U. S. GOVERNMENT

This Agreement is subject and subordinate to the provisions of any agreements heretofore or hereafter made between City and the United States relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of federal rights or property to City for Airport purposes, or to the expenditure of federal funds for the improvement or development of the Airport, including the expenditure of federal funds for the development of the Airport in accordance with the provisions of the Federal Aviation Act of 1958, as it has been amended from time to time.

SECTION 15.07 NONWAIVER OF RIGHTS

The non-enforcement by either party of the breach of any term, covenant or condition herein stipulated shall never be construed to be a waiver of any other or succeeding breach of any term, covenant or condition herein imposed upon the other party, and the acceptance of payments of any amounts due or to become due hereunder in any other way or manner, or at any other time than herein provided, shall never be construed as a waiver of the right of City of any of the provisions herein imposed upon Airline.

SECTION 15.08 FEDERAL AVIATION ACT, SECTION 308

Nothing herein contained shall be deemed to grant to Airline any exclusive right or privilege within the meaning of Section 308 of the Federal Aviation Act, as amended or succeeded, for the conduct of any activity on the Airport, except that, subject to the terms and provisions hereof.

SECTION 15.09 SEVERABILITY

If any provision of this Agreement is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this Agreement shall not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there shall be added as part of this Agreement a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

SECTION 15.10 HEADINGS

The headings of the articles and sections of this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope or intent of any provisions of this Agreement and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

SECTION 15.11 ASSIGNMENT BY CITY OR OTHER SUCCESSOR IN INTEREST

City may assign or otherwise convey its interest, rights, duties and/or obligations hereunder to any airport authority or other successor in interest. City, airport authority, or other successor in interest may assign, pledge, or take other appropriate action with respect to this Agreement and their rights and interests hereunder for any purpose relating to the issuance of Bonds or other revenue generating devices.

SECTION 15.12 APPROVALS BY CITY OR DIRECTOR

Unless otherwise stated in this Agreement, any prior written approvals required to be made by the City or Director shall not be unreasonably withheld, conditioned, or delayed.

SECTION 15.13 REMOVAL OF DISABLED AIRCRAFT

Airline shall promptly remove, upon release from any governmental agency with jurisdiction if required, any of its disabled aircraft from any part of the Airport (including, without limitation, runways, taxiways, aprons, and aircraft parking positions) and place any such disabled aircraft in such storage area as may be designated by Director. Airline may store such disabled aircraft only for such length of time and on such terms and conditions as may be established by City. If Airline fails to remove any of its disabled aircraft promptly, City may, but shall not be obligated to, cause the removal of such disabled aircraft; provided, however, the obligation to remove or store such disabled aircraft shall be consistent with federal laws and regulations, including those of the FAA and the National Transportation Safety Board (NTSB). Airline agrees to reimburse City for all costs of such removal; and Airline, furthermore, hereby releases City from any and all claims for damage to the disabled aircraft or otherwise arising from or in any way connected with such removal by City except to the extent caused by City's gross negligence or willful misconduct.

SECTION 15.14 QUIET ENJOYMENT

City covenants and agrees that Airline on paying the rentals, fees and charges herein provided for and observing and keeping all the covenants, conditions, and terms of this Agreement, shall lawfully and quietly hold, occupy and enjoy the Leased Premises during the

term of this Agreement without hindrance or molestation by City or any person claiming under City.

SECTION 15.15 MOST FAVORABLE TERMS

City agrees not to enter into any Agreement with any other 14 CFR Part 121 Air Transportation companies conducting similar operations at the Airport after the date of this Agreement which contains more favorable terms and conditions, landing fees, space rentals or other charges than those provided in this Agreement. Such "similar operations at the Airport" means regularly scheduled commercial service that shall be conducted at the Terminal Building. Notwithstanding the foregoing, City may offer incentives or discounts consistent with FAA guidelines and/or policies in setting landing fees, space rentals or other charges to any Air Transportation company.

SECTION 15.16 FORCE MAJEURE

No party to this Agreement is responsible to the other party for nonperformance or delay in performance of the terms and conditions herein due to acts of God, acts of government, wars, riots, strikes, accidents in transportation, fuel or materials shortages, or other causes beyond the control of the parties.

SECTION 15.17 ENTIRE AGREEMENT

This Agreement, together with all exhibits attached hereto, constitutes the entire agreement between the parties hereto, and all other representations or statements heretofore made, verbal or written, are merged herein, and this Agreement may be amended only in writing, and executed by duly authorized representatives of the parties hereto.

SECTION 15.18 TIME IS OF THE ESSENCE

Time is and shall be deemed of the essence in respect to the performance of each provision of this Agreement.

SECTION 15.19 ATTORNEY'S FEES

If either party brings any action or proceedings to enforce, protect, or establish any right or remedy under the terms and conditions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees, as determined by a court of competent jurisdiction, in addition to any other relief awarded.

SECTION 15.20 AGREEMENT MADE IN TEXAS

The laws of the State of Texas and any applicable federal law shall govern the validity, interpretation, performance and enforcement of this Agreement. Venue shall be in the federal or state courts of proper jurisdiction located in Potter County, Texas.

SECTION 15.21 CUMULATIVE RIGHTS AND REMEDIES

All rights and remedies of City here enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the exercise by City of any remedy provided for herein or allowed by law shall not be to the exclusion of any other remedy.

SECTION 15.22 INTERPRETATION

Words of gender used in this Agreement shall be held and construed to include any other gender, and words in the singular shall be held to include the plural and vice versa unless the context otherwise requires.

SECTION 15.23 AGREEMENT MADE IN WRITING

This Agreement contains all of the agreements and conditions made between the parties hereto and may not be modified orally or in any manner other than by agreement in writing signed by the parties hereto or their respective successors in interest.

SECTION 15.24 SUCCESSORS AND ASSIGNS

All of the terms, provisions, covenants, and conditions of this Agreement shall inure to the benefit of and be binding upon City and Airline and their successors, assigns, legal representatives, heirs, executors and administrators.

SECTION 15.25 AUTHORIZATION TO ENTER LEASE

If Airline signs this Agreement as a corporation, each of the persons executing this Agreement on behalf of Airline warrants to City that Airline is a duly authorized and existing corporation, that Airline is qualified to do business in the State of Texas, that Airline has full right and authority to enter into this Agreement, and that each and every person signing on behalf of Airline is authorized to do so. Upon Director's request, Airline will provide evidence satisfactory to Director confirming these representations.

SECTION 15.26 COMPLIANCE WITH ADA AND OTHER DISABLED ACCESS LAWS

Airline agrees that with respect to the Leased Premises, Airline shall be responsible, at Airline's cost, for compliance with the Americans with Disabilities Act of 1990 ("ADA", 42 U.S.C. §§12101 et seq.) and the regulations and Accessibility Guidelines for Buildings and Facilities issued pursuant thereto. Airline recognizes that City is a public entity subject to Title II of the ADA. To the extent permitted by law, Airline shall assume and be obligated to comply with any obligations to which City may be subject under Title II of the ADA with respect to any programs, services, activities, alterations, or construction conducted or undertaken by Airline in the Leased Premises. Airline shall also be responsible, at Airline's cost, for compliance with any other applicable disabled accessibility laws, including, but not limited to, the Air Carriers Access Act ("ACAA", 49 U.S.C. §41705), and regulations implementing the ACAA.

(SIGNATURES BEGIN ON THE FOLLOWING PAGE)

IN WITNESS WHEREOF, these presents have been executed and attested by the parties hereto or their proper officials, pursuant to due and legal action authorizing the same to be done, the day and year first above written.

CITY OF AMARILLO

Bob Cowell, Jr, Deputy City Manager

ATTEST:

Francis Hibbs, City Secretary

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

_____, City Attorney

Sara Freese, Director of Aviation

ATTEST:

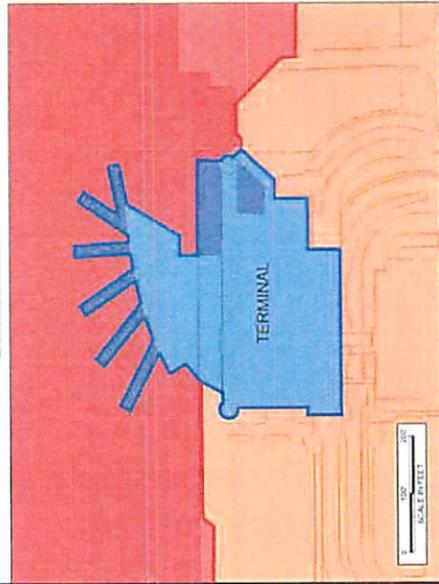
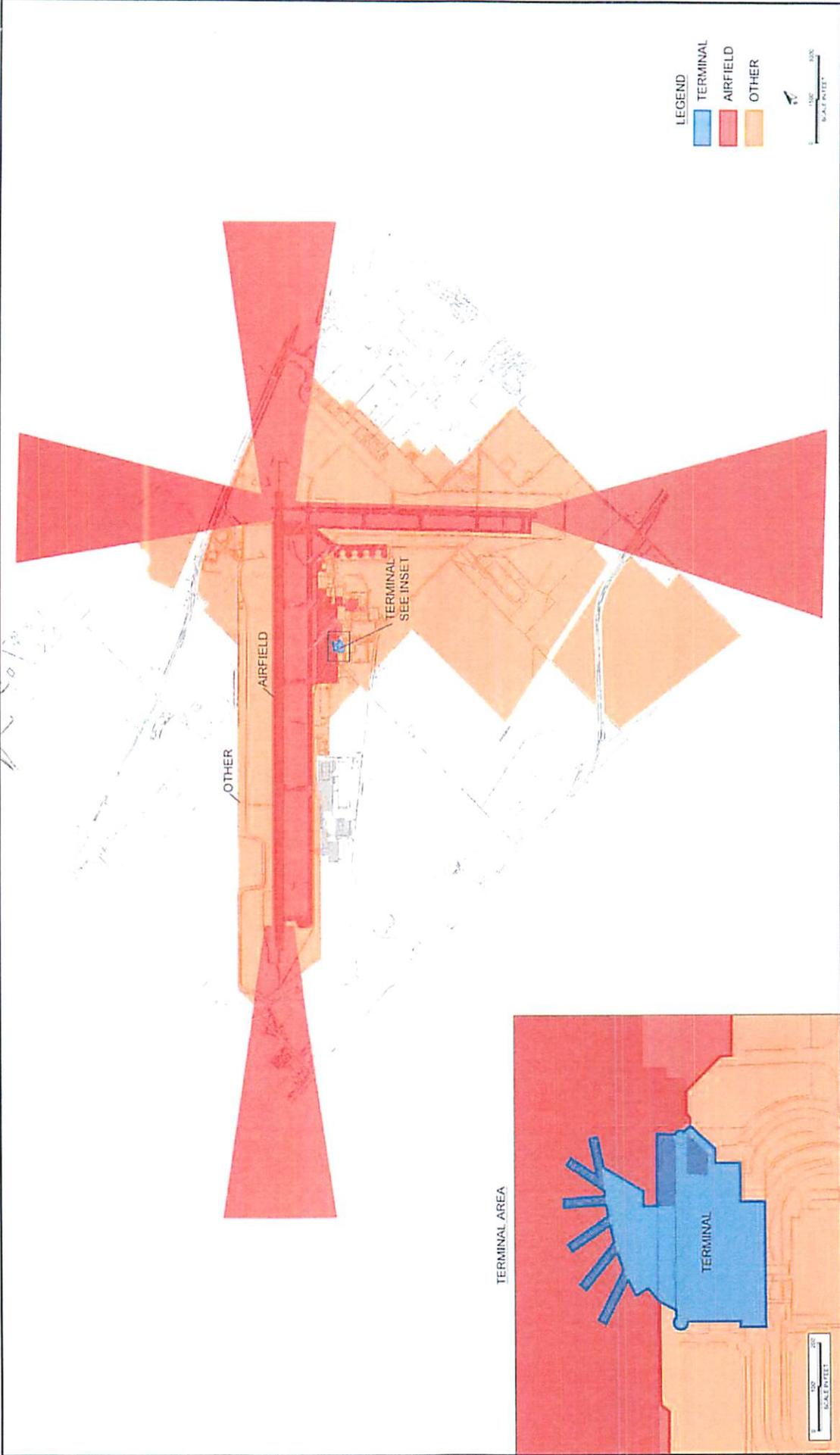


Printed Name: DAVID SEUSS
Title: MANAGER - AIRPORT AFFAIRS
Date: 8/9/2016

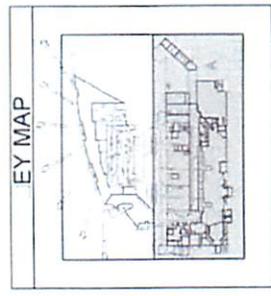
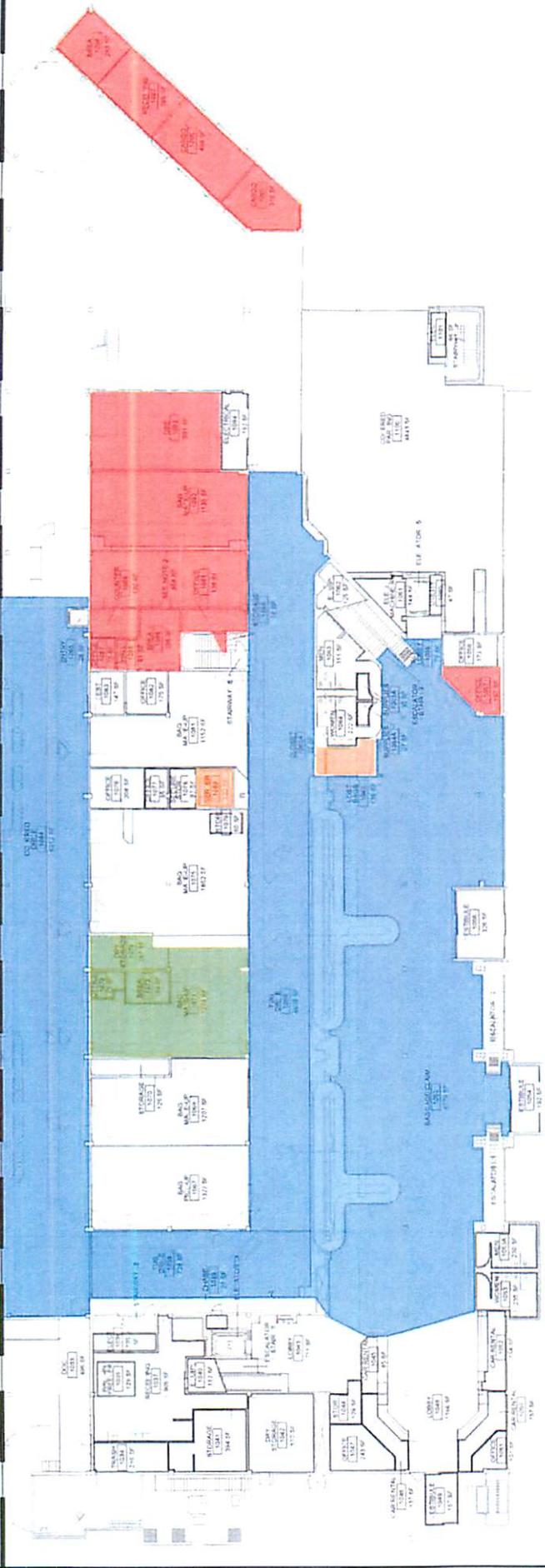
AIRLINE:



Printed Name: BOB MONTGOMERY
Title: VP - AIRPORT AFFAIRS
Date: 8/9/16



MATCHLINE - SEE AREA 1B



Note

- 1 Room dimensions and square footages are determined from information shown in the 2009 Air Terminal Addition and Modifications or Rick Husband Amarillo International Airport Actual dimensions and room usage may need verification, and are shown for informational purposes only
- 2 Room not identified on the floor plan

LEGEND

- SOUTHWEST AIRLINES
- AMERICAN AIRLINES
- UNITED AIRLINES
- JOINT USE AREAS

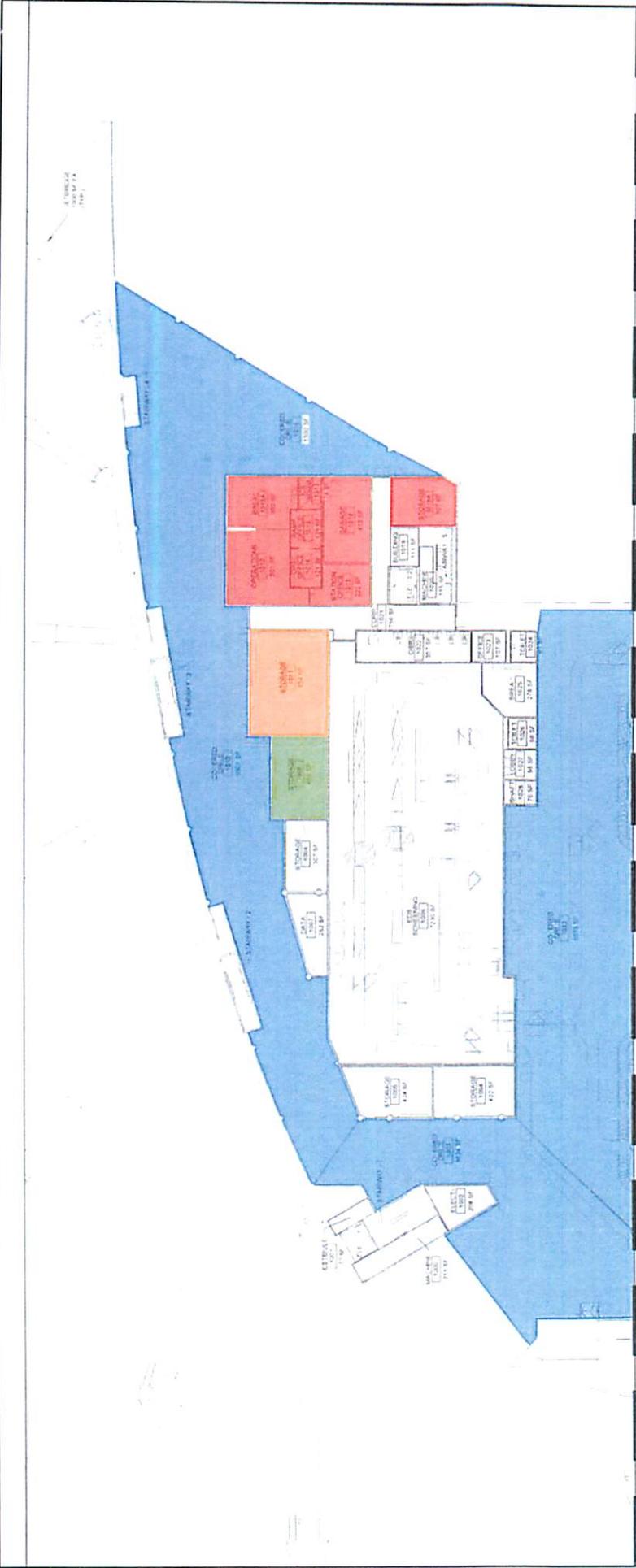


RS&H
 810 NORTH MOPAC EXPRESSWAY
 AUSTIN, TEXAS 78728
 (512) 278-4227

Exhibit B - Pre-erential And Joint Use Areas, July 2016
 1st Floor - Area A

Rick Husband Amarillo International Airport
 Project Area



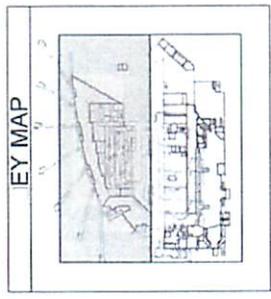


MATCHLINE - SEE AREA 1A

LEGEND

- SOUTHWEST AIRLINES
- AMERICAN AIRLINES
- UNITED AIRLINES
- JOINT USE AREAS

Note
 1 Room dimensions and square footages are determined from information shown in the 2009 Air Terminal Addition and Modifications for Rick Husband Amarillo International Airport. Actual dimensions and room usage may need verification, and are shown for informational purposes only.

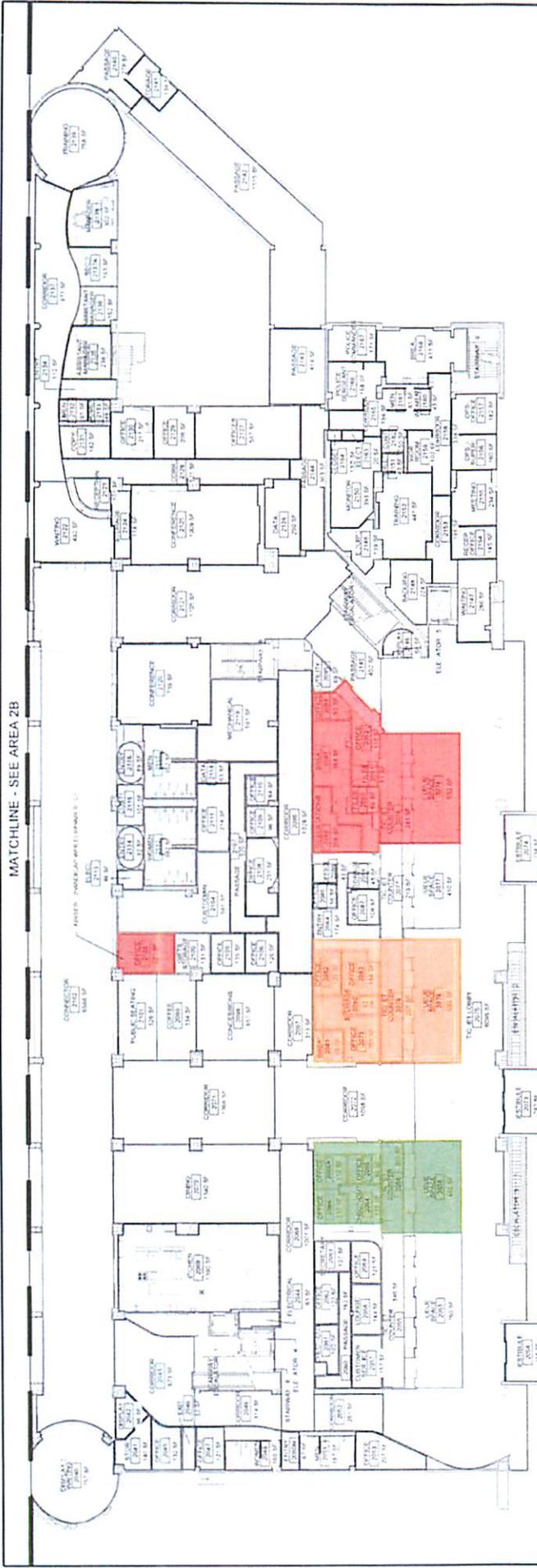


RS&H
 8140 NORTH MOPAC EXPRESSWAY
 AUSTIN, TEXAS 78728
 (512) 278-5427

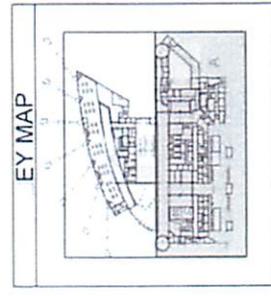
Exhibit B - Pre-Operational and Joint Use Areas, July 2016
 1st Floor - Area B

Rick Husband Amarillo International Airport
 1996-2016





Note
 1 Room dimensions and square footages are determined from information shown in the 2009 Air Terminal Addition and Modifications for Rick Husband Amarillo International Airport. Actual dimensions and room usage may need verification, and are shown for informational purposes only.



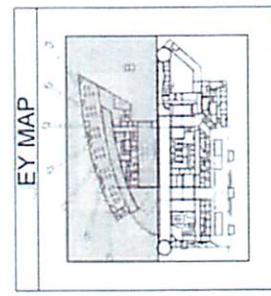
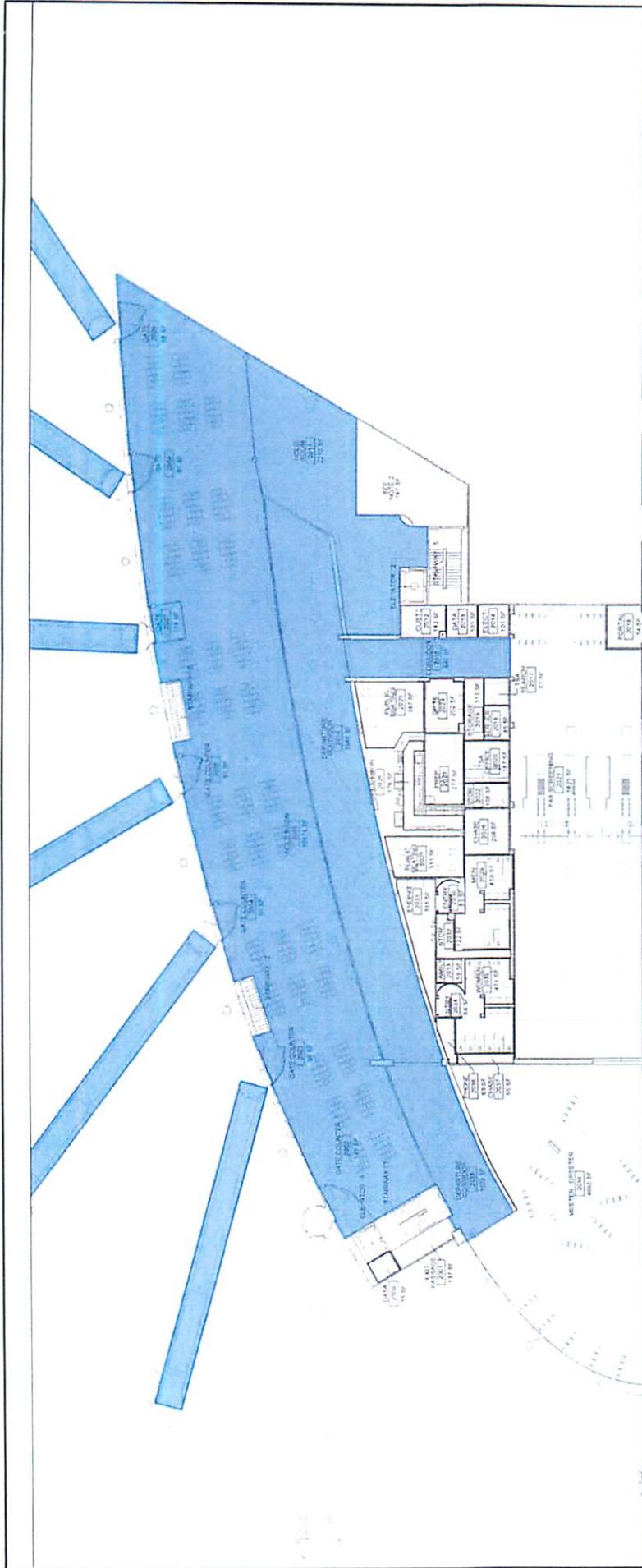
8140 NORTH MOPAC EXPRESSWAY
 SUITE 100
 AUSTIN, TEXAS 78758
 (512) 798-5417



Exhibit B - Pre-erential And Joint Use Areas, July 2016
 2nd Floor - Area A

Rick Husband Amarillo International Airport
 Project No. 10000000000000000000





LEGEND

- SOUTHWEST AIRLINES
- AMERICAN AIRLINES
- UNITED AIRLINES
- JOINT USE AREAS

Note

- 1 Room dimensions and square footages are determined from information shown in the 2009 Air Terminal Addition and Modifications or Rick Husband Amarillo International Airport. Actual dimensions and room usage may need verification, and are shown for informational purposes only.
- 2 Room not identified on the floor plan.

MATCHLINE - SEE AREA 2A



RS&H
 816 NORTH MCKENZIE EXPRESSWAY
 BUILDING TWO SUITE 100
 AMARILLO, TEXAS 79109
 (817) 376-6427

Rick Husband Amarillo International Airport
 Airport, Texas



**Exhibit B - Pre-Operational And Joint Use Areas, July 2016
 2nd Floor - Area B**

RICK HUSBAND AMARILLO INTERNATIONAL AIRPORT

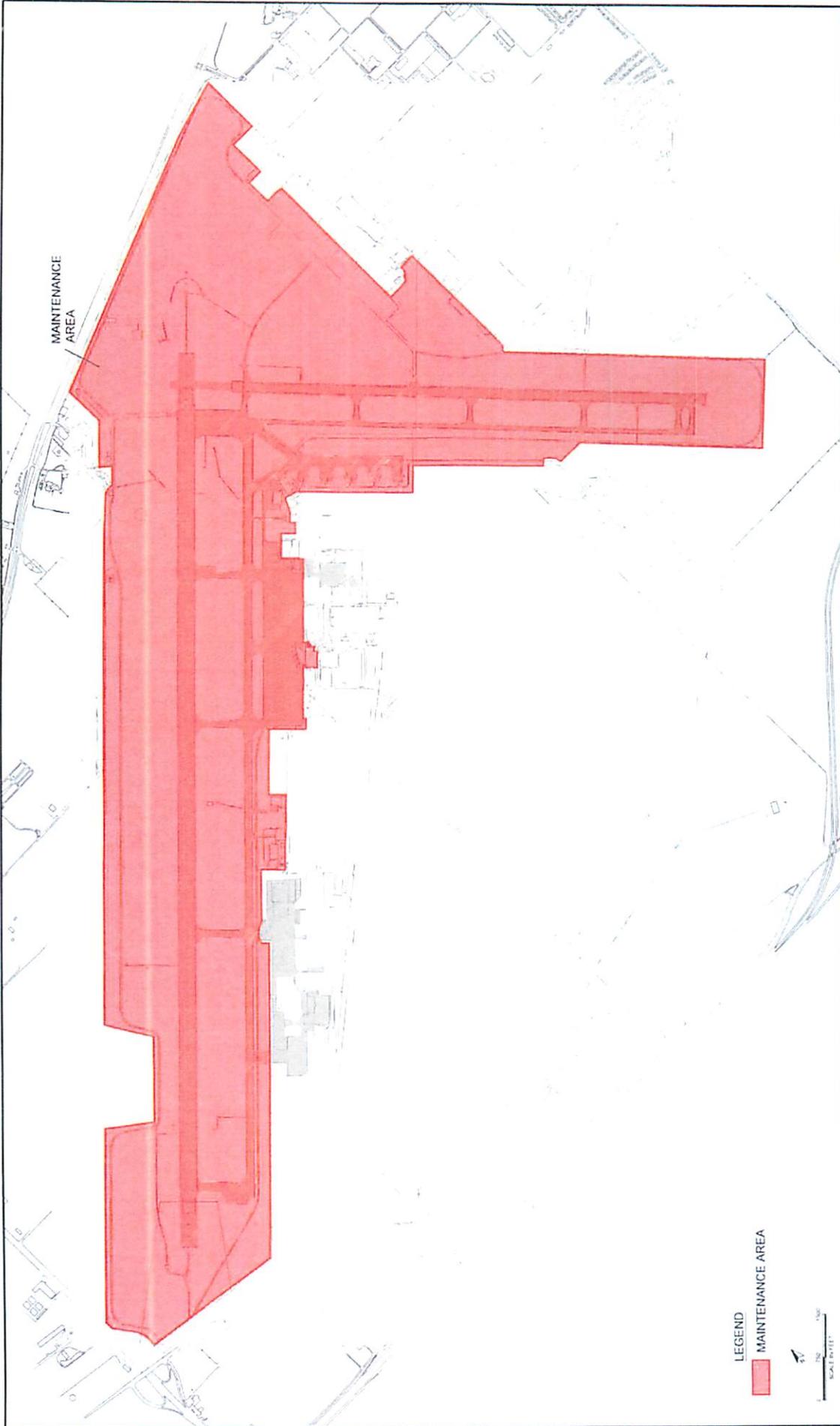
EXHIBIT C

RATE MODEL ILLUSTRATION

(for demonstrative purposes only)

LANDING FEE		Example Fiscal Year
<u>Airfield Requirement:</u>		
Operating Expense		\$2,823,791
Debt Service		99,025
Airfield Capital Expense		248,000
Total Requirement	[A]	\$3,170,816
<u>Airfield Credits:</u>		
Non-Airline Revenue		\$188,644
Total Airfield Credits	[B]	\$188,644
Net Airfield Requirement	[C=A-B]	\$2,982,172
Landed Weight (1000-lb units):	[D]	469,089
Landing Fee Rate (per 1000-lb units)	[E=C/D]	\$6.36
Discretionary Revenue Share Credit	[F]	\$2,466,174
Revised Landing Fee Rate	[G=(C-F)/D]	\$1.10
Total Landing Fee Revenue	[H=D*G]	\$515,998

TERMINAL RENTAL RATE		Example Fiscal Year
<u>Terminal Requirement:</u>		
Operating Expenses		\$3,597,200
Debt Service		297,075
Terminal Capital Expense		50,000
Total Requirement	[A]	\$3,944,275
<u>Terminal Credits:</u>		
Non-Airline Revenue		\$566,521
Applied PFCs		\$297,075
Total Terminal Credits	[B]	\$863,596
Net Terminal Requirement	[C=A-B]	\$3,080,679
Airline Rentable Space	[D]	87,911
Average Terminal Rental Rate	[E=C/D]	\$35.04
Net Terminal Requirement (after Discretionary Revenue Applied)	[F]	\$2,048,936
Revised Terminal Rental Rate	[G=F/D]	\$23.31



MAINTENANCE AREA

LEGEND
 MAINTENANCE AREA

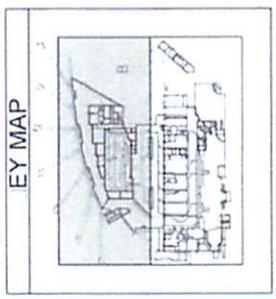
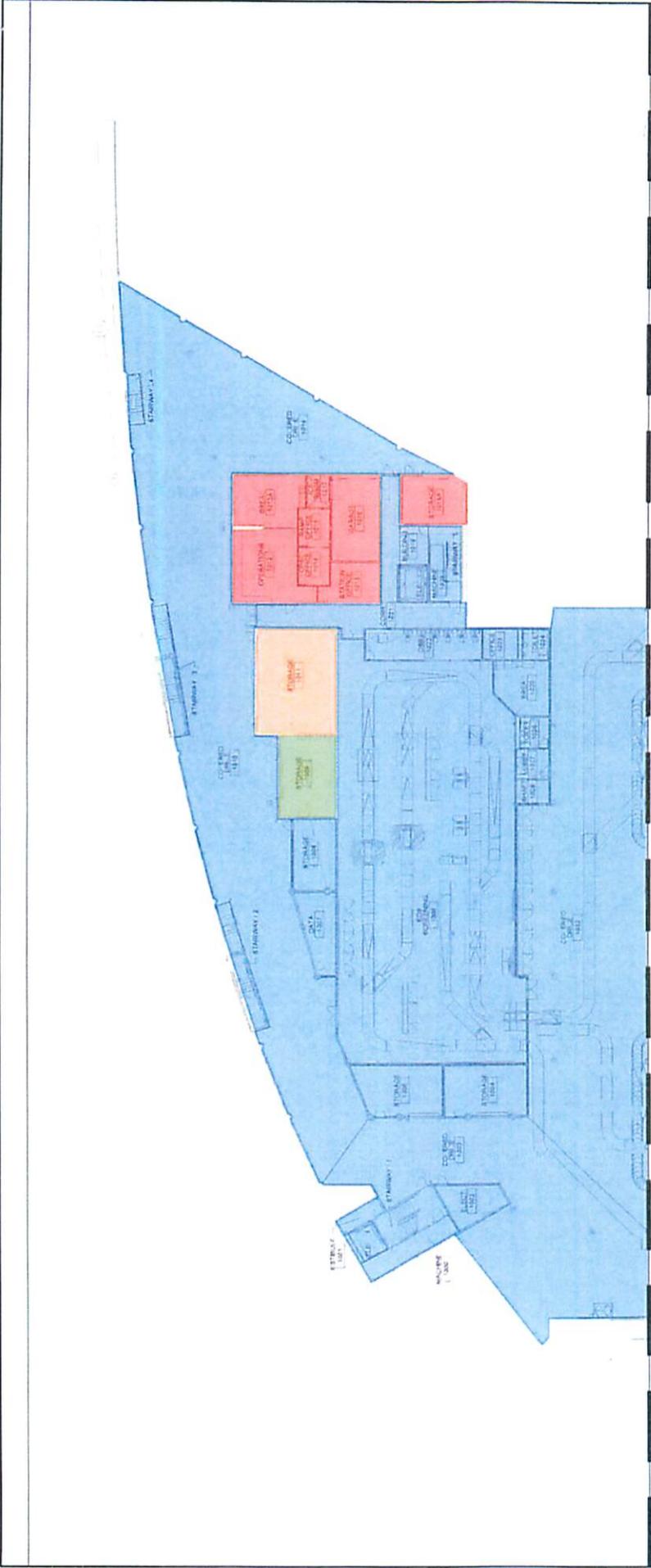


RS&H
 8142 NORTH MOHAVE EXPRESSWAY
 BUILDING TWO, SUITE 100
 AUSTIN, TEXAS 78759
 (512) 778-6427

Exhibit D - Operations, Maintenance, And Service Responsibilities, July 2016

Rick Husband Amarillo International Airport
 1000 S. 10th St.

CAMARILLO
 CONSULTANTS



- LEGEND
- SOUTHWEST AIRLINES
 - AMERICAN AIRLINES
 - UNITED AIRLINES
 - CITY MAINTAINED AREA



Exhibit D - Operations, Maintenance, And Service Responsibilities, July 2016
1st Floor - Area B

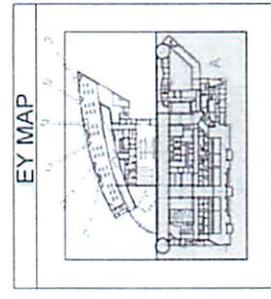
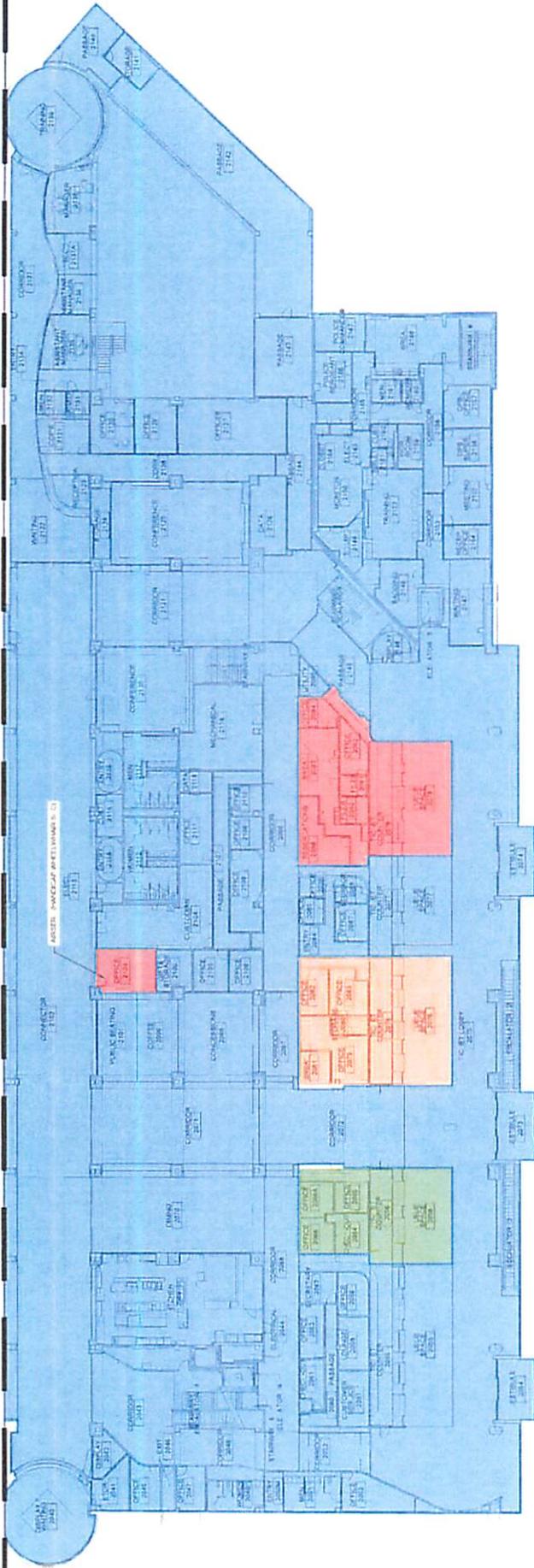


816 NORTH MOSAZ EXPRESSWAY
BUILDING TWO SUITE 100
AUSTIN, TEXAS 78728
(512) 794-4447

Rick Husband Amarillo International Airport
Project No. 14-0000



MATCHLINE - SEE AREA 2B



- LEGEND
- SOUTHWEST AIRLINES
 - AMERICAN AIRLINES
 - UNITED AIRLINES
 - CITY MAINTAINED AREA



8430 NORTH MOORE EXPRESSWAY
 BUILDING TWO, SUITE 100
 AUSTIN, TEXAS 78759
 (512) 279-5427



Exhibit D - Operations, Maintenance, And Service Responsibilities, July 2016
 2nd Floor - Area A

Rick Husband Amargillo International Airport
 Area A - 1000





AIRPORT CAPITAL IMPROVEMENT PROGRAM

(for illustrative purposes only)
(Fiscal Years Ending September 30)

RICK HUSBAND AMARILLO INTERNATIONAL AIRPORT

Project	FY 2016-17	FY 2017-18	FY 2018-19
Construct Taxiway C	4,250,000		
Airfield Elect. Impvts Ph. II Runway 04/22 Edge Lighting - Construction	1,300,000		
Taxiway P (South) Shoulder Rehabilitation, D+B	150,000		
Airfield Elect. Impvts Ph. III Taxiway P (South) Lighting Rehab D+B	150,000		
Terminal Boiler Replacement Project	450,000		
Airfield Pavement Maintenance per Pavement Mgt Plan (ongoing mx)	50,000		
Rental Car Facility Consolidation Ph. II	1,000,000		
Parking Lot & Garage Enhancements Ph. II	425,000		
Runway Rubber Removal Project	25,000		
Leased Hangar Repairs	125,000		
Airfield Paint Sprayer	28,000		
Vehicle Replacement (#6743) with new Ford Explorer	31,000		
Acquire One End Loader and 25' Ramp Blade	125,000		
Demolish Buildings # (old FAA and Enterprise Gas station at entrance)	100,000		
Develop Safety Management Systems (SMS)	50,000		
Develop Safety Management Systems (SMS)	50,000		
Inline Baggage System Preventative Mx Program	10,000		
Passenger Boarding Bridge Preventative Mx Program	10,000		
Wildlife Hazard Assessment		100,000	
Taxiway P (South) Shoulder Rehab - Construction		2,000,000	
Airfield Elect. Impvts Ph. III Taxiway P (South) Lighting Rehab Construction		1,300,000	
Airfield Elect. Impvts Ph. IV: Taxiway P (North) Lighting Rehab D+B		150,000	
Taxiway P (North) Shoulder Rehab - D+B		150,000	
Access Control System Upgrade		1,000,000	
Replace Terminal Building AHU Pumps (qty. 2)		100,000	
Airfield Pavement Maintenance per Pavement Mgt Plan (ongoing mx)		50,000	
Parking Lot & Garage Enhancements Ph. III		225,000	
Vehicle Replacement (#6469) Ford Explorer (LE package)		61,000	
Leased Hangar Repairs		125,000	
Runway Rubber Removal Project		25,000	
Vehicle Replacement (#) with 4x4 Utility Truck		50,000	
Demolish Buildings (old car rental areas)		150,000	
Inline Baggage System Preventative Mx Program		15,000	
Passenger Boarding Bridge Preventative Mx Program		10,000	
Airfield Elect. Impvts Ph. IV: Taxiway P (North) Lighting Rehab Construct			1,300,000
Taxiway P (North) Shoulder Rehab - Construction			1,500,000
Airfield Elect. Impvts Ph. V: Runway 13/31 Lighting Rehab - D+B			100,000
Taxiway P (North) Intersection Realignment D+B			75,000
Replace Terminal Building AHU Pumps (qty. 2)			100,000
Airfield Pavement Maintenance per Pavement Mgt Plan (ongoing mx)			50,000
Runway Rubber Removal Project			25,000
Leased Hangar Repairs			125,000
Vehicle Replacement (#6582) Ford Explorer (LE package)			61,000
Parking Lot & Garage Enhancements Ph. IV			200,000
Inline Baggage System Preventative Mx Program			10,000
Passenger Boarding Bridge Preventative Mx Program			15,000
TOTAL CAPITAL IMPROVEMENTS + PURCHASES	\$ 8,329,000	\$ 5,511,000	\$ 3,561,000

Amarillo City Council Agenda Transmittal Memo



F

Meeting Date	9/27/16	Council Priority	Inter-local Agreement for Security and Peace Officers
---------------------	---------	-------------------------	-------------------------------------------------------

Department	City Manager
-------------------	--------------

Agenda Caption

Inter-local Agreement between APD and AISD – Inter-Local Agreement between the Amarillo Police Department and Amarillo Independent School District for School Resource Officers.

Agenda Item Summary

The Inter-local agreement provides for Amarillo Police Department to supply eleven (11) police officers and one (1) supervisor to Amarillo Independent School District during the school year. The purpose of the Agreement is ensure the safety and welfare of AISD of students and personnel. This agreement is a one year agreement which automatically renews for additional one-year periods through July 31, 2027.

Requested Action

Approval of the Inter-local Agreement to be signed by City Manager.

Funding Summary

N/A

Community Engagement Summary

N/A

City Manager Recommendation

This item is recommended for approval by the City Manager

State of Texas
County of Potter

**INTERLOCAL AGREEMENT FOR SECURITY
AND PEACE OFFICERS**

Pursuant to the Interlocal Cooperation Act, Texas Government Code §§ 791.001 *et seq.* (the “Act”), the City of Amarillo (“City”) and the Amarillo Independent School District (“AISD”), each being a unit of “Local Government” as defined by the Act, make and enter into this Agreement for the purposes and consideration as set forth below.

WITNESSETH:

WHEREAS, AISD and the City have previously instituted a cooperative School Resource Officer Program (“Program”) at AISD schools; and

WHEREAS, AISD and the City desire to continue a cooperative Program to help ensure school safety, and expand and clarify the roles and responsibilities of the City and AISD; and

WHEREAS, the City has full-time commissioned peace officers in its employ capable of providing AISD security and police protection services; and

WHEREAS, the Act authorizes the City and AISD to contract with one another for police protection, related administrative functions, and other governmental functions in which they are mutually interested; and

WHEREAS, the AISD Board of Trustees has found, and hereby declares, it is in need of security personnel and law enforcement services to: (1) protect the safety and welfare of its students, employees, and other persons authorized to be on AISD property or at AISD sponsored events or activities; and (2) protect the real and personal property of AISD; and

WHEREAS, the AISD Board of Trustees desires to utilize the security and law enforcement services and personnel of the City for those functions and purposes; and

NOW, THEREFORE, in consideration of the premises and of the terms and the mutual provisions herein contained, the City and AISD hereby agree as follows:

I. PURPOSE

The Primary purpose of this Agreement is for AISD to secure the services of commissioned peace officers (“Officers”) to provide for the safety and welfare of AISD students and personnel; to foster positive relations between students and law enforcement personnel; to deter crime on or about school premises by the presence of a law enforcement officer; and to protect its property.

II. SERVICES AND OBLIGATIONS OF CITY

The City, through the Officers, shall provide AISD the following services and related activities:

Law Enforcement Services

- 2.1 Beginning the 2016-2017 school year, APD will provided eleven (11) police officers and one (1) supervisor to work during the school year. Officers will be assigned to work at a designated AISD school location. The assigned location will be determined by mutual agreement of the APD supervisor and AISD representative.
- 2.2 The Officers will work an eight (8) hour duty day on instructional days during the regular school term with specific reporting/exit times to be determined by mutual consent of AISD and the Amarillo Police Department. Exceptions to such duty may arise when an assigned Officer is in required training or is otherwise temporarily required elsewhere as determined by the City. Summer school Officer coverage will be mutually agreed upon by the Parties.
 - 2.2.1 In the two weeks before AISD begins school, the City shall endeavor to make Officers available, upon request by AISD, to provide services as set forth herein.
- 2.3 The Officers shall monitor access to AISD property and assist in limiting access to authorized persons.
- 2.4 The Officers shall assist AISD personnel in protecting the property of AISD and the security and safety of its students and personnel in accordance with the duties of a commissioned peace officer of the City.
- 2.5 The Officers shall investigate and/or deter the commission of criminal acts that may occur on AISD property and within their hereinafter-described jurisdiction.
- 2.6 The Officers shall coordinate the Crime Stoppers Program.
- 2.7 The Officers shall serve as liaisons between AISD schools and the City's Police Department, juvenile officials, probation officials, courts, and other agencies of the juvenile justice system.
- 2.8 The Officers shall provide a highly visible, crime deterrent on AISD properties, in buildings, in parking lots, and on athletic fields.
- 2.9 The Officers shall attempt to detect and identify the early signs of deviant behavior associations.

2.10 The Officers shall follow legally appropriate procedures prior to seeking access to student records or searching student property.

2.11 The Officers shall be present, upon request, when a school administrator is conducting a search of a student and the school administrator has grounds to believe that the search will discover evidence of a weapon (*e.g.* guns) or other dangerous item that could cause potential bodily injury to the school administrator, school personnel, or students.

2.12 The Officers will perform other duties as assigned by the Chief of Police.

Education Services

2.13 The Officers shall participate as resource persons in the classroom, at assemblies, with parent groups, teach a class, lead a discussion, or offer information on law enforcement topics, campus security, or other Police Department programs.

Public Relations

2.14 The Officers shall provide assistance to neighborhood merchants and residence regarding school related problems.

2.15 The Officers shall, upon request and approval by the Amarillo Police Department, provide presentations to civic groups on topics ranging from the Program to information about gang activities and gang intervention strategies.

2.16 The Officers shall provide interpretation of the function and purpose of the Program for the community.

Guidance Services

2.17 The Officers shall assist in providing guidance and direction to students, parents, and AISD staff in law enforcement matters.

2.18 The Officers shall meet with campus administrators at each of their assigned school to discuss campus goals related to student behavior, discipline, and student management. While the Officers are not responsible for these areas, an understanding of campus goals may help Officers identify and report relevant information to the campus administrator.

2.19 The Officers shall meet at the school with parents of school students with potential law enforcement problems.

2.20 The Officers shall make pertinent literature available to students, *e.g.* Crime Stoppers pamphlets.

III. JURISDICTION

- 3.1 The City will provide Officers at AISD schools within the city limits of Amarillo.
- 3.2 Infractions of school rules should be reported by the Officers to the appropriate school officials.

IV. QUALIFICATIONS; ASSIGNMENTS

The Officers assigned by the City shall have the following qualifications:

- 4.1 Must continually satisfy all minimum standards for peace officers established from time to time by the Texas Commission of Law Enforcement Officer Standards and Education and additional standards, if any, of the City's Police Department.
- 4.2 Satisfactory knowledge of juvenile laws and procedures.
- 4.3 Demonstrated ability to communicate effectively.
- 4.4 Demonstrated ability to develop sincere relationships with students.
- 4.5 Initial selection and assignment of the Officers will be at the City's discretion. Continued assignment at the specific school will be subject to maintaining a satisfactory working relationship with the AISD campus principal.
- 4.6 The City and AISD shall work cooperatively to ensure the rotation of officers does not disrupt the Program. The Parties recognize the importance of relationships between Officers, AISD leadership, campuses and students, and will work to ensure consistency of assignment to best serve the Program. To accomplish this, the lead supervisor of the Officers and Officers will serve on no less than a ten year rotation, subject to 4.5 above.

V. EMPLOYEES OF THE CITY

- 5.1 All Officers furnished by the City are employees of the City and will, at all times, be subject to the supervision and control of the City's Chief of Police and shall be responsible to the chain of command of the Police Department. The City shall be solely responsible for the hiring, discipline, and dismissal of Officers relating to employment with the City. The City and its Officers shall be deemed contractors of AISD and not an agent or representative of AISD.
- 5.2 All Officers furnished by the City have the protection of the City as the primary responsibility. Therefore, at any time when there is need for more police personnel for protection of the City, all or a portion of the Officers may be removed from schools for a temporary period until those officers are no longer required for the

reasonable protection of the City. See 6.6 for adjustment of costs if this paragraph is utilized.

5.3 The supervisory personnel of the Officers who are responsible for their direct supervision shall be available at all reasonable times to report and confer with designed AISD officials.

5.4 The supervisory personnel of the Officers will periodically confer with campus administrators to discuss the performance of the Officers assigned to their respective campus.

VI. SERVICES AND OBLIGATIONS OF AISD

AISD shall fulfill the following obligations in return for the City's performance of the foregoing services:

6.1 At the instruction of AISD's Chief Operations Officer, campuses must provide: (1) an office that is enclosed, lockable, secured, private and allows for confidential conversations to occur; (2) a desk with drawers; a chair; office supplies as needed; a file which can be locked and secured; and (3) telephone for the Officers at each designated campus, together with the support of the professional staff as reasonably necessary to efficiently aid the Officers in the performance of their duties described in this Agreement. The office shall be located in an area selected by the supervisory personnel of the Officers and AISD's Chief Operations Officer. At the high schools, the office shall include the appropriate equipment necessary to allow video feed from campus security cameras to be visible to the Officer, for premises monitoring purposes.

6.2 At the Rod Schroder Education Support Center, for the supervisory personnel of the Officers, provide: (1) an office that is enclosed, lockable, secured, private and allows for confidential conversations to occur; (2) a desk; and (3) telephone for the supervisory personnel of the Officers. The office shall be located in an area selected by the supervisory personnel of the Officers and AISD's Chief Operations Officer. The office shall include the appropriate equipment necessary to allow video feed from security cameras to be visible for premises monitoring purposes.

6.3 The City shall invoice AISD and AISD shall pay an amount equal to 75% of the salaries and benefits paid by the City to the Officers assigned to campuses for the year (i.e. excludes the supervisory personnel of the Officers). Records to substantiate these amounts shall be provided to the District upon written request. The annual amount shall be paid in four installments on: October 31, December 31, March 31, and June 30. Vehicle and equipment costs are set forth in Exhibit "A." AISD will pay each Officer \$500 per year for a cell phone allowance. In exchange for the allowance, the Officer must provide AISD's Chief Operations Officer with his/her current cell phone number.

6.4 Payments for the above described governmental services must be made from current revenues available to the AISD. Notwithstanding any provision to the contrary contained in this Agreement, it is understood and agreed that the payments to be made in each fiscal year during the term hereof are payable only out of current designated and lawfully appropriated funds of AISD for that fiscal year. A Party shall have no right of action against the other Party in the event the other Party is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding to pay for its obligations hereunder from any source utilized to fund this Agreement or from failure of the party to budget or authorize this Agreement during the current or any future fiscal year. In the event a party is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding, the other Party may immediately terminate this Agreement. The Parties to remit and reasonably believe that moneys in an amount sufficient to remit all payments under this Agreement can and will lawfully be appropriated. The Parties acknowledge that appropriation of moneys for the payments beyond the current fiscal year is a governmental function to which neither can contractually commit and this Agreement does not constitute (i) a multiple-fiscal year direct or indirect debt or financial obligation; or (ii) an obligation payable in any fiscal year beyond the fiscal year for which funds are lawfully appropriated; or (iii) an obligation creating a pledge of or a lien on tax or general revenues. If either Party's governing board does not approve an appropriation of funds for the payment of payments coming due during the following fiscal year(s), (30) days prior written notice of such non-appropriation and the resulting termination of this Agreement must be given to the other Party. The Parties acknowledge that this non-appropriation provision is not intended to be used as a substitute for convenience termination nor for the purpose of replacing the services.

6.5 Following City of Amarillo protocol for the contracting of officers, AISD may contract directly with Officers or any other City police officer for extracurricular and/or summer events (including summer school sessions) as needed, at a mutually agreed upon rate. AISD will issue 1099s for any Officer employed for said services. In this capacity, the Officers (including other City police officers) are acting as City Police Officers, are covered by City insurance, and are subject to the applicable terms of this Agreement.

6.6 In the event that one or more Officers are removed from service at an AISD location or function due to a provision set forth in 5.2, the AISD will not be required to compensate the City for the affected Officer. The final installment payment will be adjusted for any such removal.

6.7 Subject to approval by AISD's Chief Financial Officer, AISD shall be responsible for funding one (1) training per Officer, per year. Training shall be relevant to the School Resource Officer's duties.

6.8 Subject to any restrictions in the Family Educational Rights and Privacy Act, the Individuals with Disabilities Education Improvement Act, Section 504 of the Rehabilitation Act, and any other applicable law, campus principals or designees will endeavor to make Officers aware of any special needs or restrictions of students with disabilities that may have an impact on the Officers' interaction with such students.

VI. TERM

7.1 This Agreement shall become effective upon execution and shall automatically extend and renew for additional one-year periods through July 31, 2027. Each annual term of this Agreement shall end July 31 of the then-current year. This Agreement may be terminated without cause by either Party upon written notice to the other Party no later than the 28th day of February of the then current one-year period. The Parties may mutually agree to terminate this Agreement with less notice if approved by the governing body of both Parties. Notice shall be delivered in accordance with Section 8. In the event this Agreement is terminated, compensation shall be made to the City for all services performed to the date of termination. If this Agreement is not terminated as set forth herein, termination shall automatically occur July 31, 2027.

VII. NOTICES AND ADMINISTRATION

All notices, communications and reports required or permitted under this Agreement shall be deemed given if sent in writing and delivered to the addresses set forth below, by certified mail, return receipt requested, or by a recognized commercial carrier, such as UPS or FedEx.

If to AISD:

Chief Operations Officer
Amarillo ISD
7200 I-40 West
Amarillo, Texas 79121

If to City:

Chief of Police
Amarillo Police Department
200 S.E. Third Avenue
Amarillo, Texas 79101-1514

VIII. LIABILITY

8.1 The City shall be responsible for complying with the Texas Workers' Compensation Act.

8.2 To the extent permitted by law and without waiving sovereign immunity, other immunities, or any defenses provided by law, each Party shall be responsible for any and all claims, demands, suits, actions, damages, and causes of action related to or arising out of or in any way connection with their own actions, and the actions of their respective personnel in the performance of this Agreement. Each Party agrees to obtain general liability, public officials' liability and law enforcement liability, as/if applicable, or maintain a comparable self-insurance program.

IX. MISCELANEOUS PROVISIONS

9.1 *Venue; Applicable Law.* The obligations of the Parties are performable in Amarillo, Texas, and if action is necessary to enforce same. This Agreement shall be governed by and construed in accordance with the internal laws of the state of Texas. Any dispute arising under this Agreement shall be resolved in Potter County, Texas or the federal court of the Northern District of Texas – Amarillo Division, as appropriate.

9.2 *Entire Agreement; Amendment.* This Agreement and Exhibit A set forth the entire agreement between the Parties concerning the subject matter hereof. There are no representations, either oral or written, between the Parties other than those contained in this Agreement. No amendment to this Agreement or Exhibits shall be binding upon a Party hereto unless the amendment is in writing and executed by an authorized representative of each Party.

9.3 *Compliance With Law.* Notwithstanding any contrary provision in this Agreement, City and Officers must comply with applicable federal (including, but not limited to, the Family Educational Rights and Privacy Act), state and local laws in providing the services contemplated herein. This includes, but is not limited to, any requirements set forth in Texas Education Code Chapter 22 (relating to Criminal History Records duties).

9.4 *Severability.* In the event any provision specified herein is held or determined by a court of competent jurisdiction to be illegal, invalid, void, unenforceable, or in contravention of any applicable law, the remainder of this Agreement shall remain in full force and effect, and this Agreement shall be considered as if such illegal, invalid, void, unenforceable, or in contravention of any applicable law provision had never been contained in the Agreement.

9.5 *No Third Party Beneficiary.* Nothing in this Agreement shall be deemed or construed to create any third-party beneficiaries or otherwise give any third party any claim or right of action against any party to this Agreement.

9.6 *No Waiver – Defenses or Immunities.* Nothing in this Agreement shall be construed as a waiver of either Party's defenses or immunities available under Federal or State law, including but not limited to those set forth in the Texas Education Code or the Texas Civil Practices and Remedies Code. By execution of this Agreement, the City does not waive or surrender any of its governmental powers.

9.7 *No Waiver – Performance.* The failure of either Party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted herein shall not constitute a waiver of either Party's respective right to insist upon appropriate performance

9.8 *Arm's Length.* This Agreement is deemed to have been prepared jointly by the Parties hereto, and any uncertainty or ambiguity herein shall not be interpreted against either Party.

9.9 *Force Majeure.* The City and AISD shall exercise their best efforts to meet their respective duties and obligations as set forth in this Agreement, but shall not be held liable for any delay or omission in performance due to *force majeure* or other causes beyond their reasonable control, including, but not limited to, compliance with any law, ordinance or regulation, acts of God, acts of the public enemy, fires, strikes, lockouts, natural disasters, wars, riots, material or labor restrictions by any governmental authority and/or similar causes.

9.10 *Assignment.* This Agreement is not assignable by either Party, and shall be binding on the Parties, their officers and employees, and any successors in interest.

9.11 *Counterparts.* This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute on and the same instrument.

9.12 *Captions.* The captions to the various clauses of this Agreement are for information purposes only and shall not alter the substance of the terms and conditions of this Agreement.

Executed this _____ day of _____, 2016.

Approved and agreed to for the City of Amarillo:

By: _____

Title: _____

Approved and agreed to for the Amarillo Independent School District:

By: **Brent Hoover** _____

Digitally signed by Brent Hoover
DN: cn=Brent Hoover, o=Amarillo ISD,
ou=COO,
email=brent.hoover@amaisd.org, c=US
Date: 2016.09.20 07:46:32 -05'00'

Title: _____

Exhibit "A"

AISD will be responsible for the costs related to the four police vehicles, as listed below, for each respective year through 2022 that the Agreement is renewed:

AISD Purchase Four Vehicles a Year						
Year	Fleet Addition	Fleet Replacement	Vehicle & Equipment	AISD Total Cost	APD Operating Cost	Accumulated APD Operating Cost for Fleet
2015	4		\$19,802	\$79,208	\$6,912	\$27,648
2016	4		\$19,802	\$79,208	\$6,912	\$55,296
2017	4		\$19,802	\$79,208	\$6,912	\$82,944
2018		4	\$25,502	\$16,000	\$6,912	\$82,944
2019		4	\$25,502	\$16,000	\$6,912	\$82,944
2020		4	\$25,502	\$16,000	\$6,912	\$82,944
2021		4	\$4,000	\$16,000	\$6,912	\$82,944
2022		4	\$4,000	\$16,000	\$6,912	\$82,944

AISD may agree to additional costs related to school liaison vehicles beyond 2022, subject to any restrictions in law or AISD policy.

Below is information related to the costs for school liaison vehicles:

School Liaison Vehicle Costs	
Used Sedan Vehicle Cost	\$3,000
Used SUV Vehicle Cost	\$4,000
Equipment Cost	\$16,802
Supervisor Operating Expense/Yr.	\$6,912

A used vehicle has a three year life for Liaison Officers.

First three years of vehicles will be sedans; after that, SUVs.

The following equipment is included on school liaison vehicles, as of the execution of the Agreement:

Equipment List and Cost for Liaison Vehicles

Item	Cost Each
Group 110: Ford SUV Police Interceptor package, black and white vehicle.	\$32,000
Replacement cost 3 year \$874 per month	\$10,492
Operating rate 3 year \$912 per month	\$10,944
TOTAL	\$53,436

School Liaison Vehicle Equipment	
Radio	\$7,500
Console with faceplates	\$280
Trunk Mounting System	\$375
Emergency Lights (light bar)	\$3,000
Rifle vault	\$1,700
4-Way Antenna	\$130
Push bumper with integrated lights	\$750
Anti-theft device	\$105
Siren cut-off	\$27
Rumbler siren with brackets	\$440
AED	\$1,080
First aid kit	\$90
Fire extinguisher	\$80
Rifle resistant vest and bag	\$1,100
Traffic direction flashlight	\$10
Redman helmet	\$135
Equipment Total	\$16,802



BOARDS AND COMMISSIONS – VACANCIES

Airport Advisory Board (3-year terms)

11/23/2010	Robert Dempsey	10/01/2016
10/01/2013	John S. Denton	10/01/2016
10/01/2013	Bill Harris	10/01/2016
01/12/2010	Jim Mitchell	10/01/2016
11/23/2010	John Whitaker	10/01/2016

Amarillo Hospital District (2-year terms)

10/09/2012	Smith Ellis	10/01/2016
10/09/2012	Mark Logsdon	10/01/2016
11/23/2010	Chuck Speed	10/01/2016

Amarillo-Potter Events Venue District (2-year terms)

10/01/2001	Tom Bivins	10/01/2016
10/01/2004	Dean Roper	10/01/2016

Board of Review-Landmarks & Historic District (3-year terms)

06/19/2001	Carson Burgess	05/21/2015
08/27/2008	Kim Crawford	05/21/2016
11/27/2012	L.V. Perkins	05/21/2015
11/27/2012	Tom Thatcher	05/21/2015
07/13/2004	Mason Rogers	05/21/2016 (resigned)
09/23/2008	Howard Smith	05/21/2016 (resigned)

Downtown Urban Design Review Board (3-year terms)

08/17/2010	David Horsley	08/17/2016
03/10/2015	Steve Pair	08/17/2016
08/17/2010	Dana Walton	08/17/2016
08/17/2010	Wes Reeves	08/17/2016

Emergency Care Advisory Board (3-year terms)

10/01/2013	Stephen Neumann	04/21/2018 (resigned)
04/21/2010	Brian Eades	04/21/2019 (resigned)
05/05/2015	Rahman Rakhshanda	04/21/2016

Greenways Public Improvement District Advisory Board (3-year terms)

10/15/2013	Stephen Carter	09/30/2016
------------	----------------	------------

Library Advisory Board (3-year terms)

09/07/2010	Maury Roman-Jordan	07/19/2016
------------	--------------------	------------

Quail Creek Public Improvement District Advisory Board (3-year terms)

07/31/2010	Kris Culp	09/01/2016
------------	-----------	------------

Planning and Zoning Commission (3-year terms)

06/28/2011	David Craig	05/15/2016
------------	-------------	------------

Texas Panhandle Centers (2-year terms)

09/19/2000	Sam Reeves	10/04/2016
------------	------------	------------

Zoning Board of Adjustment (2-year terms)

10/08/2013	Craig Davis	09/01/2016
10/08/2013	Chris Rhynehart	09/01/2016
02/27/2009	Richard Walton	09/01/2016
10/08/2013	Tom Kolius	09/01/2016