

## AGENDA

FOR A REGULAR MEETING OF THE AMARILLO CITY COUNCIL TO BE HELD ON TUESDAY, MAY 14, 2019 AT 1:00 P.M., CITY HALL, 601 SOUTH BUCHANAN STREET, COUNCIL CHAMBER ON THE THIRD FLOOR OF CITY HALL, AMARILLO, TEXAS.

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***City Council Mission: Use democracy to govern the City efficiently and effectively to accomplish the City's mission.***

***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.

**INVOCATION:** Rev. Herman Moore, Carter Chapel Primitive Baptist Church

1. City Council will discuss or receive reports on the following current matters or projects.
  - A. Review agenda items for regular meeting and attachments;
  - B. Quarterly Budget Update;
  - C. Sales Tax Update;
  - D. Discussion on the Proposed Ordinance Amending the Amarillo Municipal Code, Chapter 16-5, Special Traffic Control Measures; and
  - E. Consider future Agenda items and request reports from City Manager.

2. **CONSENT ITEMS:**

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

*THE FOLLOWING ITEMS MAY BE ACTED UPON BY ONE MOTION. NO SEPARATE DISCUSSION OR ACTION ON ANY OF THE ITEMS IS NECESSARY UNLESS DESIRED BY A COUNCILMEMBER, IN WHICH EVENT THE ITEM SHALL BE CONSIDERED IN ITS NORMAL SEQUENCE AFTER THE ITEMS NOT REQUIRING SEPARATE DISCUSSION HAVE BEEN ACTED UPON BY A SINGLE MOTION.*

A. **MINUTES:**

Approval of the City Council minutes for the meeting held on May 7, 2019.

B. **CONSIDER – PROFESSIONAL SERVICES AGREEMENT WITH BRANDT ENGINEERS GROUP, LTD – OSAGE WATER TREATMENT PLANT BACKWASH TANK MODIFICATIONS:**

(Contact: Matthew Thomas, City Engineer)

Brandt Engineers Group Ltd. -- \$109,600.00

This item is to consider approval of the professional services agreement for the design and construction phases of the Osage Water Treatment Plant Backwash Tank Modifications project.

C. **CONSIDER – AWARD OF A LEASE TO WESTERN ENTERPRISES, INC. AT RICK HUSBAND AMARILLO INTERNATIONAL AIRPORT:**

(Contact: Michael Conner, Airport Director)

This item is the award of a lease agreement to Western Enterprises for the rental of one of the airport's bunker buildings for use as a fireworks storage location for the Amarillo Sod Poodles games. The lease is a one-year lease with two optional extensions of 12 months each. Rental is \$236.97 per month.

- D. **CONSIDER – PURCHASE OF 24 POLICE PATROL VEHICLES:**  
(Contact: Glenn Lavender, Fleet Services Superintendent)  
Award to best evaluated vendor: Rockdale Country Ford dba Caldwell Country Ford -- \$851,475.00  
This item approves the scheduled replacements and three (3) additional units approved in the 2018/2019 budget. Replacements will be high mileage/high maintenance when new vehicles arrive. Vehicles will be used by the Police Department for daily operational requirements.

3. **NON-CONSENT ITEMS:**

- A. **RESOLUTION – MUNICIPAL ELECTION:**  
(Contact: Frances Hibbs, City Secretary)  
This resolution canvasses the returns and declares the results of the regular election held on May 4, 2019.
- B. **OATH OF OFFICE:**  
The Honorable Laura Hamilton to conduct the Oath of Office for the Mayor and Councilmembers elected on May 4, 2019.
- C. **REMARKS:**  
Remarks by the new Mayor and Councilmembers.
- D. **RESOLUTION – AUTHORIZING THE ANNUAL SELECTION OF THE MAYOR PRO TEMPORE:**  
(Contact: Leslie Schmidt, Senior Assistant City Attorney)  
This resolution authorizes the City Council to annually select the Mayor Pro Tempore. The Mayor Pro Tempore assumes the roles of the Mayor when the Mayor is unavailable.
- E. **CONSIDERATION OF ORDINANCE NO. 7785:**  
(Contact: Andrew Freeman, Director of Planning and Development Services)  
This is the first reading of an ordinance amending Chapter 14-2, Article III, to clarify the scope of coverage of the hotel occupancy tax, including bed and breakfasts and other short-term residential rentals and the duty to take all necessary steps to pay such tax.
- F. **CONSIDER AWARD – BID #6401/PROJECT #462060 – STREETS NORTHWEST QUADRANT SEAL COAT FY 16/17 – FY 20/21 COMMUNITY INVESTMENT PROGRAM, PROPOSITION 1:**  
(Contact: Matthew Thomas, City Engineer)  
CDM Holdings, LLC. - \$4,879,505.20  
This item is to consider award of the construction contract for the seal coating of streets within the Northwest quadrant of Amarillo that have been identified as needing rehabilitation. This work is to be coordinated with similar work completed by the Street Department maintenance staff.

Amarillo City Hall is accessible to individuals with disabilities through its main entry on the south side (601 South Buchanan Street) 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 10th day of May 2019.

Regular meetings of the Amarillo City Council stream live on Cable Channel 10 and are available online at:  
<http://amarillo.gov/city-hall/city-government/view-city-council-meetings>  
*Archived meetings are also available.*

2A



STATE OF TEXAS  
COUNTIES OF POTTER  
AND RANDALL  
CITY OF AMARILLO

On the 7th day of May 2019, the Amarillo City Council met at 12:00 p.m. for a work session which was held in the Council Chamber located on the third floor of City Hall at 601 South Buchanan Street, with the following members present:

GINGER NELSON  
ELAINE HAYS  
FREDA POWELL  
EDDY SAUER  
HOWARD SMITH

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

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

JARED MILLER  
KEVIN STARBUCK  
BRYAN MCWILLIAMS  
STEPHANIE COGGINS  
FRANCES HIBBS

CITY MANAGER  
ASSISTANT CITY MANAGER  
CITY ATTORNEY  
ASSISTANT TO THE CITY MANAGER  
CITY SECRETARY

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

**PUBLIC COMMENT**

Rusty Tomlinson, 5700 Canyon Drive, stated he represented de Confederate Amarillo. He read from a Dallas article that stated Texas has removed more confederate statues than any other state over the last three years. He asked the statue be removed from Ellwood Park. Jon Mark Beliuue, 3419 Fleetwood Drive, thanked the Council for their service the last two years. He also thanked them for continuing on for the next two years to continue moving the city forward. There were no further comments.

ATTEST:

\_\_\_\_\_  
Frances Hibbs, City Secretary

\_\_\_\_\_  
Ginger Nelson, Mayor

STATE OF TEXAS  
COUNTIES OF POTTER  
AND RANDALL  
CITY OF AMARILLO

On the 7th day of May 2019, the Amarillo City Council met at 1:00 p.m. for a regular meeting held in the Council Chamber located on the third floor of City Hall at 601 South Buchanan Street, with the following members present:

GINGER NELSON  
ELAINE HAYS  
FREDA POWELL  
EDDY SAUER  
HOWARD SMITH

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

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

JARED MILLER  
KEVIN STARBUCK  
BRYAN MCWILLIAMS  
STEPHANIE COGGINS  
FRANCES HIBBS

CITY MANAGER  
ASSISTANT CITY MANAGER  
CITY ATTORNEY  
ASSISTANT TO THE CITY MANAGER  
CITY SECRETARY

The invocation was given by Greg Dowell, Central Church of Christ. Mayor Nelson led the Pledge of Allegiance.

Proclamations were presented for "Building Safety Month" and "Elder Abuse Awareness Month."

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

ITEM 1:

- A. Review agenda times for regular meeting and attachments;
- B. Update on Stolen Vehicles and Property Crime Report;
- C. Convention and Visitors Council Quarterly Update; and
- D. Consider future Agenda items and request reports from City Manager.

CONSENT ACTION ITEMS:

ITEM 2: Mayor Nelson presented the consent agenda and asked if any item should be removed for discussion or separate consideration. Motion was made by Councilmember Powell to approve the consent items, seconded by Councilmember Sauer.

- A. MINUTES:  
Approval of the City Council minutes for the meeting held on April 30, 2019.
- B. CONSIDERATION OF ORDINANCE NO. 7776:  
(Contact: Marcus Norris, Deputy City Attorney)  
This item conducts the second and final reading of an ordinance. The Current franchise ordinance/agreement is expiring soon. (However, SPS has agreed to continue abiding by the terms for another 90 days, to allow for this renewal process.) This item is to renew the franchise for another 10 year period, allowing SPS to continuing using the public right-of-way within the City for electrical utility service infrastructure. In return, the company pays the City a "rental fee" of 5% of gross revenue. The franchise agreement contains numerous other details such as authority to trim trees, insurance, indemnity, relocation of utilities, and other provisions. This renewal makes no substantive change from the existing agreement.

C. **ACCEPTANCE – TEXAS TRAFFIC SAFETY PROGRAM GRANT AGREEMENT – STEP – CLICK IT OR TICKET:**

(Contact: Chief Ed Drain, Amarillo Police Department)

Grantor: Texas Department of Transportation

Grant Amount: \$10,964.00

Match Amount: 0

Total Awarded: \$10,964.00

This item accepts the Fiscal Year 2019 Texas Traffic Safety Program Grant. The Texas Department of Transportation provides funding to the Amarillo Police Department to focus additional resources to fund patrol and enforcement of speed enforcement, occupant protection (seatbelt and child safety seats), distracted driving and Driving While Intoxicated (DWI) offenses.

D. **CONSIDER AWARD -- REPLACEMENT OF CIVIC CENTER ICE PLANT COOLING TOWER AND REBUILD OF SUPPORT FRAME:**

(Contact: Jerry Danforth, Director of Facilities)

West Techs Chill Water Specialists LLC -- \$147,600.00

This will be for the replacement of the Civic Center Ice Plant Cooling Tower and the rebuild of the support system. The original installation of the Plant Tower was in 1996 and can no longer be repaired. This bid will cover the full scope of the work and materials required for the installation.

E. **CONSIDER – AWARD ENGINEERING SERVICE CONTRACT:**

(Contact: Wesley Hall, Risk Management)

Reynolds Engineering Associates, Inc. -- \$89,687.00

This is an Engineering Services Contract to determine scope of work for repairs to the Arden Road pump station. The pump station switch gear was severely damaged by a fire on April 3, 2019. This contract will be used to negotiate repair costs with Affiliated FM Global.

Voting AYE were Mayor Nelson, Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 5:0 vote of the Council.

**NON-CONSENT ITEMS**

ITEM 3A: Mr. McWilliams advised at 2:00 p.m. that the City Council would convene in Executive Session per Texas Government Code: 1) Section 551.087 – Deliberation regarding economic development negotiations; discussion of commercial or financial information received from an existing business or business prospect with which the City is negotiating for the location or retention of a facility, or for incentives the City is willing to extend, or financial information submitted by same: a. Discussion regarding commercial or financial information received from a business prospect and/or to deliberate the offer of a financial or other incentive to a business prospect: Project # 18-12-01 (Manufacturing) and Project # 19-03-01 (Manufacturing).

Mr. McWilliams announced that the Executive Session was adjourned at 2:50 p.m. and recessed the Regular Meeting.

ATTEST:

\_\_\_\_\_  
Frances Hibbs, City Secretary

\_\_\_\_\_  
Ginger Nelson, Mayor

2B



# Amarillo City Council Agenda Transmittal Memo



<b>Meeting Date</b>	May 14, 2019	<b>Council Priority</b>	Infrastructure Initiative
<b>Department</b>	Capital Projects & Development Engineering		
<b>Contact</b>	Matthew Thomas		

## Agenda Caption

CONSIDER – Professional Services Agreement with Brandt Engineers Group, Ltd – Osage Water Treatment Plant Backwash Tank Modifications for Project No. 530029, RFQ #01-19 in the amount of \$109,600.00

## Agenda Item Summary

This item is to consider approval of the professional services agreement for the design and construction phases of the Osage WTP Backwash Tank Modifications project.

## Requested Action

Consider approval of agreement with Brandt Engineers Group, Ltd. in the amount of \$109,600.00 for execution by the City Manager.

## Funding Summary

Funding for this project is available in the Project Budget Number 530029. This project was approved in the FY 17/18 and FY 18/19 Community Investment Program Budgets.

## Community Engagement Summary

The backwash tank is located within the Osage Water Treatment Plant. As the project progresses through design, coordination will occur with Osage personnel. Design of the project is not anticipated to have physical impact on the plant.

## Staff Recommendation

City Staff is recommending approval of the contract.

## AGREEMENT FOR PROFESSIONAL SERVICES

BF

This Agreement is made between the City of Amarillo, a municipal corporation located in Potter and Randall Counties, Texas (“OWNER”) and Brandt Engineers Group, Ltd. (“ENGINEER”).

OWNER hereby engages ENGINEER to perform the engineering services for Project No. 530029 Osage WTP Backwash Tank Modifications (the “Services”):

The Services are more particularly set forth in the documents dated March 9, 2019 and March 15, 2019, from ENGINEER and attached to this Agreement as Exhibit A (the “Scope of Work”) and by this reference made a part of the Agreement. ENGINEER accepts this engagement on the terms and conditions hereinafter set forth. In the event of any conflict between Exhibit A and this Agreement, the terms of this Agreement will govern.

### I.

ENGINEER agrees to accept as payment for the completion of the Services a maximum fee, inclusive of expenses, of \$109,600.00. Additional services outside the Scope of Work will require prior written approval by OWNER.

### II.

ENGINEER will submit monthly billings based on the evaluation processes of the Services. ENGINEER’S billings will be in writing and of sufficient detail to fully identify the work performed to date of billing. No invoices detailing services performed outside the Scope of Work will be paid without corresponding proof of prior written authorization by the OWNER. Payments will be made by OWNER within 30 days of receipt of billing. Interest on payments over 30 days past due shall accrue at the rate provided by law.

### III.

ENGINEER will confer with representatives of OWNER to take such steps as necessary to keep the Services on schedule. OWNER’S representative for purposes of this Agreement shall be Matthew Thomas, City Engineer, or his designee. ENGINEER will begin work on the Services within five days after receipt of written notification to proceed from OWNER.

### IV.

ENGINEER agrees that all products, including but not limited to all reports, documents, materials, data, drawings, information, techniques, procedures, and results of the work (“Work Product”) arising out of or resulting from the particular and defined Scope of Work that will be provided hereunder, will be the sole and exclusive property of OWNER and are deemed “Works Made for Hire”. ENGINEER agrees to and does hereby assign the same to OWNER. ENGINEER will enter into any and all necessary documents to effect such assignment to OWNER. ENGINEER is entitled to maintain copies of all Work Product that is produced or used in the execution of this Agreement. It is understood that ENGINEER does not represent that such Work Product is suitable for use by OWNER on any other projects or for any purposes other than those stated in this Agreement. Reuse of the Work Products by OWNER without the ENGINEER’S specific written authorization, verification and adaption will be at OWNER’S risk and without any liability on behalf of ENGINEER.

### V.

ENGINEER agrees neither it nor its employees or subcontractors or agents will, during or after the term of this Agreement, disclose proprietary or confidential information of OWNER unless required

to do so by court order or similar valid legal means. Such proprietary and confidential information received by ENGINEER or its employees and agents shall be used by ENGINEER or its employees and agents solely and exclusively in connection with the performance of the Services.

VI.

ENGINEER agrees that OWNER or its duly authorized representatives will, until the expiration of 3 years after final payment under this Agreement, have access to and the right to examine, audit, and copy pertinent books, documents, papers, invoices and records of ENGINEER involving transactions related to this Agreement, which books, documents, papers, invoices and records ENGINEER agrees to maintain for said time period.

VII.

Any and all taxes assessed by any government body upon services or materials used in the performance of this Agreement shall be the responsibility of ENGINEER.

VIII.

ENGINEER shall furnish at ENGINEER'S own expense, all materials, supplies and equipment necessary to carry out the terms of this Agreement.

IX.

If ENGINEER is requested in writing by OWNER to provide any services outside of the Scope of Services, ENGINEER and OWNER will agree in writing as to the nature of such services and to a price for such services before any work is started.

X.

ENGINEER SHALL AGREE TO INDEMNIFY AND HOLD HARMLESS OWNER AND ITS OFFICERS, EMPLOYEES, AGENTS, SUCCESSORS, AND ASSIGNS FROM AND AGAINST LIABILITY FOR DAMAGE TO THE EXTENT THAT THE DAMAGE IS CAUSED BY OR RESULTS FROM AN ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY THE ENGINEER OR THE ENGINEER'S AGENT, ENGINEER UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH ENGINEER EXERCISED CONTROL. ENGINEER SHALL BE RESPONSIBLE FOR PERFORMING THE WORK UNDER THIS AGREEMENT IN A SAFE AND PROFESSIONAL MANNER AND SHALL BE LIABLE FOR ENGINEER'S NEGLIGENCE AND THAT OF ENGINEER'S EMPLOYEES, CONTRACTORS, AND AGENTS.

XI.

ENGINEER will provide insurance coverage in accordance with OWNER'S insurance requirements as set forth in the "Certificate of Insurance Requirements" attached to this Agreement as Exhibit B and by reference made a part hereof. If the required insurance is terminated, altered, or changed in a manner not acceptable to OWNER, this Agreement may be terminated by OWNER, without penalty, on written notice to ENGINEER. In addition, ENGINEER will provide Professional Liability Insurance in the amount of \$1,000,000.00 per claim.



XII.

ENGINEER shall at all times observe and comply with all applicable laws, ordinances and regulations of the state, federal and local governments which are in effect at the time of the performance of this Agreement.

XIII.

Either party shall have the right to terminate this Agreement by giving the non-terminating party 7 days prior written notice. Upon receipt of notice of termination, ENGINEER will cease any further work under this Agreement and OWNER will only pay for work performed prior to the termination date set forth in the notice. All finished and unfinished Work Product prepared by ENGINEER pursuant to this Agreement will be the property of OWNER.

XIV.

In the event OWNER finds that any of the Work Product produced by ENGINEER under this Agreement does not conform to the Scope of Work, then ENGINEER will be given 30 days after written notice of the nonconformity to make any and all corrections to remedy the non-conformance. If after these 30 days ENGINEER has failed to make any Work Product conform to the specifications, OWNER may terminate this Agreement and will only owe for work done prior to termination and accepted by OWNER. All finished or unfinished Work Product prepared by ENGINEER pursuant to this Agreement will be the property of OWNER.

XV.

Neither party shall be responsible for failure to fulfill its obligations hereunder or liable for damages resulting from delay in performance as a result of war, fire, strike, riot or insurrection, natural disaster, delay of carriers, governmental order or regulation, complete or partial shutdown of plant, unavailability of equipment or software from suppliers, default of a subcontractor or vendor to the party if such default arises out of causes beyond the reasonable control of such subcontractor or vendor, the acts or omissions of the other party, or its officers, directors, employees, agents, contractors, or elected officials, or other occurrences beyond the party's reasonable control ("Excusable Delay" hereunder). In the event of such Excusable Delay, performance shall be extended as agreed to in writing by the parties.

XVI.

ENGINEER'S address for notice under this Agreement is as follows:

Brandt Engineers Group, Ltd.  
Attention: Dwight Brandt, P.E.  
4537 Canyon Drive  
Amarillo, Texas 791010  
Telephone: 806-335-7233  
E-Mail: brandt@brandtengineers.com

OWNER'S address for notice under this Agreement is as follows:

City of Amarillo  
Attention: Matthew Thomas, P.E.  
PO Box 1971  
Amarillo, Texas 79105-1971  
Telephone: (806) 378-9334  
Fax: (806) 378-3024  
E-Mail: matthew.thomas@amarillo.gov

Any notice given pursuant to this Agreement shall be effective as of the date of receipt by registered or certified mail or the date of sending by fax, or e-mail and mailed, faxed or e-mailed to the address or number stated in this Agreement.

XVII.

All obligations of OWNER are expressly contingent upon appropriation by the Amarillo City Council of sufficient, reasonably available funds.

XVIII.

ENGINEER shall provide experienced and qualified personnel to carry out the work to be performed by ENGINEER under this Agreement and shall be responsible for and in full control of the work of such personnel. ENGINEER agrees to perform the Scope of Work hereunder as an independent contractor and in no event shall the employees or agents of ENGINEER be deemed employees of OWNER. ENGINEER shall be free to contract for similar services to be performed for others while ENGINEER is under Agreement with OWNER.

XIX.

ENGINEER will perform the services to be provided under this Agreement with the professional skill and care ordinarily provided by competent engineers practicing in the same or similar locality and under the same or similar circumstances and professional license and as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer.

XX.

ENGINEER agrees not to discriminate by reason of age, race, religion, sex, color, national origin or condition of disability in the performance of the Services. ENGINEER further agrees to comply with the Equal Opportunity Clause as set forth in Executive Order 11246 as amended and to comply with the provisions contained in the Americans With Disability Act, as amended.

XXI.

No modifications to this Agreement shall be enforceable unless agreed to in writing by both parties.

XXII.

OWNER and ENGINEER hereby each binds itself, its successors, legal representatives and assigns to the other party to this Agreement, and to the successors, legal representatives and assigns of such party in respect to all covenants of this Agreement. Neither OWNER nor ENGINEER will be obligated or liable to any third party as a result of this Agreement.

XXIII.

Neither party will assign, sublet, or transfer any interest in this Agreement without the prior written consent of the other party.

XXIV.

This Agreement is entered into and is to be performed in the State of Texas. OWNER and ENGINEER agree that the law of the State of Texas shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interruption of this Agreement. All litigation arising out of this Agreement shall be brought in courts sitting in Texas with a venue in Potter County.

XXV.

In no event shall the making by the OWNER of any payment to ENGINEER constitute or be construed as a waiver by the OWNER of any breach of the Agreement, or any default which may then exist, nor shall it in any way impair or prejudice any right or remedy available to the OWNER in respect to such breach or default.

XXVI.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision thereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

IN WITNESS WHEREOF, the parties have made and executed this Agreement as of the day, month and year shown below to be effective as of the date that the last of the parties signs.

ATTEST:

CITY OF AMARILLO  
(OWNER)

\_\_\_\_\_  
Frances Hibbs, City Secretary

By: \_\_\_\_\_  
Jared Miller, City Manager

Date: \_\_\_\_\_

BRANDT ENGINEERS GROUP, LTD.  
(ENGINEER)

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

# EXHIBIT A

CITY OF AMARILLO  
JOB NO. 530029: OSAGE BACKWASH TANK MODIFICATIONS  
ENGINEERING SERVICES SCOPE OF WORK  
3/15/2019

## Base Project Scope

Prepare plans, specifications, and contract documents and perform construction phase services for:

1. Testing the existing tank painting systems for lead.
2. Sandblasting and coating the interior of the tank.
3. Pressure wash and overcoat the exterior of the tank.
4. Changing internal overflow piping configuration from internal to external.
5. Installation of a flap valve with mounting for limit switch.
6. Replacing exterior ladder to comply with OSHA standards.
7. Temporarily removing the top of tank lighting fixtures and reinstalling when painting is completed. No new fixtures required (if so, these will be installed by the City).
8. Removing cathodic protection system and associated electrical lines. Removing one 1" cathodic protection cable and conduit, now located on side of tower, from protection unit to connections at top of tank.
9. Existing 3/4" lighting conduit to remain except for new offset required near top of tank to avoid stepping on conduit at top of ladder. Installing junction box at base of tank and second junction box at top of tank; repulling branch circuit.
10. Installing 4" buried poly conduit from south tank to north tank, and installing five temporary antenna cables + data cables between tanks. Cables to be run to top of north tank and antennas to be relocated to top of north tank. Extending antenna feeds from present location on south tank to top of north tank. Antennas will be moved back to south tank when painting is complete.
11. Installing new limit switch on new outside overflow line and connect to existing control wiring.

## Add Alternate Project Scope

Prepare plans, specifications, and contract documents and perform construction phase services for:

1. Installing a new, approx. 80 ft., self-supporting antenna tower to be constructed at southeast corner of Administration Building.
2. Providing air terminal, downlead, and ground rod for lightning protection of new antenna tower. FAA clearance lighting not required.
3. Relocating modem/antenna interface j-box at base of south tower to basement by City.
4. Removing five or six (to be determined) existing antennas from south backwash tank and relocating to new antenna tower.
5. Installing new antenna cables in conduit from basement of Administration Building to antennas re-mounted to new tower.
6. Removing j-box with modem from south backwash tank. Removing adjacent antenna j-box.
7. Deleting Item 10 of Base Project Scope if Add Alternate Project Scope is done.

2C



# Amarillo City Council Agenda Transmittal Memo



<b>Meeting Date</b>	May 14, 2019	<b>Council Priority</b>	Transportation Systems
<b>Department</b>	Aviation		
<b>Contact</b>	Michael W. Conner: Director of Aviation		

### Agenda Caption

CONSIDER – AWARD OF A LEASE TO WESTERN ENTERPRISES, INC. AT RICK HUSBAND AMARILLO INTERNATIONAL AIRPORT.

### Agenda Item Summary

This item is the award of a lease agreement to Western Enterprises for the rental of one of the airport's bunker buildings for use as a fireworks storage location for the Amarillo Sod Poodles games. The lease is a one-year lease with two optional extensions of 12 months each. Rental is \$236.97 per month.

### Requested Action

Approve the lease between the City of Amarillo and Western Enterprises, Inc.

### Funding Summary

This is a revenue agreement.

### Community Engagement Summary

N/A

### Staff Recommendation

Approval of the lease between the City of Amarillo and Western Enterprises, Inc.

## AIRPORT LAND LEASE AND STORAGE AGREEMENT

This Airport Land Lease and Storage Agreement (“Agreement”) is entered into by and between the City of Amarillo, (“City” or “Airport” or “Lessor”), and Western Enterprises, Inc., with a primary office located at 13513 W. Carrier Road, Carrier, Oklahoma 73727, a corporation organized and existing under the laws of the State of Oklahoma (“Lessee”) on this \_\_\_\_ day of \_\_\_\_\_, 2019.

### WITNESSETH:

WHEREAS, The City of Amarillo is the owner and operator of the Rick Husband Amarillo International Airport (“Airport”); and

WHEREAS, Lessee has requested that the City provide an appropriate storage facility for Lessee to store fireworks to be used routinely at the Downtown Amarillo Multi-Purpose Venue and/or other presentations in the region; and

WHEREAS, Airport has a storage facility that will accommodate Lessee’s request; and

WHEREAS, in order to accommodate Lessee’s request, the parties hereby agree to enter into this Agreement.

NOW, THEREFORE, in consideration of the agreements set forth herein and of the mutual covenants herein set forth, the parties agree as follows:

### SECTION 1 PREMISES

Section 1.1 The City does hereby demise and let unto Lessee and Lessee does hereby lease and take from the City the real property described as “Bunker 306” located approximately ½ mile south of Airport Blvd and ½ mile southwest of the Airport’s Runway 31 (“Leased Premises”), together with all rights (including, but not limited to, the rights of ingress and egress), licenses, and privileges needed in connection therewith for storage of “display fireworks” on the Leased Premises. The Leased Premises consists of approximately 2,000 square feet.

Section 1.2 Lessee covenants that it will use its best efforts to prevent the general public (other than employees, customers and visitors of the Lessee and the Lessee’s sub-lessees while conducting business at the Leased Premises) from parking automobiles on the Leased Premises, and in no event shall the Lessee operate a public automobile parking facility and/or charge for automobile parking on the Leased Premises.

Section 1.3 The City provides the Leased Premises in an “as-is” condition and does not guarantee that the Leased Premises meet any or all regulations governing the specific use of the Leased Premises by Lessee. Lessee represents that it has fully inspected the Premises and finds it suitable for Lessee’s needs and purposes. Any modifications required to comply with applicable sections of 27 CFR Part 555, Subpart K, for a Type 4 Magazine shall be the sole responsibility of the Lessee.

Section 1.4 Lessee shall use the Leased Premises solely for the storage of display fireworks in quantities up to and including 5,000 US pounds.

Section 1.5 The City shall provide a written procedure for Lessee to gain access to the Leased Premises 24 hours per day, 365 per year.

## **SECTION 2 TERM**

Section 2.1 Lessee shall have and hold said Leased Premises for a period of one (1) year commencing at 12:01 a.m. local time on the day and year first above written and ending on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ at 11:59p.m. local time.

Section 2.2 This Lease shall automatically renew for two (2) separate optional periods of 12 months each, at the same lease rate, upon the mutual agreement of the Airport and Lessee, which agreement shall be confirmed at least 30 days prior to the end of the initial agreement or the end of the first option period. No subsequent renewal or option period is allowed under this Agreement.

Section 2.3 Lessee may terminate this Agreement at any time upon 30 days notice to Airport for any reason. Airport may terminate this Agreement at any time in accordance with Section 4 (Rights of Termination) herein.

Section 2.4 At the end of the term of this Agreement, or at any time this Agreement is earlier terminated, the Lessee shall, within fifteen (15) days after the date of termination, to remove itself and all personal possessions, excluding fixtures and other permanent improvements (if any), and vacate the Leased Premises.

### **SECTION 3 RENTALS, FEES, AND CHARGES**

Section 3.1 Lessee shall pay to the City as rentals, fees, and charges for the Leased Premises the following:

a. The Total Monthly Rental Amount shall be \$236.97, due on or before the fifteenth (15<sup>th</sup>) day following the end of each calendar month during which the Lessee stored any materials of any kind on the Premises. Lessee shall make payment to the Airport on a monthly basis, within 10 days following the end of any calendar month during which the Lessee stored any materials of any kind on the Premises.

### **SECTION 4 RIGHTS OF TERMINATION**

Section 4.1 Except as otherwise set forth herein, upon any failure of performance of the terms of this Agreement by Lessee, or in the event of flagrant or repeated violations by Lessee's officers, agents, or employees, of the Airport Rules and Regulations, which Rules and Regulations are incorporated herein by reference, or any other written mandate approved by the City Council of the City of Amarillo, the City may elect to treat such failure or violation as a breach of this Agreement and may cancel and terminate this Agreement by giving written notice to Lessee. Upon receipt of such notice, Lessee shall have a period of thirty (30) days thereafter within which to remedy such breach, provided that, in the event the breach cannot be remedied within such period the Lessee must nevertheless, within such period, initiate the remedy and diligently and continuously prosecute its completion. Should Lessee fail to remedy such breach or initiate the remedy within the prescribed thirty (30) days, this Agreement shall be considered terminated immediately and without further notice to Lessee. The City may at its sole discretion extend the time for remedy of the breach for such additional time as it deems necessary to correct same.

Section 4.2 In addition to the right of the City to terminate the Agreement as forth in 7.1 above, the City shall have the right to terminate this Agreement immediately upon the occurrence of any one or more of the following circumstances, which termination shall be accompanied by written notice to Lessee setting forth the effective date of termination:

a. In the event that there is any default in payment by the Lessee of rentals, fees, and charges due to the City under this Agreement and such default continues for ten (10) days following written notice by the City to the Lessee of sums due, owing, and unpaid, which payment is not contested by Lessee within ten (10) days following the written notice of default.



b. Upon receipt by City of notice of cancellation of Lessee's insurance, or upon receipt of notice of reduction of Lessee's insurance below the limited required herein, Lessee shall be required to cease all operations immediately, and shall have a period of thirty (30) days within which to replace said insurance or restore it to the required limits; and Lessee's failure to do so within said period shall constitute grounds for termination.

c. Upon receipt of notice of the filing of voluntary petition of bankruptcy by Lessee; adjudication of Lessee as bankrupt; the filing of any involuntary petition of bankruptcy against Lessee and failure of Lessee to have the same dismissed within a reasonable time; appointment of receiver of Lessee's assets; the making of a general assignment for the benefit of creditors; the filing of a petition or answer seeking an arrangement for the reorganization of Lessee under any Federal Reorganization Act, including petitions and answers under the Federal Bankruptcy Act; the occurrence of any act which operates to deprive the Lessee permanently of the rights, powers and privileges necessary for the proper conduct and operation of the privileges granted herein; or, the levy of any attachment or execution which substantially interferes with Lessee's operation under this Agreement and which attachment or execution is not vacated, dismissed, stayed or set aside within a period of sixty (60) days.

d. Issuance by any Court of competent jurisdiction of any injunction substantially restricting the Lessee's activities and the continuation of the injunction, whether permanent or temporary, for a period of thirty (30) days.

Section 4.3 The City shall have the right to terminate this Agreement as to all or any portion of the Leased Premises needed for approved Airport expansion provided the City gives ninety (90) days advance written notice to Lessee of the need to reclaim all or a portion of the Leased Premises for approved airport expansion. The City shall have no liability for loss of business or incidental costs associated with such termination.

## **SECTION 5 INSURANCE**

Section 5.1 At all times during the term of this Agreement or any agreed upon extended term hereof, Lessee shall maintain in force a policy or policies of insurance issued by a company or companies duly authorized to do business in the State of Texas and with a Best Rating of B+ or better, covering the Leased Premises and any additional premises necessary or incidental to Lessee's operations with the following coverages:

- a. Commercial General Liability Insurance with a minimum bodily injury and property damages per occurrence limit of \$10,000,000.00 for coverage of bodily injury and property damage; personal and advertising injury; and products/completed operations.
- b. Business Automobile Liability Insurance for all owned, non-owned, and hired vehicles with a combined single limit of \$1,000,000.00 for bodily injury and property damage.
- c. Workers' Compensation and Employers Liability coverage with limits consistent with the Texas Workers' Compensation Act and minimum policy limits for Employers Liability of \$1,000,000.00.

These limits may be changed from time to time by the City.

Section 5.2 The City, its council, officers, and employees shall be named as additional insureds for commercial general liability and business automobile liability; certificates evidencing such coverage shall be provided to the City. The workers' compensation and employer's liability must contain a waiver of subrogation in favor of the City. All policies shall be endorsed to provide for notice by the company to the City in writing at least thirty (30) days prior to the amendment, cancellation, or termination of any policy or policies of insurance provided by the Lessee pursuant to the terms of this Agreement.

Section 5.3 The Lessee shall at all times during the term hereof, provide fire and extended coverage insurance for each permanent or temporary building or other facility situated within the Leased Premises, in an amount adequate to provide for the repair or replacement of each structure if damaged or destroyed. Such insurance shall provide coverage at all times in an amount equal to at least ninety percent (90%) of the replacement cost of each building or facility and shall be issued by a company duly authorized to do business in the State of Texas; and such insurance shall name the City as an insured as its interest shall appear.

Section 5.4 The proceeds of such insurance shall be used by the Lessee exclusively for the repair or replacement of each such building or facility damaged or destroyed by fire or other covered peril in the minimum possible time, and the building or facility shall be returned to its pre-damaged condition or so improved or modified as to be equivalent in value to the pre-damaged building or facility, unless otherwise agreed to by the City.

Section 5.5 The Lessee shall be solely responsible for providing and maintaining any insurance required by it covering fire, theft and/or other peril on the contents of buildings and facilities occupied by it within the Leased Premises.

Section 5.6 The City shall, under no circumstance, be liable for any loss of revenue to Lessee due to diminished, impeded, or complete loss of operational capability which is a result of fire, other destruction, or partial destruction, of any building or equipment that is insurable under any policy provided by Lessee or Lessor.

#### **SECTION 6 INDEMNITY**

Section 6.1 Lessee shall protect, defend, indemnify and hold harmless the City, its Council, officers and employees from and against any and all liabilities, losses, suits, claims, judgments, fines 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 attorney fees, court costs, interest and expert fees), of any nature whatsoever arising out of or incident to this Agreement and/or the use or occupancy of the Leased Premises, or out of the acts or omissions of Lessee's officers, agents, employees, subtenants, contractors, subcontractors, licensees, or invitees, regardless of where the injury, death or damage may occur, unless such injury, death, or damage is caused predominately by the negligence of the agents, servants, or employees of the City. The City shall give to Lessee prompt and timely notice of any such claim or action. The City shall be entitled to choose counsel to represent it, at Lessee's expense, in connection with the matters covered by the provisions of this Section and said provisions shall survive the expiration or early termination of this Agreement.

Section 6.2 It is expressly understood and agreed that Lessee is, and shall be an independent contractor and operator, responsible to all parties for their acts or omissions, for which the City shall in no way be responsible.

Section 6.3 The rights and indemnification under this Agreement are, in addition to all other rights and remedies of the City hereunder and available, at law or in equity. The indemnification provisions herein shall survive the expiration or earlier termination of this Agreement.

## **SECTION 7 MAINTENANCE**

Section 7.1 Lessee, at its sole cost and expense, shall maintain the Leased and appurtenances thereto at all times in a safe and neat condition, free of unsightly conditions and in good physical repair consistent with good business practice. Lessee shall repair all damage to the Leased Premises caused by its employees, licensees, or visitors or arising out of its operation thereon. Lessee shall have responsibility for removal of snow, ice, and debris from the Leased Premises.

Section 7.2 The City, in its discretion, which shall be reasonably exercised, shall be the judge of the quality of maintenance. Upon written notice by the City to Lessee, Lessee shall be required to perform reasonable maintenance that the City deems necessary. If such maintenance or reasonable steps to undertake such maintenance are not commenced by Lessee within ten (10) days after receipt of such written notice, the City shall have the right to enter upon the Leased Premises and perform the necessary maintenance, the cost of which, including a 10% administrative charge, shall be borne by Lessee. Payment for such work performed by the City shall be made by Lessee within thirty (30) days after receipt of billing by the City for the same.

## **SECTION 8 TAXES AND LICENSES**

Section 8.1 Lessee shall pay all license fees, permit fees, and/or any and all taxes necessary or required by law in connection with its occupancy of the Leased Premises or the operation of its business thereon. In the event that by legislative enactment, judicial action, or administrative decision the City or Lessee shall be determined to be liable for any real estate taxes, charges in lieu of taxes, or use charge assessed against the Leased Premises or improvements thereon, or any excise or tax on the activities or operations conducted on the premises, Lessee shall pay the same in the manner provided and shall reimburse the City for any such taxes, charges, or excises that the City may be required to pay.

Section 8.2 Lessee shall have the right, either in its own name or in the name of the City, to contest or litigate, in the appropriate tribunal or tribunals, the validity of such assessment or the amount thereof at the expense of the Lessee. Lessee shall indemnify and hold harmless City against any loss or damage arising from Lessee's contest of said assessment or its failure to pay

the same pending final adjudication of the validity of the assessment and/or the amount thereof by Court or other tribunal of competent jurisdiction.

Section 8.3 As in the above section, the phrase “charge in lieu of taxes” shall not include any charges in lieu of taxes voluntarily assumed by the Lessee or City. Such charges voluntarily assumed shall be the obligation of the Lessee or City, as the case may be, voluntarily assuming obligation for the same.

Section 8.4 For the entire term of this Agreement and any extensions thereof, Lessee shall maintain a valid Federal Explosives License/Permit as issued by the Bureau of Alcohol, Tobacco, Firearms, and Explosives. Lessee shall provide a copy of said current License/Permit to the City.

#### **SECTION 9 UTILITES**

Section 9.1 Lessee shall pay all utility bills and charges (if any) attributed to the Leased Premises during its lease thereof.

#### **SECTION 10 LAWS AND REGULATIONS**

Section 10.1 Lessee agrees to observe, obey, and abide by all applicable current and future federal, state, and local applicable laws, ordinances, rules, and regulations including, but not limited to, all applicable Airport and airfield rules and regulations for the common and joint use of the Airport facility and all applicable rules and regulations promulgated by the Federal Aviation Administration, the Transportation Security Administration, or any other governmental agency having jurisdiction over the subject matter.

Section 10.2 Any fines incurred as a result of violations by the Lessee or its employees, or the failure by the Lessee or its employees to fulfill its obligations with respect to airport security measures adopted by the Airport in the form of the Airport Security Program under TSR 1542 (as amended from time to time) and/or any directive from the Federal Aviation Administration, within its assigned area or responsibility, shall be the sole responsibility of the Lessee, once all appeals procedures reasonably agreed to by the parties have been exhausted. In any case where the Lessee desires to have an appeal pursued at the Lessee’s expense, the City agrees to cooperate fully in such appeal, provided the Lessee pays all reasonable expenses of the City related to such appeal.

Section 10.3 Lessee agrees to observe, obey, and abide by all applicable regulations found in 27 CFR Part 555, Subpart K, and any and all regulations governing the storage of display fireworks that pertain to the storage of display fireworks on the Leased Premises. Lessee agrees to transport all display fireworks to/from the Leased Premises in a lawful manner in compliance with all applicable laws and regulations.

#### **SECTION 11 ASSIGNMENT**

Section 11.1 The Lessee shall neither directly nor indirectly give, assign, encumber, transfer, or grant control of this Agreement or any interest herein, or right or privilege granted hereunder, or sublet the whole or any portion of the Leased Premises, or license the use of the same in whole or in part.

#### **SECTION 12 GENERAL COVENANTS AND CONDITIONS**

Section 12.1 The City covenants that it shall continue to operate the Airport as a public facility for the use and benefit of the general public throughout the term of this Agreement, consistent with applicable government regulations and subject only to circumstances that are unknown at the time of execution of this Agreement and beyond the control of the City.

Section 12.2 The laws of the State of Texas shall govern disputes arising out of, or due to the execution of the terms or conditions of this Agreement. The parties each, individually and collectively, submit to the jurisdiction of the state courts of Potter County, Texas, and the federal court of the Northern District of Texas.

Section 12.3 The parties agree that nothing contained in this Agreement shall be construed to grant an exclusive aeronautical right.

Section 12.4 Subject to the provisions of this Agreement, the City reserves the right to further develop or improve the Airport as it sees fit in accordance with the Master Plan for the City of Amarillo Rick Husband Amarillo International Airport, the Minimum Standards, and other standards relating to the use of the Airport regardless of the desires of the Lessee. Lessee shall not interfere with or hinder such development.

Section 12.5 The parties agree that the failure of the City to insist upon a strict enforcement or performance of any term or condition of this Agreement shall not be deemed a

waiver of any right or remedy that the City may have and shall not be deemed a waiver of any subsequent breach of the same or any other term or condition. Each term and provision of this Agreement performable by the Lessee shall be construed to be both a covenant and a condition.

Section 12.6 The parties agree that nothing contained in this Agreement shall be construed to create a relationship of principal and agent, a partnership, a joint venture, or any association between the City and the Lessee other than as described herein.

Section 12.7 In the event of litigation between the Lessee and the City, related to this Agreement or to Lessee's business on the Airport, the party successfully defending or prosecuting any action brought by or against the unsuccessful party shall be entitled to recover from the unsuccessful party court costs, reasonable attorney's fees, and related expenses incurred as a result of that action.

Section 12.8 The Section or paragraph headings of this Agreement are for convenience only, and shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of any provision hereof.

Section 12.9 Lessee shall, upon payment of the rentals, fees, and charges required hereunder and upon compliance with the terms, covenants, conditions, and obligations on the part of Lessee to be performed and complied with hereunder, peaceably have and enjoy the rights, uses, and privileges of the Airport, its appurtenances and facilities as granted herein and by the Airport Rules and Regulations.

Section 12.10 No council member of the City, nor any member, officer, agent, director, or employee of the City or Lessee shall be charged personally or held contractually liable by, or to, the other party under any term or provision of this Agreement, because of any breach thereof, or because of its or their execution or attempted execution hereof.

### **SECTION 13 NOTICES, ENTIRE AGREEMENT**

Section 13.1 Any request, demand, authorization, direction, notice, consent, or waiver provided or permitted to be made upon, given by, or furnished to, the City or Lessee shall be sufficient for every purpose hereunder if in writing and delivered (1) by hand, (2) by courier or express carrier, or (3) mailed by certified or registered mail, return receipt requested, postage prepaid and addressed as follows:

For the City:

RICK HUSBAND AMARILLO INTERNATIONAL AIRPORT  
Attention: Director of Aviation  
10801 Airport Blvd  
Amarillo, Texas 79111

For the Lessee:  
Western Enterprises, Inc.  
Attention: James Burnett  
P.O. Box 60  
13513 W. Carrier Road  
Carrier, Oklahoma 73727

The foregoing addresses may be changed by either party giving to the other party the same type of notice described above providing a substitute address.

Section 13.2 This Agreement represents the entire agreement between the parties and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein shall be of any force or effect. This Agreement may be amended only by a written amendment, executed by both parties.

#### **SECTION 14 ENVIRONMENTAL MATTERS**

Section 14.1 Lessee covenants that it will not, under any circumstance, release, dispose of, or cause the release or disposal of "Hazardous Materials", as defined in the Rules and Regulations of the Airport, as amended or implemented from time to time, either under, on or off the Leased Premises or the Airport property in any manner or fashion, but shall release and/or dispose of such Hazardous Materials only in accordance with Environmental Laws (as defined in the Rules and Regulations) and environmentally accepted practices and disposal procedures; and Lessee shall cause any soil or other portion of the Leased Premises (or if due to the acts or omissions of Lessee, any other portion of the Airport property which Lessee is authorized to use), which has become contaminated by any Hazardous Material, to be decontaminated, detoxified or otherwise cleaned up in accordance with Environmental Laws and environmentally accepted practices and clean-up procedures.

Section 14.2 Upon the expiration or earlier termination of this Agreement, Lessee shall, at its expense, (a) cause all Hazardous Materials previously owned, stored, or used on the Leased Premises to be removed from the Leased Premises and disposed of in accordance with Environmental Laws; (b) unless otherwise agreed to by the City, remove any aboveground or



underground storage tanks or other containers installed and used to store Hazards Materials on the Leased Premises, and repair any damage to the Leased Premises caused by such removal; (c) with respect to any aboveground or underground storage tanks that the City agrees that Lessee may leave on the Leased Premises, have such tanks inspected and certified as being in compliance with Environmental Laws and, in the appropriate circumstance, provide a temporary or permanent Certificate of Closure for such tanks (in the event that a tank is closed only temporarily, all leak-detection systems must remain in place and be fully operational at the time Lessee surrenders the Leased Premises to the City); (d) cause any soil on the Leased Premises or other portion of the Airport property which has become contaminated by any Hazardous Materials stored or used on the Leased Premises to be decontaminated, detoxified or otherwise cleaned up in accordance with the requirements of Environmental Laws and cognizant governmental authorities; and (e) with respect to each parcel of real property comprising the Leased Premises, surrender possession of the Leased Premises to the City free of contamination attributable to toxic materials or Hazardous Materials generated or used by Lessee or stored or disposed of by any party other than the City in or on the Leased Premises, regardless of the time of deposit of such toxic materials or Hazardous Materials.

Section 14.3 Lessee's indemnification obligations under this Section 14 shall survive the expiration or sooner termination of the term of this Agreement.

## **SECTION 15 FIRE & SECURITY**

Section 15.1 Lessee shall at all times comply with all applicable laws, ordinances, and regulations pertaining to fire prevention and protection, and shall furnish and maintain adequate fire extinguishers in sufficient numbers and in convenient and accessible places upon the Leased Premises, said fire extinguishers to be charged and ready for immediate use as required by said fire regulations and applicable laws and ordinances. Lessee shall abide by all applicable NFPA guidelines related to fire prevention and protection.

Section 15.2 Lessee acknowledges that although the City maintains certain fire-fighting capabilities as required for its operation of the Airport and maintains a police and/or security force for the protection of the public, and providing the security required by the Transportation Security Administration and other governmental agencies, and that while the same may be available for

emergencies of the Lessee from time to time, the City is under no obligation to provide police or fire protection to the Lessee.

#### **SECTION 16 EASEMENTS**

Section 16.1 The Leased Premises are accepted by Lessee subject to any and all existing easements or other encumbrances. The City reserves the right to establish, grant, or utilize easements or rights-of-way over, under, along, and across the Leased Premises for utilities, pipelines, drains, or access as it may deem advisable for the public good; provided, however, that the City agrees to exercise such rights in a manner that will not unreasonably interfere with Lessee's use of the Leased Premises.

#### **SECTION 17 ACCESS BY TITLE AUTHORITY**

Section 17.1 The City shall have the right to enter the Leased Premises during normal business hours on reasonable notice, and at any time in the event of an emergency, to inspect the Leased Premises, and for any lawful purpose, provided that such entry by the City shall not unreasonably interfere with Lessee's conduct of its business.

#### **SECTION 18 HOLDING OVER**

Section 18.1 Should Lessee remain in possession of Leased Premises after the expiration of the term of this Agreement without having executed a new lease, such holding over shall be construed as a tenancy from month to month, subject to all conditions, provisions, and obligations of this Agreement applicable to a month-to-month tenancy, and subject to applicable federal, state, and local laws.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly authorized as of the day and year first above written.

ATTEST:

CITY OF AMARILLO


\_\_\_\_\_  
Francis Hibbs, City Secretary

\_\_\_\_\_  
Jared Miller, City Manager

ATTEST:

WESTERN ENTERPRISES, INC.

\_\_\_\_\_  
Secretary

  
\_\_\_\_\_  
Company Authorized Representative

# Amarillo City Council Agenda Transmittal Memo



2D



<b>Meeting Date</b>	May 14, 2019	<b>Council Priority</b>	Fiscal Responsibility-Best Practices Customer Service
<b>Department</b>	Public Works – Fleet Services Division		
<b>Contact</b>	Glenn Lavender, Fleet Services Superintendent		

## Agenda Caption

Consider: Purchase of 24 Police Patrol Vehicles.

Award to best evaluated vendor,  
Rockdale Country Ford **\$851,475.00**  
DBA Caldwell Country Ford

## Agenda Item Summary

Approved 18/19 Budget Scheduled Replacements and three (3) approved additions. Replacements will be high mileage/high maintenance fleet when new vehicles arrive. Vehicles will be used by the Police Department for daily operational requirements.

## Requested Action

Recommend purchase approval from Rockdale Country Ford, as listed on Bid Evaluation and Recommendation Form.

## Funding Summary

Funding for this purchase will be from 61120.84100 Fleet Services Auto Rolling Stock.  
Total Cost \$851,475.00.00

## Community Engagement Summary

Competitive bids using state approved contracts / state wide vendors.

## Staff Recommendation

Staff recommends Approval purchase of replacement/addition vehicles. This bid was a Competitive/state contract bid sent out to 2 vendors.

Bid No. 6459 POLICE PATROL VEHICLES  
 Opened 4:00 p.m. May 02, 2019

To be awarded as one lot	ROCKDALE COUNTRY FORD	SILSBEE FORD
Line 1 Scheduled Replacements and Approved Additions, per specifications 19 ea		
Unit Price	\$35,650.000	\$38,477.350
Extended Price	677,350.00	731,069.65
Line 2 Police Patrol Vehicles-Solid Black, per specifications 5 ea		
Unit Price	\$34,825.000	\$37,687.350
Extended Price	174,125.00	188,436.75
Line 3 Goodbuy Administrative Fee, per specifications 1 ea		
Unit Price	-	\$300.000
Extended Price	-	300.00
<b>Bid Total</b>	<b>851,475.00</b>	<b>919,806.40</b>

Award by Vendor

851,475.00



# Amarillo City Council Agenda Transmittal Memo



<b>Meeting Date</b>	May 14, 2019	<b>Council Priority</b>	N/A
<b>Department</b>	City Secretary		
<b>Contact</b>	Frances Hibbs, City Secretary		

## Agenda Caption

### RESOLUTION – MUNICIPAL ELECTION:

This resolution canvasses the returns and declares the results of the general municipal election held on May 4, 2019.

## Agenda Item Summary

This item canvasses the returns of the 2019 municipal general election.

## Requested Action

Approval of this Resolution canvassing the May 4, 2019 election.

## Funding Summary

This election has been budgeted in the City Secretary's budget – 1220.51900.

## Community Engagement Summary

Voters appointed the Mayor and Councilmembers May 4, 2019.

## Staff Recommendation

Approval of Resolution canvassing the election results

3D



# Amarillo City Council Agenda Transmittal Memo



<b>Meeting Date</b>	May 14, 2019	<b>Council Priority</b>	Council Pillar
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<b>Department</b>	Legal Department
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## Agenda Caption

RESOLUTION – AUTHORIZING THE ANNUAL SELECTION OF THE MAYOR PRO TEMPORE  
(Contact – Leslie Schmidt, Senior Assistant City Attorney)

This Resolution authorizes the City Council to annually select the Mayor Pro Tempore. The Mayor Pro Tempore assumes the role of the Mayor when the Mayor is unavailable.

## Agenda Item Summary

The office of Mayor Pro Tempore serves an important leadership role for the City and assumes the Mayor's role when the Mayor is unavailable. The Mayor Pro Tempore is often called upon to represent the City at local events, ceremonies, and celebrations and may be called upon to represent the City at State and Regional conferences, among other duties. This Resolution provides for an annual selection process by the members of the City Council.

## Requested Action

City Council consideration and approval of the Resolution.

## Funding Summary

N/A

## Community Engagement Summary

N/A

## Staff Recommendation

Staff recommendation is to approve the Resolution providing for the annual selection of the Mayor Pro Tempore.

RESOLUTION NO. 05-14-19-\_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AMARILLO PROVIDING FOR THE ANNUAL SELECTION OF THE MAYOR PRO TEMPORE; PROVIDING A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

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WHEREAS, the office of Mayor Pro Tempore serves an important leadership role for the City; and

WHEREAS, the Mayor Pro Tempore assumes the roles of the Mayor when the Mayor is unavailable due to illness, extended travel, resignation, or death. The Mayor Pro Tempore is often called upon to represent the City at local events, ceremonies, and celebrations and may be called upon to represent the City at State and regional conferences, among other duties; and

WHEREAS, the City Council hereby finds and determines that it is in the best interest of the City for the Mayor Pro Tempore to be selected by the members of the City Council to serve a one-year term.

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

SECTION 1. The Mayor Pro Tem shall be selected from among the four (4) Council Members and shall be selected each year. If said year be an election year, such selection will be at the first regular meeting following the regular City election or any run-off elections required, whichever shall last occur. The Mayor Pro Tempore shall in the absence or disability of the Mayor perform all the Mayor's duties.

SECTION 2. Should any part of this Resolution conflict with any other resolution, then such other resolution is repealed to the extent of the conflict with this Resolution.

SECTION 3. This Resolution shall be effective on and after its adoption.

INTRODUCED AND PASSED this 14<sup>th</sup> day of May, 2019.

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Ginger Nelson, Mayor

ATTEST:

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Frances Hibbs, City Secretary

APPROVED AS TO FORM:

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Bryan McWilliams, City Attorney



# Amarillo City Council Agenda Transmittal Memo



38



<b>Meeting Date</b>	May 14, 2019	<b>Council Priority</b>	Economic Development and Redevelopment
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<b>Department</b>	Planning and Development Services	<b>Contact Person</b>	Andrew Freeman, Director of Planning and Development Services
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### Agenda Caption

ORDINANCE NO. \_\_\_\_:

This is the first reading of an ordinance amending Chapter 14-2, Article III, to clarify the scope of coverage of the hotel occupancy tax, including bed and breakfasts and other short-term residential rentals and the duty to enroll with the city for collection of such tax.

### Agenda Item Summary

This minor amendment to language found in the City's existing Hotel Room Occupancy Tax ordinance will allow for further clarification of the various 'Hotels' that are responsible for remitting the required local hotel occupancy taxes (HOT). This amendment adds specific language for bed and breakfasts and houses used for short-term rentals (STR's), as well as the limit being up to 30 consecutive days to qualify. Those staying beyond 30 days are not required to pay HOT.

What this ordinance does not address is licensing or permitting requirements related to those that choose to use their home for a short-term rental. Amarillo has started to see an increase in STR's over the last few years, but not the associated issues that other communities across Texas are facing as far as negative impacts in residential neighborhoods (noise, parking, etc.). At this time staff recommends not implementing a new permitting process or requirements for STR hosts, which in other cities requires an application, fees, and additional inspectors to ensure compliance with any adopted standards. As we go through the zoning rewrite process over the next year and a half, this would allow an opportunity for minor clarification related to land uses if needed related to where STR's are allowed.

Following this amendment, staff will be working with our third-party HOT collection agency, Avenu Insights & Analytics, to identify and inform our local STR's of their requirement to pay local HOT (7% and 2% for venue district). We will also create new marketing documents that clarify the process to remit HOT through Avenu for those that are not familiar with the process.

### Requested Action

Approve as presented

### Funding Summary

N/A

### Community Engagement Summary

N/A

### Staff Recommendation

Staff recommends approval as presented

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS: AMENDING THE AMARILLO MUNICIPAL CODE, CHAPTER 14-2, ARTICLE III, TO CLARIFY SCOPE OF COVERAGE OF THE HOTEL OCCUPANCY TAX, INCLUDING BED AND BREAKFASTS AND OTHER SHORT TERM RESIDENTIAL RENTALS AND THE DUTY TO ENROLL WITH THE CITY FOR COLLECTION OF SUCH TAX; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR CONTINUATION OF PRIOR LAW; PROVIDING PENALTY; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

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WHEREAS, in recent years short term rentals of residential property has been a growing industry, providing lodging for travelers, via independent marketing or broker networks such as *Airbnb*, *HomeAway*, and others; and,

WHEREAS, some brokers and residential property owners may not understand this activity is subject to the hotel occupancy laws of this state and the existing ordinances of this City, so there is a need to clarify the scope of these laws;

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

SECTION 1. The Amarillo Municipal Code, Chapter 14-2, Article III, Section 14-2-51 be and hereby is amended in part to now read as follows:

**Sec. 14-2-51. - Definitions.**

\* \* \*

Hotel: Any Building, trailer or other facility in which a member or members of the public may, for a consideration, obtain sleeping accommodations. The term shall include Hotels, Motels, tourist homes, houses or courts, lodging houses, inns, bed and breakfasts, rooming houses, trailer houses, trailer motels, dormitory space (regardless of whether the bed space is rented to individuals or groups), apartments or houses used for short term rentals, and all other facilities where rooms or sleeping facilities or space are furnished for a consideration for up to 30 consecutive days. The term "Hotel" shall not be defined so as to include hospitals, in-patient rehabilitation centers, sanitariums or nursing homes.

\* \* \* \*

SECTION 2. The Amarillo Municipal Code, Chapter 14-2, Article III, Section 14-2-53 be and hereby is amended in part to now read as follows:

**Sec. 14-2-53. - Collection.**

(a) Every person owning, operating, managing or controlling any Hotel shall enroll with the City Finance Department (or its contract vendor) and thereafter collect the tax imposed in section 14-2-52 for the benefit of the City.

(b) – (d) [TEXT UNCHANGED]

SECTION 3. Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Amarillo, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 4. Repealer. All ordinances, parts of ordinances resolutions and parts of resolutions in conflict with this ordinance are hereby repealed to the extent of conflict with this ordinance.

SECTION 5. Continuation. That nothing in this ordinance (or any code adopted herein) shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed by this ordinance and such prior law is continued in effect for purposes of such pending matter.

SECTION 6. Penalty. A violation of this ordinance is an offense punishable in accordance with Section 1-1-5 of this code of ordinances.

SECTION 7. Publishing and Effective Date. This ordinance shall be published and become effective according to law.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on First Reading this the 14<sup>th</sup> day of May, 2019; and PASSED on Second and Final Reading the 21<sup>st</sup> day of May, 2019.

\_\_\_\_\_  
Ginger Nelson, Mayor

ATTEST:

\_\_\_\_\_  
Frances Hibbs, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Bryan S. McWilliams, City Attorney



# Amarillo City Council Agenda Transmittal Memo



<b>Meeting Date</b>	May 14, 2019	<b>Council Priority</b>	Transportation
<b>Department</b>	Capital Projects & Development Engineering		
<b>Contact</b>	Matthew Thomas		

### Agenda Caption

CONSIDER AWARD – Bid #6401/Project #462060 – Streets Northwest Quadrant Seal Coat FY 16/17 – FY 20/21 Community Investment Program, Proposition 1

CDM Holdings, LLC. - \$4,879,505.20

### Agenda Item Summary

This item is to consider award of the construction contract for the seal coating of streets within the Northwest quadrant of Amarillo that have been identified as needing rehabilitation. This work is to be coordinated with similar work completed by the Street Department maintenance staff.

### Requested Action

Consider approval and award to CDM Holdings, LLC. - \$4,879,505.20

### Funding Summary

Funding for this project will be available in the Project Budget Number 462060.17400.2040. This project was approved in the FY 16/17 – FY 20/21 Community Investment Program Budget. The construction expenses for this project are funded from the Proposition 1 Bonds.

### Community Engagement Summary

This project will have an impact on a sizeable portion of the community; however, the impact of this project during construction at any one location will be modest and brief. City staff will update the public with a public meeting, as well as press releases and public announcements before and during the project. Additional public notification and engagement are part of the contract requirements of the project. See attached map and proposed press release.

### Staff Recommendation

City Staff is recommending approval and award of the contract.

6401 FY 2017-2021 COMMUNITY INVESTMENT PROGRAM: STREET & DRAINAGE IMPROVEMENTS: STREET MAINTENANCE NORTHWEST QUADRANT SEAL COAT  
 Opened 4:00 p.m., April 04, 2019

To be awarded as one lot CDM HOLDINGS LLC LA FULLER & SONS CONSTRUCTION

Line 1 Seal Coat, per specifications 1,612,324 sy				
Unit Price	\$2.800		\$3.19	
Extended Price		4,514,507.20		5,143,313.56

Line 2 Remove reflectorized Pavement Markings, per specifications 4,000 sf				
Unit Price	\$1.750		\$2.20	
Extended Price		7,000.00		8,800.00

Line 3 Reflectorized Pavement Markings White 4" Broken, per specifications 470 lf				
Unit Price	\$0.200		\$0.25	
Extended Price		94.00		117.50

Line 4 Reflectorized Pavement Markings White 4" Solid, per specifications 18,230 lf				
Unit Price	\$0.200		\$0.25	
Extended Price		3,646.00		4,557.50

Line 5 Reflectorized Pavement Markings Yellow 4" Broken, per specifications 15,760 lf				
Unit Price	\$0.200		\$0.25	
Extended Price		3,152.00		3,940.00

Line 6 ReflectORIZED Pavement  
Markings Yellow 4" Solid, per  
specifications

31,730 lf      Unit Price      \$0.200      \$0.25      7,932.50  
Extended Price      6,346.00

Line 7 ReflectORIZED Pavement  
Markings White 8" Solid, per  
specifications

17,600 lf      Unit Price      \$0.400      \$0.50      8,800.00  
Extended Price      7,040.00

Line 8 ReflectORIZED Pavement  
Markings White 20" Solid, per  
specifications

290 lf      Unit Price      \$3.000      \$3.75      1,087.50  
Extended Price      870.00

Line 9 ReflectORIZED Pavement  
Markings White 24" Solid, per  
specifications

450 lf      Unit Price      \$3.000      \$3.75      1,687.50  
Extended Price      1,350.00

Line 10 ReflectORIZED Pavement  
Markings White Arrow Straight,  
per specifications

3 ea      Unit Price      \$100.000      \$125.00      375.00  
Extended Price      300.00

Line 11 ReflectORIZED Pavement  
Markings White Arrow Right Turn,  
per specifications

6 ea

Unit Price

\$100.000

600.00

\$125.00

Extended Price

750.00

Line 12 ReflectORIZED Pavement  
Markings White Arrow Left Turn,  
per specifications

20 ea

Unit Price

\$100.000

2,000.00

\$125.00

2,500.00

Line 13 ReflectORIZED Pavement  
Markings White Arrow  
Straight/Left Turn, per  
specifications

6 ea

Unit Price

\$100.000

600.00

\$125.00

750.00

Line 14 ReflectORIZED Pavement  
Markings White Crosswalk Type A,  
per specifications

37 ea

Unit Price

\$400.000

14,800.00

\$500.00

18,500.00

Line 15 ReflectORIZED Pavement  
Markings White Crosswalk Type B,  
per specifications

19 ea

Unit Price

\$800.000

15,200.00

\$995.00

18,905.00

Line 16 ReflectORIZED Pavement  
Markings White Crosswalk Type C,  
per specifications

1 ea

Unit Price

\$500.000

500.00

\$625.00

Extended Price

625.00

Line 17 ReflectORIZED Pavement

Markings White Shared Lane

Markings, per specifications

3 ea

Unit Price

\$300.000

900.00

\$375.00

Extended Price

1,125.00

Line 18 ReflectORIZED Pavement

Markings White Bicycle Lane

Marking, per specifications

2 ea

Unit Price

\$300.000

600.00

\$375.00

Extended Price

750.00

Line 19 Furnish, Install and  
Maintain Traffic Control Plan, per  
specifications

1 ls

Unit Price

\$25,000.000

25,000.00

\$90,000.00

Extended Price

90,000.00

Line 20

Mobilization/Demobilization, per  
specifications

1 ls

Unit Price

\$225,000.000

225,000.00

\$113,224.00

Extended Price

113,224.00



Line 21 Relocation of Vehicles, per specifications

1 Is

Unit Price \$50,000.000

30,000.00

50,000.00

Bid Total

4,879,505.20

5,457,740.06

Award to Vendor

4,879,505.20