

AGENDAS

FOR THE AMARILLO CITY COUNCIL WORK SESSION TO BE HELD ON TUESDAY, DECEMBER 19, 2017 AT 3:00 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) Update on HOPE Program and discuss Homelessness Initiatives;
 - (3) Pillars, Initiatives & Blueprint Status Report;
 - (4) EDC Update on Inc. Project and other incentive projects; 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) Sec. 551.071 - Consult with attorney on a matter in which the attorney's duty to the governmental body under the Texas Disciplinary Rules of Professional Conduct conflicts with this chapter:
 - (a) Discussion regarding status of negotiations – MPEV lease agreement and related matters.
 - (2) Sec. 551.087 – Deliberation regarding economic develop negotiations in accordance with the Texas Open Meetings Act:
 - (a) Discussion regarding commercial or financial information received from a business prospect and to deliberate the offer of a financial or other incentive to a business prospect, and related matters:
 - 17-11-05 Information Technology
 - 17-11-04 Food Production
 - 17-10-05 Manufacturing

REGULAR MEETING ITEMS

INVOCATION: Blake Clevenger, Hillside Christian Church

PUBLIC COMMENT: Citizens who desire to address the City Council with regard to matters on the agenda or having to do with the City's policies, programs, or services will be received at this time. The total time allotted for comments is 30-minutes with each speaker limited to three (3) minutes. City Council may not discuss items not on this agenda, but may respond with factual, established policy information, or refer to staff. The City Council may choose to place the item on a future agenda.
(Texas Attorney General Opinion. JC-0169.)

1. 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:

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 of the regular meeting held on December 12, 2017.
- B. **ORDINANCE NO. 7702:**
(Contact: AJ Fawver, Planning and Zoning Director)
This is the second and final reading of an ordinance rezoning of 1.536 acre of a tract of land situated in Section 10, Block 9, BS&F Survey, Abstract No. 136, City of Amarillo, Potter County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Planned Development 55 with amendments B, C, G and Y (PD-55BCGY) and PD-55TY to General Retail (GR). (Vicinity: West Amarillo Boulevard and Plum Creek Drive.)
- C. **ORDINANCE NO. 7703:**
(Contact: Shaun May, Environment Health Director)
This is the second and final reading of an ordinance to update and amend Amarillo City Ordinance Chapter 8-5 – Public Health. The updates and amendments are designed to 1) eliminate conflicts and redundancies by fully adopting the Texas Food Establishment Rules (TFER); 2) Reduce the regulatory burden; 3) update the permitting and inspection process for Mobile Food Units; 4) update Food Establishment closure policy and enforcement remedies; 5) improve transparency and communication with the public regarding Food Establishment inspection reporting.
- D. **CONSIDERATION AND APPROVAL – PURCHASE AGREEMENT FOR EASEMENTS FOR THE INSTALLATION OF THE NORTH WEST INTERCEPTOR SANITARY SEWER PROJECT -- \$135,000:**
(Contact: Floyd Hartman, Director, Capital Projects and Development Engineering)
City Staff is recommending approval of the Purchase Agreement for Easements to procure the necessary permanent and temporary construction easements on a 324.35 acre tract of land in Section 46, Block 9, BS&F Survey, Potter County, Texas for the installation of the North West Interceptor sanitary sewer project. The North West Interceptor project is the installation of over 6 miles of sanitary sewer in West Amarillo Creek from Southwest 9th Avenue northwesterly to the existing Lift Station 40. This project is necessary to provide sanitary sewer service and relief of overloaded conditions in the existing system as identified in an engineering study.
- E. **CONSIDER APPROVAL OF THE COMMUNICATIONS SYSTEM AGREEMENT WITH BSA HEALTH SYSTEM:**
(Contact: Kevin Starbuck, Assistant City Manager)
This agreement will authorize BSA Health System to operate on the City of Amarillo NEXGEN Radio Communications System with applicable infrastructure support fees assessed per the agreement.
- F. **CONSIDERATION AND APPROVAL – ADDENDUM #5 TO AGREEMENT FOR ENGINEERING SERVICES - ADDITIONAL FEE OF \$72,000:**
(Contact: Floyd Hartman, Director, Capital Projects and Development Engineering)
This Addendum #5 is necessary to provide professional service construction and compliance observation services including monitoring and reporting for the final closeout of the Arden Road Pipeline installation and the installation of the baffle system in the clearwells at the Osage Water Treatment Plant. The installation of baffles in the existing clearwell tanks will provide multiple options in the water treatment process to ensure the highest quality of drinking water.
Previous Addendums adjusted the original contract amount of \$1,417,650 as follows:

1. Added \$4,900 to provide the City with services to assist in the application of TWDB funding.
2. Added \$198,000 to provide for the anticipated construction services inspection for the installation of the pipeline.
3. Added \$178,150 for the evaluation, report, and design of the clearwell baffling project.
4. Deducted \$27,000 for services provided in-house by qualified City staff.

G. **AWARD – SPLIT CASE PUMP REPAIR AT POTTER CO. PUMP STATION:**

(Contact: Kenneth McColl, Treatment Plant Maintenance Foreman)

Award to Gasket & Packings, Inc. -- \$59,495.00:

This award is to approve a contract for the repair of Split Case Pump at Potter Co. Pump Station.

H. **CONSIDER PURCHASE APPROVAL OF FIRE TRUCK-LADDER STYLE:**

(Contact: Glenn Lavender, Fleet Services Superintendent)

Hall Buick GMC -- \$825,556.88

This item considers replacement of unit 7105, 2008 Ferrera 107' Ladder Truck used by the Fire Department. This vehicle will be used by the Fire Department for daily operational requirements throughout the City. Unit 7105 has reached the end of its manageable life cycle within the Fleet. Unit 7105 will be traded in at a cost savings of \$200,000.00.

I. **CONSIDER PURCHASE APPROVAL OF REPLACEMENT VEHICLE FOR FIRE DEPARTMENT:**

(Contact: Glenn Lavender, Fleet Services Superintendent)

Hall Buick GMC -- \$564,777.88

This item considers the scheduled replacement of unit 6626, 2005 American LaFrance Fire Truck/Pumper Style. New Fire Truck will be used for daily operational requirements. Vehicle 6626 has reached or exceeded its useable life cycle.

J. **AWARD OF GOLF PRODUCT PURCHASE CONTRACT TO THE ACUSHNET COMPANY FOR TITLEIST, PINNACLE AND FOOTJOY PRODUCTS:**

(Contact: Rod Tweet, Parks & Recreation Director)

Acushnet -- \$200,000.00

This award is to approve an annual "not-to-exceed" contract price for the whole sale purchase of Titleist, Pinnacle and Foot-Joy golf products in the amount of \$200,000. The Acushnet Company is the exclusive manufacturer and wholesale distributor of these products and is the sole source of the products at wholesale prices. The wholesale purchase of these products provide inventory for retail sale at both pro shops at Ross Rogers Golf Complex and Comanche Trail Golf Complex. Sales of merchandise will produce an estimated gross margin of 40% or approximate 20% net profit.

K. **CONSIDER AWARD – HASTING-BROADWAY SEWER EXTENSION AND REHABILITATION:**

(Contact: Floyd Hartman, Director, Capital Projects and Development Engineering)

Horseshoe Construction, Inc. - \$541,111.00

This item is to consider award of the construction contract for Wastewater Collection Improvements for the replacement and upsizing of select sanitary sewer lines in Hetrick Acres and the construction of new sanitary sewer lines to serve future development west of Ross Rogers Golf Course.

L. **CONSIDER ASSIGNMENT OF A DEED OF TRUST FOR PROPERTY ACQUIRED THROUGH A FEDERAL GRANT:**

(Contact: Martia Wellage-Reiley, Transit Director)

The City of Amarillo has received federal funds through the Bus and Bus Facilities Public Transportation Grant Program, administered by Texas Department of Transportation (TxDOT). The Texas Transportation Code, Chapter 455, authorizes the State through TxDOT to secure in trust from the City of Amarillo for the following property:

- (1) Pump Service. New Air and Lube System Installed;
- (2) Lighting. Bay Lighting Fixtures and Block Heater Cord Reels Installed;
- (3) Flooring. Shop flooring with Dur-A-Flex and Yellow Safety Striping Resurfaced;
- (4) Mechanical. Two Cyclone Water Heaters, Loop Line and Pressure Pump Installed; and
- (5) Exterior Metal Door with Glass Insert Installed.

REGULAR AGENDA

2. **PRESENTATION AND CONSIDERATION OF ORDINANCE NO. 7701:**

(Contact: AJ Fawver, Planning and Zoning Director)

This is a public hearing and first reading of an ordinance rezoning of Lot 1, Block 1, Plemons Addition Unit No. 22, in Section 155 and Section 170, Block 2, AB&M Survey, Potter County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Central Business District (CB) and Light Industrial District (I-1) to Planned Development District 387 (PD-387). (Vicinity: South Buchanan Street and Southeast 8th Avenue.)

3. **RESOLUTION -- ELECTS A CITY DEPARTMENT AND INDIVIDUAL OFFICER FOR A TEXAS ALCHOLIC BEVERAGE COMMISSION (TABC) LICENSE:**

(Contact: Rod Tweet, Director Parks & Recreation)

This resolution elects the Parks & Recreation Department to be the holder of the BE Permit - Beer Retail Dealers On-Premise License required by the TABC and elects George Priolo as the officer to be qualified with the State. This resolution is required by the TABC to allow on premise beer sales at both Ross Rogers Golf Complex and Comanche Trail Golf Complex.

4. **CONSIDER STANDARD UTILITY AGREEMENTS WITH TEXAS DEPARTMENT OF TRANSPORTATION (TxDOT) ASSOCIATED WITH THE RELOCATION OF UTILITIES ALONG SL335 FROM BELL STREET TO COULTER STREET:**

(Contact: Floyd Hartman, Director, Capital Projects and Development Engineering)

This item approves three agreements with TxDOT: U14966, U14967, and U14968 provide for reimbursement of certain qualified expenses incurred by the City during the relocation of utilities associated with the TxDOT project on SL335 from Bell St to Coulter St. The City's utility relocation contract has previously been awarded to Amarillo Utility Contractors in the amount of \$4,504,294.00. These agreements are for the reimbursable portion of that construction. As required by TxDOT, the agreements are divided by their roadway section. Reimbursements will be for actual costs, but a summary of the anticipated reimbursement follows:

U14966 - \$728,870.74

U14967 - \$196,324.57

U14968 - \$494,243.65

Total: \$1,419,438.96

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 15th day of December 2017.

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www.amarillo.gov/granicus

Archived meetings are also available.

STATE OF TEXAS
COUNTIES OF POTTER
AND RANDALL
CITY OF AMARILLO



On the 12th day of December 2017, the Amarillo City Council met at 4:00 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:

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 H. MILLER
MICHELLE BONNER
MICK MCKAMIE
ANDREW FREEMAN
FRANCES HIBBS

CITY MANAGER
DEPUTY CITY MANAGER
CITY ATTORNEY
ECONOMIC DEVELOPMENT MGR.
CITY SECRETARY

The invocation was given by Fire District Chief Mays, Amarillo Fire Department. Mayor Nelson led the audience in the Pledge of Allegiance.

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

An award was presented to the City of Amarillo's Department of Environmental Health by the Texas Environmental Health Association (TEHA). A Presidential Award was also presented to Shaun May, Environmental Health Director.

PUBLIC COMMENT:

Dayton Dobbs, 1414 Sunrise Drive, spoke on Item 4. He stated he represented the Big Texan Steak Ranch and encouraged Council to approve the ordinance. There were no further comments.

ITEM 1: Mayor Nelson presented the consent agenda and asked if any item should be removed for discussion or separate consideration. Motion was made by Councilmember Sauer to approval the consent agenda, seconded by Councilmember Smith.

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.

A. **MINUTES:**

Approval of the City Council minutes of the regular meeting held on December 5, 2017.

B. **ORDINANCE NO. 7698:**

(Contact: Andrew Freeman, Economic Development Manager)

This is the second and final reading of an ordinance approving the Final Project and Financing Plan for East Gateway Tax Increment Reinvestment Zone No. 2 ("Zone"), approving the City of Amarillo's participation in the Zone, and amending Ordinance No. 7627 as to the Board composition, project approval procedures, and clarifying the correct 2016 base value.

C. **ORDINANCE NO. 7699:**

(Contact: Rod Tweet, Parks Director and Kevin Starbuck, Assist. City Manager)

This is the second and final reading of an ordinance amending Section 2-6-44, Article IV, Parks and Recreation Board, Chapter 2-6, Boards and Commission to expand the board from five (5) members to eleven (11)

members.

D. **ORDINANCE NO. 7700:**

(Contact: Jared Miller, City Manager)

This is the second and final reading of an ordinance establishing a Beautification and Public Arts Advisory Board.

E. **CONSIDER APPROVAL OF PAPER GOODS ANNUAL SUPPLY AGREEMENT:**

(Contact: Trent Davis, Purchasing Agent)

This item is for the annual supply agreement to purchase paper goods for use by city departments.

Award to:

Mayfield Paper	\$ 164.00
Wagner Supply	\$ 760.80
Empire Paper	\$87,033.80
American Pride Paper	\$31,488.36
Total Award	\$119,446.96

F. **PRESENTATION AND CONSIDERATION OF AMARILLO AREA FOUNDATION FIELD OF INTEREST FUND AGREEMENT:**

(Contact: Jared Miller, City Manager)

This is a contract with the Amarillo Area Foundation creating "The First Responders Excellence and Innovation Fund." Distribution of the Fund income shall be made at least annually for support of excellence and innovation to the Amarillo Police Department, Amarillo Fire Department and other Amarillo emergency personnel. A committee consisting of two City Council members, City Manager, Chief of Police, Fire Chief and two citizens of Amarillo will make recommendations to the Amarillo Area Foundation for Fund distributions.

G. **CONSIDERATION: APPROVAL OF LEASE AGREEMENT BETWEEN THE UNITED STATES CUSTOMS AND BORDER PROTECTION AND THE RICK HUSBAND AMARILLO INTERNATIONAL AIRPORT, CITY OF AMARILLO, TEXAS:**

(Contact: Michael W. Conner, Director of Aviation)

This lease agreement is for the rental of 1,096 square feet of space in the Airport Terminal. The current lease agreement is in a month-to-month status. This new document incorporates the new standard Federal Government lease form. The lease agreement under consideration is strictly for facilities and does not encompass operational decisions or commitments by the U.S. Customs and Border Protection Agency. The term of the agreement is 1 year, with 19 automatic renewals, for a total term of 20 years. The rate that the Federal Government is obligated to pay the City of Amarillo Rick Husband Amarillo International Airport is \$1.00 annually. This is standard for airport CBP facilities nationwide.

H. **CONSIDER PURCHASE OF REPLACEMENT VEHICLE FOR WASTE WATER COLLECTION DIVISION:**

(Contact: Glenn Lavender, Fleet Services Superintendent)

Awarded to: Freightliner of Austin -- \$354,131.00

Scheduled replacement of unit 6476, 2005 IHC Sewer Cleaning Truck used by the Waste Water Collection Division. This vehicle will be used for daily operational requirements to maintain sanitary sewer systems throughout the City. Vehicle has exceeded its useable life span and is in need of major repairs.

I. **AWARD - TELECOMMUNICATIONS SERVICE:**

(Contact: Rich Gagnon, IT Director)

AMA Tectel -- \$79,500.00

Under the terms of this agreement AMA Tectel will upgrade the network speed of the City's internet service and provide dynamic failover to prevent an internet outage at fiber connected facilities downtown. This contract is for a term of 36-months.

J. **CONSIDER APPROVAL OF A RADIO TOWER SITE LAND LEASE AGREEMENT WITH SOUTH PLAINS COMMUNICATIONS:**

(Contact: Kevin Starbuck, Assistant City Manager)

The Land Lease Agreement between the City of Amarillo and South Plains Communications is for the placement of a radio communications tower on a parcel of City property approximately 650 feet by 650 feet (10 acres) located at 16700 Bezner Road (southeast corner of the City of Amarillo Shooting Complex).

REGULAR AGENDA

ITEM 2: Mayor Nelson presented the first reading of an rezoning of Tract 10, Block 1, Eberstadt & Brock Unit No. 1, in Section 185, Block 2, AB&M Survey, Randall County, Texas plus one-half of all bounding streets, alleys, and public ways to change from General Retail (GR) to Light Commercial (LC). (Vicinity: Southwest 45th Avenue and Katharina Court.) Mr. McKamie called for an Executive Session. This item was presented by AJ Fawver, Planning and Zoning Director. Mayor Nelson opened a public hearing. Pat Tunnell, 7019 O'Neill Drive, stated general retail does not allow for mini storage. Light commercial would allow for enclosed storage units. There were no further comments. Mayor Nelson closed the public hearing. Motion was made to approve Ordinance No. 7701 by Mayor Nelson, seconded by Councilmember Smith.

ORDINANCE NO. 7701

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS: PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL MAP OF THE CITY OF AMARILLO, TEXAS; PROVIDING FOR CHANGE OF USE DISTRICT CLASSIFICATION OF SPECIFIED PROPERTY IN THE VICINITY OF SOUTHWEST FORTY-FIFTH AVENUE AND KATARINA COURT, RANDALL COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Voting AYE were Mayor Nelson, Councilmember Smith; voting NO were Councilmember Sauer, Powell and Hays; the motion was denied by a 2:3 vote of the Council.

ITEM 3: Mayor Nelson presented the first reading of an ordinance rezoning of 1.536 acre of a tract of land situated in Section 10, Block 9, BS&F Survey, Abstract No. 136, City of Amarillo, Potter County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Planned Development 55 with amendments B, C, G and Y (PD-55BCGY) and PD-55TY to General Retail (GR). (Vicinity: West Amarillo Boulevard and Plum Creek Drive.) This item was presented by AJ Fawver, Planning and Zoning Director. Mayor Nelson opened a public hearing. There were no comments. Mayor Nelson closed the public hearing. Motion was made by Councilmember Powell, seconded by Councilmember Sauer, that the following captioned ordinance be passed:

ORDINANCE NO. 7702

AN ORDINANCE OF THE CITY COUNCIL 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 WEST AMARILLO BOULEVARD AND PLUM CREEK DRIVE, POTTER COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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.

ITEM 4: Mayor Nelson presented the first reading of an ordinance updating and amending the Amarillo City Ordinance Chapter 8-5 – Public Health. The updates and amendments are designed to 1) eliminate conflicts and redundancies by fully adopting the Texas Food Establishment Rules (TFER); 2) Reduce the regulatory burden; 3) update the permitting and inspection process for Mobile Food Units; 4) update Food Establishment closure policy and enforcement remedies; 5) improve transparency and communication with the public regarding Food Establishment inspection reporting. This

item was presented by Shaun May, Environment Health Director. Motion was made by Councilmember Powell, seconded by Councilmember Smith, that the following captioned ordinance be passed:

ORDINANCE NO. 7703

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS, AMENDING THE AMARILLO MUNICIPAL CODE CHAPTER 8-5, ARTICLES I, II AND IV; ADOPTING ADDITIONAL STATE LAWS REGARDING PUBLIC HEALTH; AMENDING THE HEALTH AUTHORITY'S DUTIES; MODIFYING THE ENVIRONMENTAL HEALTH FEE SCHEDULE AND FOOD ESTABLISHMENT SCORING SYSTEM; PROVIDING A VARIANCE PROCEDURE FOR A FOOD ESTABLISHMENT PERMIT; ADDING MOBILE FOOD UNIT AND CHARITABLE FEEDING REGULATIONS; STATING ENFORCEMENT PROVISIONS AND PENALTIES; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLIC AND EFFECTIVE DATE.

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.

Mayor Nelson left at this time.

ITEM 5: Mayor Nelson presented a resolution to consider the approving a Resolution with Region VIII Education Service Center Pittsburg, Texas. The resolution will create a cooperative purchasing agreement with Region VIII. This item was presented by Trent Davis, Purchasing Agent. Motion was made by Councilmember Powell, seconded by Councilmember Smith, that the following captioned resolution be passed:

RESOLUTION NO. 12-12-17-1

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS ("CITY") AUTHORIZING THE PARTICIPATION IN THE INTERLOCAL PURCHASING SYSTEM (TIPS) COOPERATIVE PROGRAM WITH THE TEXAS EDUCATION CENTER, REGION VIII, AND PROVIDING SAVINGS CLAUSE AND EFFECTIVE DATE.

Voting AYE were Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 4:0 vote of the Council.

ITEM 6: Mayor Nelson presented an item to approve a lease for a scraper at the landfill. This is a scheduled replacement of Unit 7327, a 2011 Cat Landfill Scraper. The equipment has reached or exceeded usable life approved in the 2017-2018 replacement budget. Funding for this award is available in the approved FY 2017-2018 Fleet Services Equipment Fund. There will also be an addendum option to purchase the equipment. Motion was made by Councilmember Smith to approve this lease, seconded by Councilmember Hays.

Voting AYE were Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 4:0 vote of the Council.

ITEM 7: Mayor Nelson stated a board appointment was needed for the Community Development Advisory Committee. Motion was made by Councilmember Smith to appoint Marquisia Nelson to the Community Development Advisory Committee, seconded by Councilmember Powell.

Voting AYE were Councilmembers Hays, Powell, Sauer and Smith; voting NO were none; the motion carried by a 4:0 vote of the Council.

ATTEST:

Frances Hibbs, City Secretary

Ginger Nelson, Mayor

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Amarillo City Council

Agenda Transmittal Memo



Meeting Date	December 19, 2017	Council Priority	Community Appearance
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Department	Planning Department	Contact Person	AJ Fawver
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Agenda Caption

Vicinity: W Amarillo Blvd and Plum Creek Dr.

Rezoning of 1.536 acre of a tract of land situated in Section 10, Block 9, BS&F Survey, Abstract No. 136, City of Amarillo, Potter County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Planned Development 55 with amendments B, C, G and Y (PD-55BCGY) and PD-55TY to General Retail (GR).

Agenda Item Summary

Staff’s analysis of zoning change requests begins with referring to the Comprehensive Plan’s Future Land Use and Character (FLUC) Map in order to identify what it recommends for future land uses. Staff also considers how any zoning change would impact the Comprehensive Plan’s recommended Neighborhood Unit Concept (NUC) of development whereby non-residential land uses are encouraged at section-line arterial intersections with a transition to residential uses as development occurs away and inward from the arterial intersections. Staff also considers the principles and recommendations laid out within the Comprehensive Plan, as well existing zoning and development patterns in the area.

The Neighborhood Unit Concept is also a key piece of the adopted plan, in which zoning transitions from areas of higher density at section line corners to areas of lower density toward the center of the section. This concept of development ensures that commercial areas will have less of an impact to residential areas. This lot is situated beside residential to the West, General Retail to the South West and PD-55 on all other sides which has many commercial uses. Therefore, staff believes this property is in compliance with the NUC development pattern since it will create a transition zone between higher intensity uses and lower intensity uses.

This rezoning request is consistent with the adopted 2010 Comprehensive Future Land Use and Character Map, which designates this area for a future “business park” land use. The Comprehensive Plan states that the development type in this designation should be that associated with office, medical, and technology/research uses with commercial retail uses to serve local workers and visitors.

The adopted Comprehensive Plan contains a number of action strategies that are to be followed when making decisions about land use, development, and other community elements. These include:

- Encourage infill development to achieve more efficient utilization of the City’s existing resources and infrastructure. *(page 3.3, Growth Management & Capacity).*
- Promote infill development of various types as appropriate areas to reduce urban sprawl and duplication of public services thereby saving tax dollars. *(page 3.3, Growth Management & Capacity).*

The requested zoning change would create a transition for the NUC pattern between Planned

Amarillo City Council

Agenda Transmittal Memo



Development District 55 (PD-55) zoning in the West and the Residential Zoning in the East. This zoning change would allow for future development to be able to take place in accordance with the Future Land Use and would allow for

Requested Action

The applicant is requesting a change in zoning from PD-55 to GR to allow an auto parts store.

Funding Summary

N/A

Community Engagement Summary

The item was distributed to all applicable internal and external entities. Notices have been sent out to 4 property owners within 200 feet regarding this proposed rezoning. At the time of this writing, the Planning Department has received 0 comments regarding this request.

The item was recommended for approval by 6:0 vote of the Planning and Zoning Commission at its November 27, 2017 public meeting.

City Manager Recommendation

Planning Staff has reviewed the associated ordinance and exhibit and recommends the City Council approve the item as submitted.

the auto parts store to be able to be implemented.

ORDINANCE NO. 17102

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 WEST AMARILLO BLVD AND PLUM CREEK DRIVE, 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 1.536 acre of a tract of land situated in Section 10, Block 9, BS&F Survey, Abstract No. 136, City of Amarillo, Potter County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Planned Development 55 with amendments B, C, G and Y (PD-55BCGY) and PD-55TY to General Retail (GR).

BEGINNING at an X cut found at the northeast corner of Lot 2-J, Block 27 of the Westcliff Park Unit No. 48, an addition to the City of Amarillo as recorded in Volume D, Page 162 (P.R.P.C.T.), said point being on the northwesterly right-of-way line of Interstate Highway 40 Business (a 200' right-of-way, deed of record not found);

THENCE, departing the northwesterly right-of-way line of Interstate Highway 40 Business, North 70 degrees 07 minutes 40 seconds West a distance of 391.92 feet along the northeasterly line of said Lot 2-J to a point at the northwest corner of said Lot 2-J from which a 1/2 inch iron rod found with plastic cap stamped "Furman" bears South 23 degrees 08 minutes 47 seconds West a distance of 0.98 feet;

THENCE, North 19 degrees 43 minutes 26 seconds East a distance of 163.76 feet to a 1/2 inch iron rod found with plastic cap stamped "Furman";

THENCE, South 70 degrees 21 minutes 46 seconds East a distance of 422.02 feet to a 1/2 inch iron rod found with plastic cap stamped "Furman" on the northwesterly right-of-way line of the aforementioned Interstate Highway 40 Business and being the beginning of a non-tangent curve to the left having a delta angle of 02 degrees 08 minutes 14 seconds, a radius of 4,507.46 and being subtended by a chord which bears South 30 degrees 02 minutes 06 seconds West a distance of 168.13 feet;

THENCE, along the northwesterly right-of-way line of said Interstate Highway 40 Business and said curve to the left an arc distance of 168.14 feet to the POINT OF

BEGINNING and containing 66,897 Square Feet or 1.536 Acres of land, more or less.

BEARINGS ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM NORTH ZONE (4201 NAD 83).

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 December, 2017 and PASSED on Second and Final Reading on this the _____ day of December, 2017.

Ginger Nelson, Mayor

ATTEST:

Frances Hibbs, City Secretary

APPROVED AS TO FORM:

William M. McKamie, City Attorney

CASE Z-17-34
REZONING FROM PLANNED DEVELOPMENT 55BCGY (PD-55BCGY)
TO GENERAL RETAIL DISTRICT (GR)



CITY OF AMARILLO
PLANNING DEPARTMENT

Scale: 1 inch = 300 feet
Date: 11/15/2017



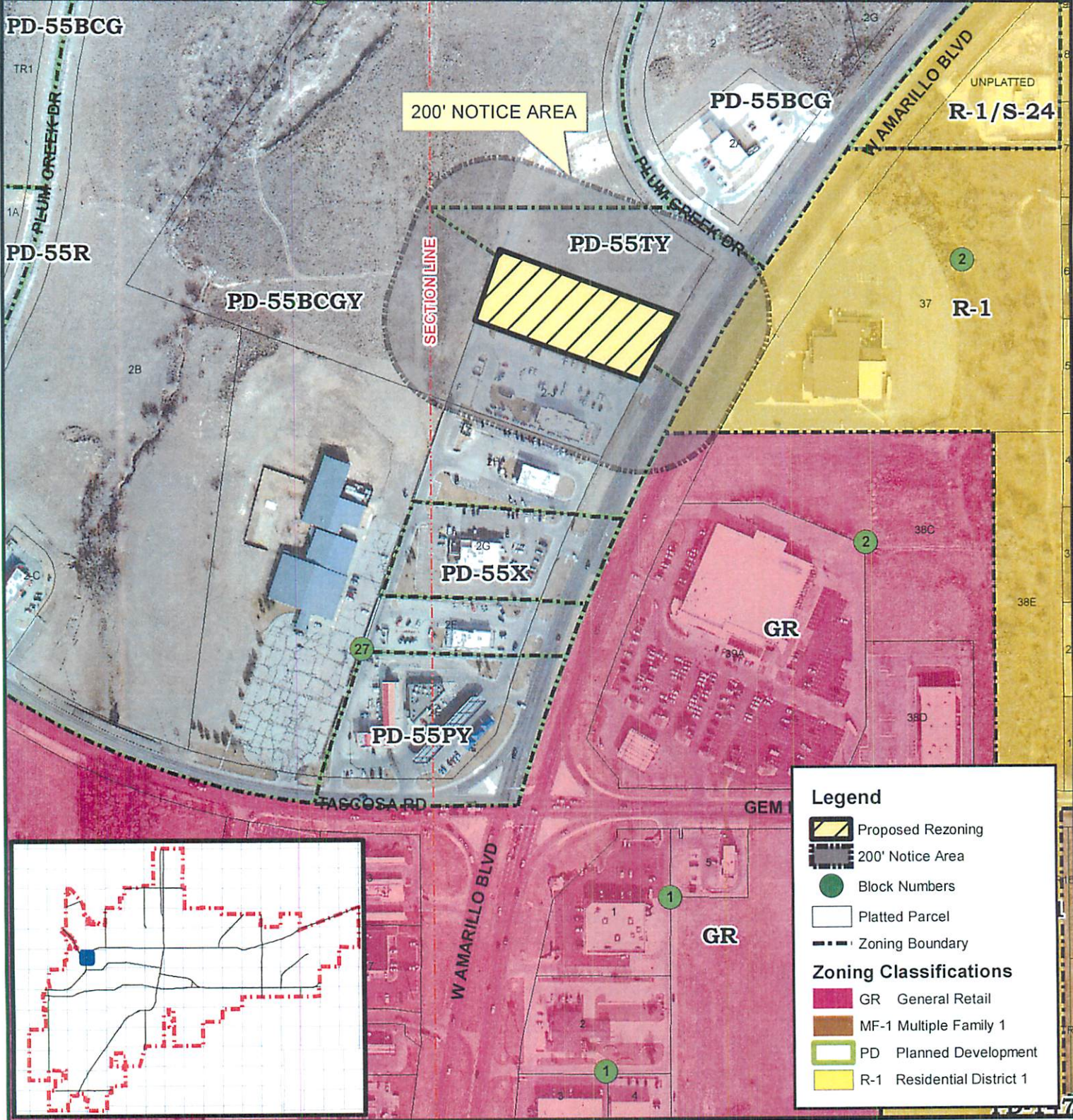
Rezoning of 1.536 acre tract of land in Section 10, Block 9 BS&F Survey, Potter County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Planned Development 55 with amendments B, C, G, and Y (PD-55BCGY) and PD-55TY to General Retail (GR).

Applicant: Eric Yahoudy

Vicinity: W Amarillo Blvd. & Plum Creek Dr.

DISCLAIMER: The City of Amarillo is providing this information as a public service. The information shown is for information purposes only and except where noted, all of the data or features shown or depicted on this map is not to be construed or interpreted as accurate and/or reliable; the City of Amarillo assumes no liability or responsibility for any discrepancies or errors for the use of the information provided.

CASE Z-17-34
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Amarillo City Council

Agenda Transmittal Memo



Meeting Date	December 19, 2017	Council Priority	Best Practices
Department	Environmental Health		
Contact	Shaun May (Director of Environmental Health) and Anthony Spanel (Environmental Health Supervisor)		

Agenda Caption

PRESENTATION AND CONSIDERATION OF ORDINANCE NO. _____

Agenda Item Summary

This is the second and final reading of an ordinance to update and amend Amarillo City Ordinance Chapter 8-5 – Public Health. The updates and amendments are designed to 1) eliminate conflicts and redundancies by fully adopting the Texas Food Establishment Rules (TFER); 2) Reduce the regulatory burden; 3) update the permitting and inspection process for Mobile Food Units; 4) update Food Establishment closure policy and enforcement remedies; 5) improve transparency and communication with the public regarding Food Establishment inspection reporting.

Requested Action

This is the first comprehensive update to the City' ordinances related to Food Establishment rules and regulations since 2000. The goal is to improve the overall level of Food Safety within Amarillo. Environmental Health is requesting consideration and approval of the proposed updates and amendments by ordinance.

Funding Summary

N/A

Community Engagement Summary

Level 3 Impact. Level 3 is defined as "High Impact on select area and/or community group". The following community engagement activities have been completed:

- At least bi-weekly meetings with Panhandle Restaurant Association (PRA) representatives from May 2017 through August 2017.
- May 25, 2017 - met with PRA leadership and City Director of Utilities to discuss improvements to City's Grease Trap Program
- August 14th -18th – media blitz: social media, City and department web pages, press release, media interviews (1 radio appearance, 6 television appearances, and 3 newspaper articles).
- Utilized EH Food Establishment Listserv to invite all Food Establishment permit holders to community engagement meetings
- Community Workshops (all held at the Amarillo Civic Center, Regency Room B)
 - August 18, 2017 – 20 attendees
 - August 19, 2017 – 10 attendees
 - August 23, 2017 – 50 attendees
- August 22, 2017 - PRA Board of Directors Meeting on regarding ordinance changes. We received full support from the PRA Board.

Amarillo City Council

Agenda Transmittal Memo



-
- September 11, 2017 - PRA leadership and City Director of Utilities to discuss improvements to City's Grease Trap Program.
 - October 18, 2017 - PRA General Membership meeting to discuss Director of Utilities grease trap program, Fire Marshall new inspection fees, and EH food safety ordinance updates. (15 attendees)
 - November 7, 2017 - Bi-City-County Public Health District Board of Health. Proposed ordinance updates and amendments were unanimously approved by the Board.

Solicitation of Expert commentary

- Received and implemented feedback from Mr. Matt Gellar, President of the National Food Truck Association, on the updates to the mobile food unit ordinances.
- Consulted with City of Amarillo Planning and Zoning, Building Safety, and Office of the Fire Marshal.
- Received and implemented feedback from Environmental Health colleagues across Texas (sister cities with populations greater than 200,000) and the nation (North Carolina, Florida, Alabama, and Kentucky primarily).

Staff Recommendation

Staff is requesting approval of the proposed updates and amendments to Amarillo City Ordinance Chapter 8-5 – Public Health.

11/27/2017

ORDINANCE NO. 17C3

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS AMENDING THE AMARILLO MUNICIPAL CODE, CHAPTER 8-5, ARTICLES I, II, and IV; ADOPTING ADDITIONAL STATE LAWS REGARDING PUBLIC HEALTH; AMENDING THE HEALTH AUTHORITY'S DUTIES; MODIFYING THE ENVIRONMENTAL HEALTH FEE SCHEDULE AND FOOD ESTABLISHMENT SCORING SYSTEM; PROVIDING A VARIANCE PROCEDURE FOR A FOOD ESTABLISHMENT PERMIT; ADDING MOBILE FOOD UNIT AND CHARITABLE FEEDING REGULATIONS; STATING ENFORCEMENT PROVISIONS AND PENALTIES; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

WHEREAS, the City Council for the City of Amarillo previously enacted Ordinance Number 6481, the Public Health Ordinance, enacted May 23, 2000, for the purpose of establishing uniform requirements for public health and sanitation and providing for the general welfare and safety of the persons in the community;

WHEREAS, after a review of Ordinance Number 6481 as well as current state and federal laws and regulations governing public health concerns, the City staff recommends modifications, amendments, and additions to such Ordinance in order to conform with those current laws and regulations;

WHEREAS, the Bi-City-County Health Board reviewed such recommendations and found such modifications, amendments, and additions to the Public Health Ordinance were necessary to protect the public health, safety, and welfare of persons for public health reasons; and

WHEREAS, the Amarillo City Council, after considering staff and Bi-City-County Health Board recommendations as well as all matters presented, determines that the recommended changes are in the best interest of the City and its citizens and will promote the health, safety, and welfare of the citizens of Amarillo and the general public.

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

SECTION 1. The Amarillo Municipal Code, Chapter 8-5, Article I, is hereby amended and modified as to the following definitions and laws, and all other definitions and laws not identified below remain unchanged:

Sec. 8-5-1.- Definitions.

Bake Sale: Non-TCS (Time/Temperature Control for Safety) food items offered for sale on a temporary basis as fund-raising items by charitable and nonprofit organizations. The kitchens in private homes where Bake Sale items are prepared are not regulated by the Environmental Health Officer nor shall the sites at which Bake Sales occur be regulated.

Caterer: Food Establishment that prepares or serves food on premises which is in control of another. A person shall not engage in a catering service unless the service is affiliated with a Food Establishment operating from a fixed facility that has been issued a Food Establishment Permit by the Environmental Health Officer.

Child Care Facility: Any facility licensed by the Texas Department of Family and Protective Services (DFPS) to provide care for seven or more children for less than 24 hours per day at a location other than the permit holder's home and which prepares and receives food for on-site or off-site consumption.

Director of Environmental Health: The manager of the Department of Environmental Health appointed by the City Manager's Office and charged with executing environmental and consumer health programs for the enforcement of health and safety laws relating to food, water, public swimming pools, waste control, general sanitation, and vector control for the Amarillo Bi-City-County Health District.

Director of Public Health: The manager of the Department of Public Health appointed by the City Manager's Office and charged with implementing public health promotion and maintenance services; infectious disease control and prevention services; community health assessment, and public health education and information services for the Amarillo Bi-City-County Health District.

Environmental Health Officer: The Director of Environmental Health and all registered sanitarians employed as Environmental Health Specialists.

Delete Exempt Pre-packed Food Vendor.

Delete Farmer's Market.

Delete Food Establishment Definition and Replace to read: A food establishment means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption to include the following, but not limited to:

- (1) a restaurant, retail food store, satellite or catered feeding location, catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people, market, vending location, (machine), self-service food market, institution, or food bank;
- (2) an establishment that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers; and
- (3) includes an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority and an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food.
- (4) Any entity that provides food for highly vulnerable/susceptible populations to include, but not limited to, the following: child care facilities, assisted living facilities (ALF), nursing homes, congregate living facilities (18 or more residents), hospitals, hospice, rehabilitation facilities, children's homes, food banks and special needs shelters.
 - (a) Child care facilities will be considered a limited snack only provider if only serving the following: juice, milk, formula, cut fruits and vegetables, and portioning of Non-TCS snacks.
- (5) Food Establishment does not include an establishment less than 200 cubic feet for the total food operation (includes display and storage areas) that provides only single-service,

prepackaged foods that are not time / temperature control for safety, a produce stand that only offers whole, uncut fresh fruits and vegetables, a cottage food industry, an area where cottage food is prepared, sold or offered for human consumption, a Bed and Breakfast Limited facility as defined in the Texas Food Establishment Rules, or a private home that receives catered or home-delivered food, lemonade stands that only prepare and serve lemonade drinks, liquor stores (alcohol only), and beer distribution facilities.

(6) Food Manufacturers are defined as food operations that possess a license from the Texas Department of State Health Services for the manufacturing of food for sale to the public.

Health Authority: The Physician appointed by the Amarillo City Council to serve as Director and administer State and local laws relating to public health within the Amarillo Bi-City-County Health District.

Delete Health and Safety Code.

Delete Living Quarters.

Mobile Food Unit: A vehicle mounted, self or otherwise propelled, designed as a food establishment to be readily moveable that is equipped with food preparation equipment. This includes vehicles in which food is prepared on site. Said vehicles must meet all applicable regulations for fixed food establishments.

Non-Time/Temperature Control for Safety (NTCS) food: A food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution.

Delete Prepackaged Food Vendor.

Delete Produce Vendor.

Public Health Administrator: The administrator appointed by the City Manager to supervise the administrative operations of the Bi-City-County Health District, including budget administration, personnel management and other administrative duties as assigned by the City Manager.

Public Health Officer: Director of Public Health and/or designee.

Reinspection Fee: In addition to the annual permit fee charged under Section-8-5-3, there shall be charged a Reinspection Fee per inspection in all cases where additional inspections are required because of failure of any Food Establishment, On-Site Sewage installation, public swimming pool, spa or PIWF to comply with Environmental Health Department requirements.

Sec. 8-5-2. - Adoption of State Law, Rules and Regulations.

The following Chapters of the Texas Health and Safety Code and applicable administrative regulations as published by the Texas Department of State Health Services and the Texas Department of Licensing and Regulation, as such now exists and hereafter amended or re-codified, are hereby adopted by reference as if fully set out herein:

- (1) Chapter 81 Communicable Diseases.
- (2) Chapter 88 Reports of Childhood Lead Poisoning.
- (3) Chapter 121 Local Public Health Reorganization Act.
- (4) Chapter 145 Tanning Facilities.
- (5) Chapter 146 Tattoo and Certain Body Piercing Studios.
- (6) Chapter 228 Texas Food Establishment Rules.
- (7) Chapter 341 Minimum Standards of Health and Sanitation (Section 341.001, § 341.011, § 341.014, § 341.061-.068 only).
- (8) Chapter 342 Local Regulation of Sanitation (Section .001 and .003 only).

- (9) Chapter 431 Texas Food, Drug, and Cosmetic Act.
- (10) Chapter 433 Texas Meat and Poultry Inspection Act.
- (11) Chapter 434 Public Health Provisions Relating to Production of Baked Goods.
- (12) Chapter 437 Regulation of Food Service Establishments, Retail Food Stores, Mobile Food Units, and Roadside Food Vendors.
- (13) Chapter 438 Public Health Measures Relating to Food (Section .001-.035 only).
- (14) Texas Administrative Code, Chapter 229, Licensing of Tattoo and Certain Body Piercing Studios (25 TAC §§229.401–229.413).
- (15) Texas Administrative Code, Chapter 285, On-site Sewage Facilities (30 TAC, Chapter 285).
- (16) Texas Administrative Code, Chapter 265, Subchapter L, Standards for Public Pools and Spas (25 TAC, Chapter 265, Subchapter L).
- (17) Texas Administrative Code, Chapter 265, Subchapter M, Interactive Water Features and Fountains (25 TAC, Chapter 265, Subchapter M).

SECTION 2. The Amarillo Municipal Code, Chapter 8-5, Article II, is hereby amended and modified to read:

Sec. 8-5-5 (d). - Duties of Health Authority. Add (d) to read:

The Health Authority, Director of Public Health, Director of Environmental Health, and/or their designees, are charged with implementing and enforcing public health for this jurisdiction in compliance with codes and regulations promulgated by the Texas Department of Health. The Director and his/her designee shall also coordinate activities with the Texas Department of Health and other local public health units, departments, and districts.

SECTION 3. The Amarillo Municipal Code, Chapter 8-5, Article IV, is hereby amended and modified as to the following Sections to read, and parts not identified remain unchanged:

Sec. 8-5-13. - Right of entry for inspection.

Replace inspectors with Environmental Health Specialists.

Sec. 8-5-15. - Fees.

Delete (3)-(37) and replace to read:

- (3) Umbrella permitting for operations with multiple operations on contiguous properties or within one (1) structure all owned and/or operated by the same legal entity. One master permit will be issued for all food establishments per section 8-5-15 (a)(1-2) or, if more than one (1) at the same property, then \$100.00 for each structure after the first.
- (4) Prepackaged Food Vendors less than 200 cubic feet of total food operation area are exempt from permit and fees.
- (5) Food Establishment greater than 200 cubic feet for the total food operation (includes display and storage areas) that provide only single-service, prepackaged foods that are not time / temperature control for safety \$258.00.

Delete (6) and replace to read:

- (6) Food Establishment permit fees for Caterers, Farmers Markets, Concession Stands, Mobile Food Units (to include snow cone stands) \$258.00.
- (7) Food Establishment permit fees for schools and child care facilities \$258.00.
- (8) Child Care facilities that serve only Non-TCS food items (snacks only)\$100.00.
- (9) Food Establishment Application Fee for New, Change of Owner, Remodel, or Repair \$26.00.
- (10) Food Establishment Plan Review and Inspection for New, Change of Owner, Remodel, or Repair \$88.00.
- (11) Voluntary construction compliance inspection\$75.00.
- (12) Variance application\$200.00.
- (13) TCS Vending Machine permit fees \$103.00 per unit.
- (14) Food Establishment Re-inspection Fees
 - a. First required re-inspection.....\$78.00.
 - b. Second consecutive required re-inspection.....\$100.00.
 - c. Third consecutive required re-inspection.....\$125.00.
 - d. Fourth consecutive and subsequent required re-inspection.....\$150.00.
- (15) Duplicate copy of permit, registration, placard or license \$26.00.
- (16) Late Food Establishment Permit Fee..... \$52.00 if paid within (30) days of expiration, afterwards \$100.00 (capped fee).
- (17) Application fee for New and Change of Owner for Liquor License \$26.00.
- (18) Late Renewal fee of Liquor License \$26.00.
- (19) Application fee for New and Change of Owner for Beer and Wine License \$26.00.
- (20) Late Renewal fee for Beer and Wine License \$26.00.
- (21) Environmental Inspection of a child care facility or group home \$52.00.
- (22) Temporary Food Establishment permit per day per booth obtained at least two (2) full working days prior to the event. Licensed caterers must obtain a Temporary Food Establishment permit but are exempt from fees.

# of Booths	Large Events (21 booths or greater)	Small Events (20 booths or less)
0-5	X	\$26.00
6-12	X	\$21.00
13-20	X	\$16.00
21-40	\$21.00	X
41-80	\$16.00	X

81 or more	\$11.00	X
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(23) Express Temporary Food Establishment permit per day per booth applied for within forty eight (48) hours prior to the event. Licensed caterers must obtain a Temporary Food Establishment permit and are not exempt from express permitting fee \$50.00 added to total cost of permit.

(24) Certified Food Manager annual registration \$42.00.

(25) Late Certified Food Manager annual registration \$11.00.

(26) Certified Food Manager Certification (course and exam) \$155.00 per person.

(27) Certified Food Manager Certification Exam Re-test \$75.00 per person.

(28) Food Handler Certification (course and exam) \$21.00 per person.

(29) Water sample collection \$42.00.

(30) OSSF - Primary Treatment systems for single family dwellings \$258.00.

(31) OSSF - Primary Treatment systems for multi-family dwellings \$289.00.

(32) OSSF - Advanced Treatment systems (secondary treatment or greater) \$309.00.

(33) OSSF - Existing system inspection \$155.00.

(34) OSSF - Re-inspection fee \$78.00.

(35) (Annual permit (year round usage) for Public pools and spas, PIWF; Semi-public pools, spas, PIWF \$206.00 or, if more than one (1) at the same property, then \$52.00 for each unit after the first. Fees will not be pro-rated. Permits are non-transferable.

(36) Seasonal permit (Operating less than 9 months of the permit year) for Public pools, spas, PIWF: Semi-public pools, spas, PIWF \$103.00 or, if more than one (1) at the same property, then \$52.00 for each unit after the first.

(37) Re-inspections to re-open a closed pool: \$78.00. Every effort will be made to re-inspect the same day of notification that the violation(s) has been corrected. Re-inspections of closed pools will be made within one (1) working day. A re-inspection fee for code compliance may be required on the 2nd re-inspection.

Add (38)-(43) to read as follows:

(38) Late fees for annual public pool permits will be \$52.00 and for seasonal permits will be \$26.00.

(39) Cost per seat in the Certified Pool Technician course will be \$129.00 for the initial 2-day course and exam. A one (1) day refresher course with exam will be offered for \$52.00 per seat for those who have taken the initial course with the City. Payments must be made in advance and are non-refundable.

(40) Application and plan review for new construction, modification, or repair of a public swimming pool, spa, or PIFW: \$52.

(41) All Environmental Health fees will increase annually by 3% or consumer Price Index (CPI), whichever is greater. Fees will be rounded up to a whole dollar amount.

(42) Technology fee (applied to all applications, excluding Temporary Food Establishments, Environmental Health Applications and Water Samples but including renewals)\$10.00.

(43) Convenience fee (applied to all credit/debit card transactions).....2.5% of the total transaction (rounded to nearest whole dollar amount).

Sec. 8-5-16. - Permits required; nontransferable; term; other.

Amend and modify to read:

(a) Permits required.

- (1) No person may engage in, conduct, or operate a Food Establishment without a valid annual permit issued to such person by the City of Amarillo. A permit may only cover 1 structure. Non-contiguous structures will require additional permits.
- (2) No person shall install any on-site sewage disposal system or make additions, modifications or alterations without having first applied and received a permit from the Environmental Health Officer.
- (3) Delete (3) and replace to read as follows:
Entities that possess a Food Manufacturing License from the Texas Department of State Health Services must also obtain a Food Establishment Permit from the City of Amarillo. All USDA inspected meat processing facilities are exempt from Bi-City-County Health District permitting requirements.
- (4) No person shall install or operate a Public or Semi-public pool, spa, or PIWF without a valid permit issued to the owner or operator by the Environmental Health Officer or designee.

(d) Specific Requirements for Food Establishment Permits.

- (1) Required planning documents. No Food Establishment shall be permitted to open, operate, or conduct business unless detailed plans, to include but not limited to, the Department Plan Review Guide and specifications of proposed construction, additions, or major alterations have been submitted to and approved by the Environmental Health Officer.

Delete (2)-(4).

(e) Specific Requirements for On-site Sewage Disposal Permit. No permit will be issued for the construction of on-site sewage disposal system within the City limits unless authorized by the Director of Utilities and the Director of Environmental Health.

Sec. 8-5-17. - Suspension of permit and Appeals.

Amend and modify to read:

(e) A Food Establishment which scores more than thirty (30) demerits shall be considered to have "Failed" their inspection. A re-inspection of a failed facility shall pay a re-inspection fee for the next inspection. This inspection will be scheduled on the next regular work day. The Environmental Health Officer is authorized and empowered to suspend the Food Establishment permit of any Food Establishment in violation of this article.

Add (f) and renumber (g) and (h) to read:

(f) A Food Establishment with a failed inspection must correct all "Priority and Priority Foundation" violations prior to re-inspection. Failure to correct these items will result in immediate closure until 8:00 am the following business day or until all required items have been corrected. A re-inspection fee will be required.

(g) A Public or Semi-Public pool, spa, or PIWF is found to be open and operating at a level that does not comply with the disinfectant, pH and/or water clarity parameters defined in 25 TAC 265.204(a) figure 25.

(h) Delete (h) and replace to read:

A written request for an appeal hearing of such suspension may be made to the City Manager in accordance with Section 8-5-24, and the City Manager's decision is final.

Sec. 8-5-18. - Food Manager's certificate.

Amend and modify to read:

- (a) It shall be unlawful for any Food Establishment to operate for a period of sixty (60) days or more without a Certified Food Manager registered with the Environmental Health Department. Every permitted Food Establishment must have at least one Certified Food Manager that is registered with the Department. Certified Food Manager Registration must be renewed annually.

Delete (b), (e), and (f), renumber to read:

- (b) A Food Manager's registration may be issued to any person who:

(1) Completes a course of study and obtains a current, valid certificate of any course recognized by the Texas Department of Health as an accredited Food Managers course.

(2) Pays the required annual registration fee.

(c) A course of study for a Food Manager's certificate will be offered once each month or as determined by the Director of Environmental Health or his designated representative.

(d) A Food Manager's registration that is not renewed prior to its annual expiration shall be revoked. Late renewals will be assessed a fee.

Sec. 8-5-19. - Applications procedures.

Amend, modify, and add to read:

(e) Applications for temporary permits must be submitted two (2) full working days prior to the day of the event. Applications will not be taken at the site of the temporary event. If a temporary Food Establishment is operating without an approved application or permit, a notice to cease operations will be issued.

Add (1) and (2) to read:

(1) If only pre-packaged Non-TCS food items, labeled for individual sale or distribution at point of manufacture, are to be sold or given away, no temporary food establishment permit will be required.

(2) Applicant must be ready for an opening inspection within thirty (30) minutes of the designated time stated on the Temporary Food Establishment application. If the applicant is not ready within thirty (30) minutes of designated time, then a permit to operate will not be issued.

Delete (f) and replace (f) to read:

(f) Variances:

(1) The Environmental Health Officer may grant a variance by modifying or waiving a requirement of this Chapter or the Texas Food Establishment Rules if the Environmental Health Officer determines that a health hazard will not result from the variance.

(2) A person requesting a variance must provide the following information to the Environmental Health Officer by completing the departments Variance Request Form:

a. A description of the requested variance from this Chapter or the Texas Food Establishment Rules;

b. A citation to the relevant section of this Chapter or the Texas Food Establishment rules; and

c. A rationale for how a potential public health hazard or nuisance will be prevented if the variance is granted.

(3) If the Environmental Health Officer grants a variance, the Environmental Health Officer shall retain in its records the information required by subsection (2).

(4) A food establishment granted a variance under this section shall comply with all other applicable Texas Food Establishment Rules and the provisions of this chapter. The Health Officer may deny or revoke a variance approval under this section if the food establishment is in violation of any term or condition of the variance as established by the Environmental Health Officer, this chapter or state law. The Environmental Health Officer may also revoke the variance approval if thirty (30) or more demerits are assessed on two (2) consecutive food inspections of the food establishment. If the Environmental Health Officer denies or revokes the variance approval, the Environmental Health Officer shall notify the food establishment in writing with the reason(s) for the denial or revocation by personal service or regular United States mail. The food establishment may request a hearing if the request is in writing and is filed with the Environmental Health Officer within ten (10) working days of the denial or revocation. If no request for a hearing is filed within the ten (10) day period, the denial or revocation of the variance approval becomes final. If a request for hearing is filed within the ten (10) day period, the Environmental Health Director shall hold the hearing and render a decision in writing within ten (10) working days of receipt of the request. The decision of the Environmental Health Director is final.

Add (g) to read:

(g) Variance for establishments seeking to permit dogs in outdoor eating area.

(1) A food establishment may apply to the Environmental Health Officer for a variance of TAC §228.186(o) of the Texas Food Establishment Rules pursuant to TAC §228.243(a) of the Texas Food Establishment Rules and this section. A variance granted under this section is nontransferable and will be considered valid unless revoked by the Environmental Health Officer or terminated by the food establishment.

(2) If pursuant to this section and the Texas Food Establishment Rules §228.243(a), the Health Officer grants a variance to TAC §228.186(o) of the Texas Food Establishment Rules (which prohibits animals on the premises of a food establishment) to allow dogs to be present in the outdoor patio area of a food establishment, the food establishment shall comply with the following conditions and standards in addition to any other condition and standards established by the Environmental Health Officer for the variance:

- a. Except as allowed under TAC §228.186(o) of the Texas Food Establishment Rules, no dog may be present on the premise of a food establishment.
- b. A separate entrance must be provided from the outside of the food establishment to the outdoor patio so that a dog will have direct access to the patio without entering the interior of the food establishment or any playground areas of the food establishment. A dog on an outdoor patio may not be allowed within seven (7) feet of any entrance to the interior of the food establishment, except when necessary to enter or exit the patio.
- c. A sign must be posted at the front entrance of the food establishment so that it is easily visible to the public. The sign must state: "DOG FRIENDLY PATIO (with an arrow showing the direction to the patio entrance) DOG ACCESS ONLY THROUGH OUTDOOR PATIO".
- d. Doors equipped with self-closing devices must be provided at all entrances to the outdoor patio from the interior of the food establishment.
- e. No food preparation, including mixing drinks or serving ice, may be performed in the outdoor patio area, except that a beverage glass may be filled on the patio from a pitcher or other container that has been filled or otherwise prepared inside the food establishment.
- f. The food establishment shall have hand sanitizer available at or near all entrances and exits to the establishment.

g. The outdoor patio must be continuously maintained free of visible dog hair, dog dander and other dog-related waste or debris. The outdoor patio must be hosed down or mopped with animal friendly chemicals at the beginning of each shift during which food or beverages will be served (breakfast, lunch, dinner, or late-hours), or, if a food establishment has continuous food or beverage service without designated shifts, then every six (6) hours that the establishment is open for business, except that cleaning under this subsection is not required if no dog has been present on the outdoor patio since the last cleaning. Waste created from a dog's bodily functions must be cleaned up with animal friendly chemicals within five (5) minutes after each occurrence. All dog waste must be disposed of outside of the food establishment in an appropriate waste receptacle. Equipment used to clean the outdoor patio must be kept outside of the food establishment.

h. While on duty, wait staff or other food handlers at the food establishment may not pet or have contact with any dog.

i. A dog must be kept on a leash and remain in the control of the customer while in the outdoor patio area. The dog must be currently vaccinated for rabies and wearing a collar or harness with a current license tag attached to it.

j. A dog is not allowed on a seat, table, countertop, or similar surface in the outdoor patio area.

k. A dog is not allowed to have contact with any dishes or utensils used for food service or preparation at the food establishment.

l. A dog may not be given any food (including, but not limited to, dog kibble, biscuits and edible treats) while in the outdoor patio area, but may be given water in a disposable container or from a container provided by the customer.

(3) An owner, officer, manager, or other person in charge of a food establishment commits an offense if he or she, either personally or through an employee or agent, violates, allows a violation of, or fails to comply with a term or condition of a variance granted under this section.

Sec. 8-5-20. Delete Displays and replace with Food Establishment Scoring System.

Delete (a) and (b) and replace to read:

(a) In the interest of public health and safety, the results of the initial and follow-up inspection reports will be converted to a letter grade with the letter "A" being the highest level of food service operation. The letter grade, corresponding numerical score, and the number of priority violations shall be posted. The criteria for the various certificates are:

- (1) Grade "A"—Attain a sanitation score of 90 or above.
- (2) Grade "B"—Attain a sanitation score between 80 and 89.
- (3) Grade "C"—Attain a sanitation score between 70 and 79.
- (4) Grade "F"—Attain a sanitation score 69 or below.

(b) An inspection placard shall be posted by the Environmental Health Officer at a conspicuous location where it will be clearly visible to patrons. The specific location of the placard will be determined by the Environmental Health Officer. The placard shall not be defaced or removed by any person except the Environmental Health Specialist. Violation of this section shall be a criminal offense in accordance with Section 8-5-26(a). The Environmental Health Officer may also suspend or revoke the food establishment permit for up to 30 days.

Delete Sec. 8-5-21 and renumber all Sections following this Section.

Sec. 8-5-21. - Additional Requirements for Food Establishments.

Delete (a), (c) and (e), then renumber the following to read as amended and modified:

- (a) Refrigeration, cooking, and hot holding equipment used in Food Establishments shall meet or exceed the criteria established for commercial use by the National Sanitation Foundation International (NSF) or equivalent as determined by the Environmental Health Officer. Equipment excluded from this requirement include the following; chest freezers, microwaves, bread toasters, blenders, or any other equipment that does not create a food safety hazard as identified by the Environmental Health Officer.
 - (1) At a minimum, any and all Food Establishments shall have the following plumbing fixtures: three compartment sink, hand sink and utility sink or curbed cleaning facility.
 - (2) Child care facilities that are considered a limited snack only provider shall comply with minimum plumbing fixtures and commercial equipment by October 1st, 2020. Food service activities shall be conducted in a designated area intended for food service activities only. All other minimum requirements as identified by the Environmental Health Officer are required.
 - (b) Caterer requirements:
 - (1) All catering operations must meet all applicable requirements in the Texas Food Establishment Rules.
 - (2) A Caterer will provide facilities to maintain product temperatures during storage, preparation, display, service, and transportation.
 - (3) Refuse containers must be present at the service site that permit disposal of refuse in a way that does not result in a health or safety hazard.
 - (4) A Caterer must not prepare or serve food in an area that exposes any person to a health or safety hazard.
 - (5) A Food Establishment that uses a vehicle in the operation of a catering service shall identify the vehicle with characters three (3) inches in height on both exterior sides of the vehicle expressing the following information:
 - a. The name of the Food Products Establishment;
 - b. A brief description of the nature of the business if not included in the name;
 - c. The Food Establishment permit number of the establishment;
 - d. An inspection of the vehicle by the Environmental Health Officer on the date designated by such Officer; and
 - e. The vehicle shall be maintained in a clean condition.
 - (c) Mobile Units requirements:
 - (1) Vehicles shall be identified with characters three (3) inches tall on both exterior sides of the vehicle expressing the following information:
 - a. The name of the Food Products Establishment;
 - b. A brief description of the nature of the business if not included in the name;
 - c. The Food Establishment permit number of the establishment.
- Delete (2) and replace with additional Mobile Food Unit regulations at (2)-(11):
- (2) Mobile Food Units are required to have, at minimum, two inspections per year. One of the annual inspections must occur at a location designated by the Environmental Health Officer for

- a compliance inspection. Failure to obtain a satisfactory compliance inspection may result in permit suspension or revocation.
- (3) In accordance with the Texas Food Establishment Rules, chapter 228.221(a)(1), Mobile Food Units, determined to be completely self sufficient and compliant by the Environmental Health Officer, may operate without a Central Preparation Facility/Commissary. If it is determined a Central Preparation Facility/Commissary is required, a separate Food Establishment permit for the Central Preparation Facility/Commissary shall be obtained before the Mobile Food Unit permit may be issued. A Central Preparation Facility/Commissary shall meet all minimum requirements in the Texas Food Establishment Rules and have at least the following: floors, walls and ceilings, three compartment sink, handwashing sink with hot/cold running water under pressure and a service sink or curbed cleaning facility.
 - (4) Mobile Food Unit Servicing Areas shall not be waived and must meet all applicable requirements in the Texas Food Establishment Rules. Mobile Food Units shall not be parked or operate from a private residence.
 - (5) All Mobile Food Units must meet all of the following requirements related to location:
 - a. Must obtain and provide written approval from the property owner;
 - b. Must obey all traffic laws;
 - c. Must comply with all visibility requirements for vehicular and pedestrian traffic;
 - d. Must not impede vehicular and pedestrian access to building entrances, alleys, or driveways;
 - e. If the Mobile Food Unit has been located in the same location for more than ninety (90) days, the MFU shall be treated as a long-term use, and therefore must comply with adopted site development requirements, including but not limited to:
 - i. Parking requirements such as dimensions drive lanes, off-street location, and number of spaces;
 - ii. Zoning requirements such as allowed usage in the zoning district and performance standards;
 - iii. Site improvements such as paving, landscaping, screening, and signage; and,
 - iv. Any other requirements deemed necessary by the Environmental Health Officer;
 - f. A Mobile Food Unit shall not be located within 300 feet of the immediate vicinity of a community event or festival unless written permission has been obtained from the event organizer; and
 - g. The operation shall not interfere with the fire lane, fire break, fire hydrant, emergency vehicle access or exit access of adjacent proximate structures;
 - (6) If the central preparation facility is located outside the jurisdiction of the City, the applicant must provide a copy of the most recent health inspection demonstrating a satisfactory result from the health authority having jurisdiction over the central preparation facility;
 - (7) All Mobile Food Units must be constructed and maintained in accordance with locally adopted building codes to include, but not limited to, plumbing, (water, sewer and gas lines only), electrical and mechanical, (heating and air), as determined by the Environmental Health Officer;
 - (8) All Mobile Food Units must be constructed and maintained in accordance with the following Fire Marshal requirements:
 - a. A mobile unit must have a 2A:10B:C sized extinguisher with an annual inspection tag from a Texas licensed inspection company or a receipt indicating purchase within the past year. Cooking equipment involving solid fuels or vegetable oils or animal oils and fats shall be protected by a class K rated portable extinguisher;

- b. A Type I hood shall be installed at or above all commercial cooking appliances and domestic cooking appliances used for commercial purposes that produce grease laden vapors. A Type I hood system shall be equipped with an automatic extinguishing system. The fire extinguishing system shall have a current inspection/service tag. Examples of cooking appliances that require a Type I hood and produce grease laden vapors are: griddles, fryers, and woks etc. Any mobile unit equipped with an automatic extinguishing system shall have a current (bi-annual) inspection tag from a Texas licensed inspection company;
 - c. Type I hoods shall be cleaned regularly to avoid grease build up;
 - d. All MFU's using compressed gas (LP/propane cylinders, etc.) shall keep gas containers secured outside of the passenger area of the vending unit. Compressed gas cylinders shall be secured by one or more restraints to a fixed object or nested and secured by one or more restraints and cannot be located closer than 10 feet from any trash, open flames, generators, or other combustible material. All valves, hoses and connections used shall be rated for use with petroleum gas;
 - e. Portable generators shall be kept at safe distance from all public accessible areas and shall be used in accordance with the manufacturer's instructions. Mounting and placement of containers shall comply with National Fire Protection Association (NFPA) 58 and Texas Department of Transportation regulations;
 - f. Extension cords shall not be used for permanent wiring. Extension cords shall only be used to power portable appliances and shall be properly rated for use according to the manufacturer's specifications;
 - g. All flammable/combustible liquids shall be separated from combustible materials and ignition sources by a minimum of 10 feet;
 - h. All Mobile units shall maintain ten (10) feet of clearance from combustible structures;
 - i. All Mobile Food Units permitted after the effective date of this section of the rule, must have approved ventilation and an automatic extinguishing system by the Fire Marshal's office. All previously approved Mobile Food Units that are determined to be non-compliant with (a) & (b) in this section must comply with the following:
 - i. Mobile Food Unit must be located at least fifty (50) feet from any structure or unattended automobile;
 - ii. All ventilation and fire suppression must obtain approval from the Fire Marshal's Office by October 1st, 2020; and
- (11) Before a Mobile Food Unit permit can be issued, the owner/operator shall provide documentation demonstrating that the current gross vehicle weight of the Mobile Food Unit does not exceed the vehicle's Gross Vehicle Weight Rating (GVWR) as recognized by the Texas Department of Public Safety.

Sec. 8-5-22 – Add Section 8-5-22 -- Charitable Feeding to read as follows:

- (a) Charitable feeding activities are not considered a Food Establishment and do not require a permit under this Chapter, except as otherwise set out in subsection (d). No permit is required and no regulations apply to charitable feeding of four (4) individuals or fewer.
- (b) Except as set out in subsection (d), no permit is required for giving away whole, uncut fresh fruits or vegetables or pre-packaged, non-time/temperature control for safety (Non-TCS) food such as canned goods, granola bars, bottled water, non-refrigerated fruit drinks, bagged potato chips, pre-packaged snacks and candy bars.
- (c) If there is any handling of food, other than packaged food, any person engaged in charitable feeding activities of five (5) or more individuals in one instance shall comply with the following:

- (1) Either a certified Food Handler or a certified Food Manager must be present when food is prepared or onsite while food is distributed if food will be prepared onsite. Food Manager or Food Handler certifications shall be in accordance with the requirements set out in sec. 8-5-18 of this Chapter, except that no City registration fees for Food Manager shall be required; and
- (2) The department shall be notified within forty-eight (48) hours after charitable feeding activities with the name of the person or organization providing the charitable feeding activities, and the location, date, and time of feeding.
- (d) Charitable feeding of five (5) or more individuals within a City owned park may be conducted only by following the standard park reservation process, set forth by the Parks and Recreation department, including the payment of all required reservation fees.
- (e) Any person engaged in charitable feeding activities shall remove all undistributed food from the feeding site upon conclusion of the charitable feeding activities and dispose of all trash, debris and waste water generated during feeding.
- (f) The department shall provide minimum safety requirements for safe food handling and preparation on the department's website as guidance for any charitable feeding activity. The director may condemn and forbid the distribution, or cause to be removed or destroyed, of any food or drink which is unwholesome or deleterious.
- (g) Charitable feeding activities may not be conducted on streets where a traffic hazard is created or in violation of other rules and regulations regarding public streets and the use of a right-of-way.

Sec. 8-5-23 – Add Section 8-5-23 -- Enforcement to read as follows:

When the Environmental Health Director determines that a Food Establishment, On-site sewage disposal system, or Public Pool violates this Article, the following remedies are available for the Director. The Director may take any, all, or any combination of these actions against the violator, consecutively or concurrently:

- (a) Issue warning notice.
- (b) Issue one or more citations.
- (c) Obtain an emergency closure/suspension order.
- (d) Abate the nuisance, if applicable.
- (e) Permit suspension or revocation proceedings, if applicable.
- (f) Request the City Attorney to institute a suit for civil remedies as provided by this Article or state law.
- (g) Any other remedy provided by law.

Sec. 8-5-24 – Add Section 8-5-24 -- Hearing Request to read as follows:

- (a) If Petitioner desires an appeal hearing for violations of this Article, then he/she shall file written notice with the City Secretary within ten (10) days of the violator being served with notice of action.
- (b) Petitioner must state sufficient grounds with material fact issues to be granted a hearing. If no issue of material fact exists, then the Environmental Health Director's determination is final, and the hearing is denied.
- (c) When grounds exist for such hearing, then a written notice of the hearing shall be served on the petitioner violator within at least ten (10) days prior to the hearing. Notice shall be served in person or by certified mail, return receipt requested, stating the date, time, and place of such hearing.
- (d) Notice shall be deemed received five (5) days after it is placed in a mail receptacle of the United States Postal Service.
- (e) Whenever any deadline specified in this Section falls on a Saturday, Sunday, or City-recognized holiday, the deadline shall be the next regular City business day.

- (f) The City shall have the burden to prove by a preponderance of the evidence that their actions were appropriate by producing evidence in support of their case.
- (g) The City Manager shall be the hearing officer, and he/she shall uphold, reverse, or modify the prior decision holding the Petitioner violator in violation of this Article.
- (h) At the conclusion of the evidence, the City Manager shall render a written decision, and his/her decision shall be final.
- (i) This hearing shall exhaust all administrative remedies of the petitioner violator.

Sec. 8-5-25 – Add Section 8-5-25 -- Nuisance Abatement to read as follows:

- (a) The Director may give notice to a property owner of a nuisance, as defined in Section 8-5-14, under this Article and require that owner cease, abate, remove, or otherwise remedy such nuisance immediately. If the person creating, maintaining, or allowing the nuisance is not the property owner, notice shall be given to such person.
- (b) The notice must be given:
 - (1) Personally to the owner/person in writing; or
 - (2) By letter addressed to the owner/person at the owner's/person's post office address and sent certified mail, return receipt requested. However, if personal or certified mail service cannot be obtained or the owner's/person's post office address is unknown, notice may be given by:
 - a. Publication in the City's official newspaper at least twice within ten consecutive days.
 - b. Posting the notice on or near the front door of each building on the property in which the violation relates; or
 - c. Posting the notice on a placard attached to a stake driven into the ground on the property in which the violation relates, if the property contains no buildings.
- (c) If the property owner/person fails to comply with the notice within ten (10) days of service, the Director may enter the property containing the nuisance and abate the nuisance as the Director deems necessary.
- (d) If the Director deems immediate nuisance abatement necessary to protect the public health, safety, or welfare from an imminent and substantial endangerment, the Director may, without complying with the notice provisions of this Section, enter the property containing the nuisance and do or cause to be done any work the Director deems necessary for nuisance abatement.
- (e) After abating the nuisance, the Director may inform the owner/person in a notice sent certified mail, return receipt requested, that if the owner/person commits another violation of the same kind or nature that poses a danger to the public health, safety, or welfare on or before the first anniversary of the original notice date, the City may without further notice correct the violation at the owner's expense and assess the expense against the property.
- (f) To obtain a lien against the property for all City costs incurred, the Director shall file a lien with the county clerk in the county in which the property is located. This lien shall be inferior only to tax and street assessment liens.

Sec. 8-5-26 – Add Section 8-5-26 -- Judicial Remedies and Penalties to read as follows:

- (a) Criminal Remedies.
 - (1) An offense under this Article is a Class C misdemeanor punishable by a fine not to exceed \$2,000 and shall be one of strict liability.
 - (2) Each separate occurrence of a violation or each day that a violation continues shall constitute a separate offense.
- (b) Civil Remedies.

- (1) The City may petition the state district court or applicable county court at law for either injunctive relief, civil penalties, or both, pursuant to Texas Local Government Code, Chapter 54, when a person violates or continues to violate any provision of this Article in regards to the following;
 - a. The preservation of public health; or
 - b. Conditions caused by accumulations of refuse, vegetation or other matter that creates breeding and living places for insects and rodents.
- (2) Such temporary or permanent injunction, as appropriate, obtained against the owner may:
 - a. Prohibit conduct that violates any provision of this Article and relates to subsection (b)(1) above; or
 - b. Compel specific performance of any action necessary to comply with a provision of this Article in regards to any matter specified in subsection (b)(1).
- (3) The City may recover a civil penalty of not more than \$1,000 per day for each violation of any provision of this Article that relates to any matter listed in subsection (b)(1) above if the City proves that:
 - a. The violator was notified of this Article's provisions; and
 - b. After receiving notice of the provisions, the violator committed acts in violation of the Article or failed to take necessary action to comply with this Article.

Secs. 8-5-27--8-5-270. Reserved.

D



Amarillo City Council

Agenda Transmittal Memo



Meeting Date	December 19, 2017	Council Priority	Long Term Plan for Infrastructure, Economic Development
Department	Capital Projects and Development Engineering		
Contact	Floyd Hartman, Director of Capital Projects and Development Engineering		

Agenda Caption

Consideration and Approval – Purchase Agreement for Easements for the installation of the North West Interceptor sanitary sewer project. -\$135,000

Agenda Item Summary

City Staff is recommending approval of the Purchase Agreement for Easements to procure the necessary permanent and temporary construction easements on a 324.35 acre tract of land in Section 46, Block 9, BS&F Survey, Potter County, Texas for the installation of the North West Interceptor sanitary sewer project. The North West Interceptor project is the installation of over 6 miles of sanitary sewer in West Amarillo Creek from SW 9th Avenue northwesterly to the existing Lift Station 40. This project is necessary to provide sanitary sewer service and relief of overloaded conditions in the existing system as identified in an engineering study.

Requested Action

Consider and approve the attached Purchase Agreement for Easements to procure the necessary permanent and temporary construction easement for the installation of the North West Interceptor.

Funding Summary

Funding for this procurement is available in City CIP project #530009 WWC North-West Interceptor which was fully funded in the 2016/17 CIP budget.

Community Engagement Summary

City staff will conduct public information meetings prior to construction.

Staff Recommendation

City staff is recommending approval of the Purchase Agreement for Easements.

PURCHASE AGREEMENT FOR EASEMENTS

DATE: December __, 2017

SELLER: Lois Forsyth Lovett Trust

ADDRESS: 3950 RM 1061,
Amarillo, Texas 79124-7300

BUYER: City of Amarillo, Texas

ADDRESS: P.O. Box 1971
Amarillo, Texas 79105-1971

EASEMENTS: **Dominant Estate Property:** A 324.35 acre tract of land out of Section 46, Block 9, BS&F Survey, Potter County, Texas.

Easement Property: The Easement Property consists of the Permanent Easement Property and the Temporary Construction Easement Property.

Permanent Easement Property: A twenty (20) foot permanent easement being a 0.988 acre tract of land and more particularly described in Exhibit "B" attached hereto and by reference made a part hereof.

Temporary Construction Easement Property: A fifty (50) foot temporary construction being 2.469 acre tract of land and more particularly described in Exhibit "B" attached hereto and by reference made a part hereof.

Easement Purposes: For the installation, construction, reconstruction, inspection, operation, use, maintenance, repair, modification, removal, replacement, and upgrade of a public utility line and related facilities and appurtenances thereto (collectively, the "Sewer Line") across the Dominant Estate Property.

PURCHASE PRICE: For the Easements and the Temporary Construction Easement, a Purchase Price of \$135,000.00. The price of the Easements are based on the easement and other good and valuable considerations.

TITLE: Seller will execute and deliver the Easements and the Temporary Construction Easement to be provided to the Buyer. The Easements shall be in the form of the easement attached hereto as Exhibit "A" attached hereto and made a part hereof.

SPECIAL CONDITIONS:

- 1) This Purchase Agreement for Easements is subject to the approval of the Amarillo City Council.
- 2) Seller warrants and represents that there are no legal actions, suits, or other legal or administrative proceedings pending or threatened, which affect the EASEMENTS or any portion thereof.

MISCELLANEOUS: This Agreement and the Exhibits attached hereto contains the entire understanding of the parties as to the subject matter described herein. This Agreement and the rights of the parties hereunder shall be governed by and interpreted in accordance with the laws of the State of Texas. This Contract may not be changed orally but only by an instrument in writing signed by both parties. The failure of any party to exercise any right or power given hereunder, or to insist upon strict compliance by the other party with its obligations as set forth herein, shall not constitute a waiver by such party of its rights to demand strict compliance with the terms and provisions of this Agreement. Titles and captions have been inserted for convenience only and in no way define, limit, extend, or describe the scope of intent of this Agreement. If either party shall bring suit against the other as a result of an alleged breach or failure by the other party to perform any obligations under this Agreement or shall seek declaratory relief with respect to any provision hereof, then the prevailing party in such action shall, in addition to any other relief granted or awarded by the court, be entitled to judgment for reasonable attorneys' fees incurred by reason of such action and all costs of suit and those incurred in preparation thereof at both trial and appellate levels.

AGREEMENT: Seller agrees to sell, and Buyer agrees to purchase the Easements for the Purchase Price which will be in cash to Seller and subject to any conditions expressed in this Agreement.

Each signatory warrants that he/she is duly and legally authorized to accept the above terms of sale and to execute this Agreement on behalf of his/her self or entity.

EXECUTED this ____ day of December 2017.

ATTEST:

CITY OF AMARILLO

By: _____
Frances Hibbs, City Secretary

By: _____
Jared Miller, City Manager

LOIS FORSYTH LOVETT TRUST

By: Lois Forsyth Lovett
Printed Name: Lois Forsyth Lovett
Title: _____

EXHIBIT A: SANITARY SEWER EASEMENT

Effective Date: December __, 2017

Grantor: Lois Forsyth Lovett Trust

Grantor's Mailing Address: 3950 RM 1061, Amarillo, Texas 79124-7300

Grantee: The City of Amarillo, Texas

Grantee's Mailing Address: 509 East 7th, Amarillo, Texas 79101

Dominant Estate Property: A 324.35 acre tract of land out of Section 46, Block 9, BS&F Survey, Potter County, Texas.

Easement Property: The Easement Property consists of the Permanent Easement Property and the Temporary Construction Easement Property.

Permanent Easement Property: A twenty (20) foot permanent easement being a 0.988 acre tract of land and more particularly described in Exhibit "B" attached hereto and by reference made a part hereof.

Temporary Construction Easement Property: A fifty (50) foot temporary construction being 2.469 acre tract of land and more particularly described in Exhibit "B" attached hereto and by reference made a part hereof.

Easement Purposes: For the installation, construction, reconstruction, inspection, operation, use, maintenance, repair, modification, removal, replacement, and upgrade of a public utility line and related facilities and appurtenances thereto (collectively, the "Sewer Line") across the Dominant Estate Property.

Consideration: TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor.

Reservations from Conveyance: None.

Exceptions to Warranty: Presently recorded and validly existing easements, rights-of-way, encumbrances, and restrictions.

Grant of Easement: Grantor, for the Consideration and subject to the Reservations from Conveyance and Exceptions to Warranty, hereby grants, sells, and conveys to Grantee and Grantee's successors and assigns a non-exclusive easement in, over, under, on, along, through, and across the Easement Property for the Easement Purposes, together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Easement"), to have and to hold the Easement to Grantee and Grantee's successors and assigns forever. Grantor binds Grantor and Grantor's successors and assigns to warrant and forever defend the title to the Easement in Grantee and Grantee's successors and assigns, against every person whomsoever lawfully claiming or to claim the Easement or any part thereof, except as to the Reservations from Conveyance and Exceptions to Warranty, to the extent the claim arises by, through, or under Grantor but not otherwise.

Terms and Conditions. The following terms and conditions shall apply to the Easement:

- 1) **Character of Easement.** The Easement is appurtenant to, runs with, and inures to the benefit of all or any portion of the Dominant Estate Property, whether or not the Easement is referenced or described in any conveyance of all or such portion of the Dominant Estate Property. The Easement is nonexclusive and irrevocable. The Easement is for the benefit of Grantee and Grantee's successors and assigns who at any time own any interest in the Dominant Estate Property (as applicable, the "Holder").
- 2) **Duration of Easement.** The duration of the Easement is perpetual as to the Permanent Easement Property. The Easement will terminate as to the Temporary Construction Easement Property upon completion of the initial installation of the Sewer Line, and thereafter the Easement shall apply only to the Permanent Easement Property.
- 3) **Reservation of Rights.** Holder's right to use the Easement Property is nonexclusive, and Grantor reserves for Grantor and Grantor's successors and assigns:
 - a) the right to continue to use and enjoy the surface of the Easement Property in conjunction with Holder for all purposes that do not in any way interfere with or interrupt the use or enjoyment of the Easement Property by Holder for the Easement Purposes, endanger any of Holder's property located on the Easement Property, or violate any Applicable Law (as defined below).
 - b) the right to grant to others the right to use all or part of the Easement Property in conjunction with Holder, so long such further conveyance does not unreasonably interfere with the Sewer Line and is subject to the terms of this easement.
- 4) **Taps.** Holder agrees to provide at no cost to Grantor or its assigns two taps from the collection mains constructed on the Easement Property (locations to be determined by Grantor in the form of verification of the two manholes the taps are to be connected to on a map of the Easement Property attached and incorporated as Exhibit "C") for purposes of development of the Dominant Estate Property for commercial, residential, or any other use, without having to pay any tap fees or frontage fees for the use of those two taps including future development using the same taps.
- 5) **Defined Terms.** The capitalized terms listed in this paragraph have the meaning stated in this paragraph whenever the terms appear in this easement.
 - a) "Abandon" or "Abandonment", when used in the context of the Sewer Line or the Easement, means either: (1) the affirmative, intentional act of Holder, as evidenced by a written declaration by Holder, to permanently cease operation and use of the Easement or Sewer Line; or (2) the cessation of use of the Easement Property and Sewer Line for the Easement Purposes for a period of twenty-four (24) consecutive months, provided however, that if Holder's failure to use the Easement Property or the Sewer Line for the Easement Purposes is caused by force majeure events such as fires, floods, explosions, terrorist acts, storms, government regulations, court orders or judgments, or other events beyond Holder's reasonable control, then in such event, the period of non-use of the Easement Property or the Sewer Line caused by such event, plus a reasonable time thereafter for restoration of the Sewer Line and resumption of use, shall not be considered a part of any period that Holder did not use the Easement Area or the Sewer Line for the Easement Purposes.
 - b) "Applicable Law" means all laws, statutes, regulations, rules, treaties, ordinances, codes, judgments, directives, permits, licenses, decrees, approvals, interpretations, injunctions, writs,

orders, or other similar legal requirements of any Governmental Authority having competent jurisdiction and that are applicable to the Grantor or the Holder, respectively, or to the Easement Property, or to Grantor's or Holder's operations on the Easement Property, or to the Easement, and that may be in effect from time to time.

- c) "Governmental Authority" means, collectively, the United States of America and all other national, state, provincial, county, municipal, regional, environmental, or other governmental bodies, agencies, or authorities, or any instrumentality or agency of any of these entities, or any court, arbitrator, or other authority or body having jurisdiction.
- 6) **Roads.** As a part of this Easement and Agreement, Grantor grants to Grantee and its successors and assigns the nonexclusive right of ingress and egress over and across the Dominant Estate Property and the nonexclusive right to use existing roads on the Dominant Estate Property. These rights shall be subject to the following terms and conditions:
- a) Holder will, whenever possible, access the Dominant Estate Property from Loop 335, and will use existing roads on the Dominant Estate Property for ingress and egress to the Easement Property.
 - b) If there are several alternative routes, Holder shall confer with Grantor and with Grantor's approval select the route that will best serve the needs of the parties.
 - c) Holder must maintain in good condition roads used by Holder.
 - d) Holder and all of its employees and contractors must stay on approved roads.
- 7) **Temporary Construction Easement.** Holder has the right (the "Temporary Construction Easement") to use the surface of the property that is adjacent to the Easement Property (the "Adjacent Property") as may be reasonably necessary to install and maintain the Sewer Line within the Easement Property that are reasonably suited for the Easement Purpose. However, Holder must promptly restore the Adjacent Property to its previous physical condition if changed by use of the rights granted by this Secondary Easement.
- 8) **Sewer Line.** The Sewer Line on and across the Easement Property shall be subject to the following specifications:
- a) **Location of the one Sewer Line.** Holder shall use reasonable efforts to accommodate Grantor with regard to location of the Sewer Line for future land development as long as (i) Holder's costs would not materially be increased by Grantor's requested location and (ii) Holder's access to and use of the Sewer Line would not be materially adversely affected. Holder shall use reasonable efforts to minimize interference with Grantor's use of the surface of the Easement Property. If Grantor requests a different location for the Sewer Line and the location would not materially adversely affect the Sewer Line but would increase the costs, and if Grantor is willing to pay the additional costs, Holder will accommodate Grantor's requested location of the Sewer Line. Construction of the Sewer Line on the Easement Property will be split in three phases to minimize the impact and allow the Grantor access to the Easement Property.
 - b) **Prior Notification.** At least thirty days prior to the beginning of any construction activity by Holder on the Easement Property, Holder shall provide the Grantor with a copy of all plans for the construction of the Sewer Line. This provision shall not apply to Holder's repair,

maintenance, or operation construction activities. Holder will provide ongoing communication of material changes of resources anticipated to be onsite during construction.

- c) **Ditches.** In digging ditches for the Sewer Line, Holder shall “double ditch.” This means that Holder will separate the lesser of (i) the available topsoil or (ii) eighteen inches of the topsoil, from any underlying clay, caliche, or other subsoil; and when refilling the ditch, Holder shall place these materials in the ditch as they were removed, with the topsoil on the top. Holder will fill all ruts and holes and restore the grade as closely as reasonably possible to its original grade. Holder shall leave no condition that would be likely to cause erosion. On sloping and rough terrain, Holder shall use compaction methods and construct diversion terraces so as to prevent or minimize washing and soil erosion. Holder shall leave the Easement Property in substantially the same condition it was in prior to entry and construction by Holder. The Holder shall not remove any excess spoil from the Dominant Estate. The excess spoil from trenching operations shall be retained by the Grantor and stockpiled at a designated site outside but adjacent to the Easement Property on the Dominant Estate at a site designated by the Grantor on exhibit “C”. The same rules shall apply each time Holder reopens a ditch for repair, maintenance, removal, reinstallation, or any other purpose.
 - d) **Crossing Water.** Where the Sewer Line cross rivers, creeks, or other channels of water, Holder shall construct the Sewer Line so as not to interfere with the natural flow of those channels.
 - e) **Plugs.** During construction of the Sewer Line, and during any subsequent altering, repairing, removing, or replacing of the Sewer Line, Holder agrees that it will leave earthen plugs in the ditch line as reasonably sufficient to permit Grantor’s, Grantor’s tenants’, and Grantors’ lessees’ livestock and equipment to cross over the ditch at reasonable locations along the Easement Property.
 - f) **Removal of Obstructions.** Holder shall have the right to remove obstructions that may injure, endanger, or unreasonably interfere with Holder’s use of the Easement Property. However, Holder shall not remove or alter any improvements located from time to time on the Easement Property, other than fences and roads, unless constructed over Holder’s Sewer Line, constructed at a proximity to Holder’s Sewer Line that unreasonably interferes with Holder’s access to or use of its Sewer Line or easement rights, or constructed in violation of the provisions of this easement. Holder shall have the right to trim, cut down, and clear away any brush now or later located on the Easement Property, provided that the brush is unreasonably interfering with Holder’s use of the surface of the Easement Property. Holder shall exercise reasonable care in removing any brush from the Easement Property.
 - g) **Manholes.** The top of the manholes will be set at natural ground or as determined by the design and plans during the construction of the Sewer Line. Holder will make every effort to keep the manholes at grade.
 - h) **Bury Pipe.** The Sewer Line must be buried and maintained so that the top of the Sewer Line is at least six feet below the surface of the Easement Property.
 - i) Other than as expressly indicated herein, all matters concerning the Sewer Line and their configuration, construction, installation, maintenance, replacement, and removal are at Holder’s sole discretion, subject to performance of Holder’s obligations under this easement.
- 9) **Fences and Gates.** If Holder is required to cut or otherwise disturb any of Grantor’s fences in Holder’s operations on the Easement Property, prior to cutting any fences, Holder shall H-frame the fence on either side of the proposed cut and attach the fence wires to the posts in a manner such that

there will be no slackening of or damage to the fence wires. Any temporary gaps in any fence shall be closed with temporary wire gaps reinforced so as to be strong enough to prevent livestock from passing through the same. All fence repair and construction shall be substantially similar to the construction of existing fences on the Easement Property, except that steel pipe corners with steel caps shall always be used. Fence corners and gate supports shall be set in concrete in a good and worker like manner. The Grantor reserves the right to permanently retain any improvements made to the Fences and Gates by the Holder.

- 10) The Holder will fence the Easement Property in phases during construction in a manner substantially similar to the construction of existing fences.

1. The phased fencing will require construction be completed on a portion of Easement Property and such fencing must be removed granting Grantor access across the Easement Property prior to fencing being installed in the next phase of construction activity.

- 11) *Gate Protocols.* Exterior gates on the Easement Estate Property shall remain closed at all times that traffic is not actually passing through the gate. All interior gates on the Easement Property shall remain "as is" and unaffected by ingress and egress; that is, if interior gates are found open, they shall be left open after passage, and if interior gates are found closed, they shall be closed after passage. If Holder is unable to reasonably comply with these requirements and see to it that its agents, servants, employees, and independent contractors keep gates open or closed as described above, Grantor shall have the right to require any or all of the following measures: (a) prior communication before each entry; (b) the installation and maintenance of cattle guards with gates or pole barriers adequate to handle anticipated truck traffic at all fence crossings utilized by Holder, whether or not these crossings existed prior to the date of the Easement; or (c) any other measure that insures compliance with the gate requirements of access.

- 12) *General Operations.* Holder shall observe the following rules in its operations on the Easement Property:

- a) *Clean Up.* During installation, construction, reconstruction, inspection, operation, use, maintenance, repair, modification, removal, replacement, and upgrade of the Sewer Line, Holder shall clean up the area around such work and remove all debris.
- b) *Maintenance.* Holder shall at all times maintain the Sewer Line in accordance with Applicable Law. Holder shall promptly rebury all parts of the Sewer Line that become exposed by erosion after discovery by Holder or notice to Holder. Holder shall promptly correct any erosion problem in the area of the Sewer Line caused by the Sewer Line after discovery by Holder or notice to Holder. Holder will keep and maintain, or cause to be kept and maintained, the Sewer Line in a good state of appearance and repair (except for reasonable wear and tear) at Holder's expense.
- c) *No Cutting of Trees.* Holder shall avoid cutting, damaging, or destroying trees, unless Holder determines it is reasonably necessary to do so.

1. Grantor wishes to retain all mesquite cleared from the Easement Property. All mesquite branches, trees and roots are to be stockpiled at a designated site outside but adjacent to the Easement Property on the Dominant Estate at

a site designated by the Grantor on exhibit "C"..

- d) **Removal of Unused Equipment.** Upon completion of any stage of any operation on the Easement Property, Holder shall collect, carry off, and remove all trash, junk, unused or unusable equipment, containers, or fixtures, and any other personalty not necessary for the Sewer Line. After final completion of construction activities, Holder shall not store any equipment on the Easement Property that is not currently in use or which Holder does not intend to use within the following six month period. If Grantor determines that Holder is storing equipment (including, without limitation, pipe and general junk) on the Easement Property in violation of this paragraph, Grantor shall give Holder 30 days' written notice of the violation. If within 30 days after its actual receipt of such notice, Holder disputes that the equipment is being stored in violation of this provision, the parties shall have the rights and obligations set out in paragraph 14(a). Any equipment that remains on the Easement Property for a period in excess of thirty days after the notice to Holder and which is not disputed by Holder as described above in this paragraph may be removed by Grantor at Holder's expense.
 - e) **Trash.** Holder shall provide on the Easement Property trash containers capable of holding (without blowing out) all trash produced by Holder's operations on the Easement Property. Trash shall never be buried on the Easement Property but shall be removed from the Easement Property. Old fence posts and wire removed or replaced shall be disposed of off the Easement Property. Holder shall instruct all employees and subcontractors to place their trash into these containers and not to litter the Easement Property at any time.
 - f) **No Liens.** The Easement Property must at all times be kept free of mechanics' and materialmen's liens for labor, services, supplies, equipment, or materials purchased by Holder.
 - g) **Compliance with Applicable Law.** In their respective operations on the Easement Property, Holder and Grantor shall take all necessary precautions and measures at all times to ensure compliance with all Applicable Laws and each shall ensure that its employees, agents, invitees, and contractors also comply.
- 13) **Surface Restoration.** Within 90 days after installation of the Sewer Line has been completed, and within 90 days after any additional disturbance of the surface of the Easement Property by Holder, or within the time period otherwise indicated below, Holder shall restore the surface of the Easement Property in accordance with the following terms:
- a) **Removal of Materials.** If requested by Grantor and unless otherwise agreed by the Grantor and Holder, Holder shall remove and dispose of (off the Easement Property) excess construction material used on the Easement Property.
 - b) **Re-Vegetation.** All areas of the Easement Property disturbed by Holder shall be re-vegetated with a sufficient quantity of native grass to assure substantial grass conformity with the surrounding vegetation. This re-vegetation shall be accomplished at a time of the year most likely to achieve successful coverage and growth of the replacement vegetation. If successful re-vegetation is not accomplished on the first attempt, due to conditions other than disturbance of the area through Grantor's use, Holder shall repeat this as often as necessary to restore the Easement Property as nearly as possible to its condition prior to disturbance by the Holder.
- 14) **Damages.** The following provisions shall govern damages to be paid by Holder to Grantor or Grantor's tenant or lessee, if applicable.

- a) **Additional Damage Payments.** For all damages to the Easement Property or personal property of Grantor caused by Holder that are not otherwise specifically addressed, Holder will pay to Grantor a reasonable and fair amount as agreed upon by Holder and Grantor, which payments shall be made within thirty days after agreement by the parties on the amount of damages. If the parties fail to agree on the amount of damages within thirty days of the occurrence of the damage, the parties will have the rights provided in Section 14(a) below. For all damages to the personal property (including but not limited to livestock) of Grantor's tenant or lessee, if applicable, caused by Holder, Holder will pay to Grantor's tenant or lessee a reasonable and fair amount as agreed upon by Holder and Grantor's tenant or lessee, which payments shall be made within thirty days after agreement by Holder and Grantor's tenant or lessee. If Holder and Grantor's tenant or lessee fail to agree on the amount of damages within thirty days of the occurrence of the damage, they will have the rights provided in Section 15(a) below.
- b) **Damages for Noncompliance.** If Holder fails to comply with any requirement to protect, preserve, or restore the surface of the Easement Property, as required herein and by Law, Grantor may provide Holder with thirty days' written notice of Grantor's demand for affirmative action, and if Holder fails to commence whatever action is necessary to honor its commitments after Holder's actual receipt of the demand, Grantor may contract for whatever work is required, and Holder shall pay Grantor the actual reasonable amount of the cost for the work performed which is necessary to satisfy Holder's obligations. In the event Holder notifies Grantor, and within the 30 day period Holder disputes the validity of all or any portion of Grantor's demand, the parties will have the rights provided by Section 15(a) below.
- c) If any portion of the surface of the Dominant Estate Property (excluding the Easement Property and excluding the property subject to the Temporary Easement) is damaged, disturbed, or used during the initial construction of the Sewer Line, Holder must pay Grantor reasonable damages which will not be less than \$2,000 per acre for that portion of the property which is damaged, disturbed, or used.
- d) After the initial construction of the Sewer Line, if any of the surface of the Dominant Estate Property (excluding the Easement Property and excluding the property subject to the Temporary Easement) is damaged, disturbed, or used because of the reconstruction, inspection, operation, use, maintenance, repair, modification, removal, replacement, or upgrade of the Sewer Line, Holder must pay Grantor reasonable damages which will not be less than \$2,000 per acre for that portion of the property which is damaged, disturbed, or used.
- e) In the event the Grantor's water source, being a livestock-type well situated on the property cease to produce water solely due to contamination of the groundwater by Grantee, the Grantee shall, at Grantee's option, rework such well or drill a new well (windmill) sufficient to provide the same or more water to livestock in Grantor's property for Grantor as specified and agreed upon by the Parties. The well drilled on the property shall be drilled to the bottom of water producing formation (to the "Redbed"), and at Grantee's option and cost, packed, cased, and completed according to the then prevailing industry standards for the specific type of water well. Any well so completed at Grantee's option shall become the sole property of Grantor.
- f) **Damage to Livestock.** Holder shall be responsible for cattle, horses, or other livestock injured or killed by fire, electrocution, ingestion of toxic substance, machinery, or in collision with traffic, caused by the activity or conduct of Holder. A veterinarian selected and paid by the parties equally shall certify causation. Value shall be the market price for the animal, existing at or near the time of loss or \$1,500 a head.

15) *Miscellaneous.*

- a) **Dispute Resolution.** In the event a dispute arises between the parties with regard to the Easement or the Easement Property, or the rights or obligations of the parties as set forth in this easement and agreement, the aggrieved party shall provide written notice of its complaint or claim to the other party, with sufficient specificity to enable the recipient to determine the cause and nature of the complaint. Upon receipt of such notice, the receiving party will have a reasonable period of time, not to exceed 30 days, in which to respond in writing to the other party. If the parties are not able to resolve the issues to their mutual satisfaction through negotiation within 30 days after the commencement of negotiations, or within such longer period of time as the parties may agree upon, then the parties agree to mediate the matter in good faith prior to instituting a suit for damages.
 - b) **Injury or Damage to Holder's Property.** Grantor shall be liable for, and shall promptly compensate Holder for, any reasonable damage to or destruction of Holder's property caused by Grantor, its employees, officers, agents, invitees, representatives, or anyone with whom Grantor contracts.
 - c) **Covenant Regarding Hazardous Materials by Holder.** Holder shall not violate any environmental law relating to the Easement Property. Holder shall, at Holder's sole cost and expense, remove or take remedial action with regard to any hazardous materials brought onto the Easement Property by Holder or its employees, agents, or contractors for which any removal or remedial action is required pursuant to any Applicable Law. Holder shall take reasonable steps to conduct such removal or remedial action in a manner that minimizes any impact on the Grantor's activities conducted at the Easement Property. The Grantor shall cooperate with Holder with regard to any scheduling or access to the Easement Property in connection with any action required under this paragraph. If Holder fails or refuses to take promptly any action required under this paragraph after receipt of Grantor's written request, the Grantor may, but shall have no obligation to, perform or arrange for the performance of such action, and Holder shall, promptly upon demand therefore, reimburse the Grantor for all costs. If Holder disputes its obligations or liability, the parties shall have the right to resolve the dispute as provided in Section 14(a).
 - d) **Covenants and Conditions to Run with the Land.** The covenants and conditions stated in this Easement shall run with the land and be binding upon and inure to the benefit of the successors and assigns of Grantor and Grantee. The parties agree that the provisions of this Easement relating to the rights and obligations of the parties with regard to the use of the Easement Property shall be recorded in the real property records of the county in which the Easement Property is located.
 - e) **Hunting.** Holder will not allow its agents, contractors, or employees to hunt, fish, or kill any animal located on the Easement Property.
- 16) *RELEASE.*** GRANTEE ACKNOWLEDGES THAT GRANTOR DISCLAIMS ALL WARRANTIES, EXPRESSED OR IMPLIED, AS TO THE CONDITION AND SUITABILITY OF THE EASEMENT PROPERTY FOR THE EASEMENT PURPOSES. IN FURTHER CONSIDERATION OF BEING ALLOWED TO ENTER UPON THE EASEMENT PROPERTY TO CONSTRUCT SEWER LINE, GRANTEE HEREBY (1) ACCEPTS AND ASSUMES ALL RISKS ATTENDANT TO CONSTRUCTING THE SEWER LINE, (2) RELEASES GRANTOR FROM ANY LIABILITY FOR ANY DEATH OR PERSONAL INJURY AND FOR ANY DAMAGE OR DESTRUCTION TO PROPERTY THAT ARISES OUT OF OR IS IN ANY WAY RELATED TO THE EXISTING

CONDITION AND SUITABILITY OF THE EASEMENT PROPERTY OR TO GRANTEE'S USE OF OR PRESENCE ON THE REAL PROPERTY IN CONNECTION WITH THE SEWER LINE, AND (3) ACKNOWLEDGES THAT GRANTEE HAS INSPECTED THE EASEMENT PROPERTY AND HAS DETERMINED THAT IT IS SUITABLE FOR THE EASEMENT PURPOSES AND ACCEPTS THE EASEMENT PROPERTY "AS IS".

- 17) *Contractor's Insurance.* Holder shall require Holder's contractors who install, repair, maintain, and replace the Sewer Line to maintain commercial general liability insurance, including contractual liability insurance coverage, covering contractor's operations on the Easement Property, with combined single limits of not less than \$2,000,000.00 per occurrence for bodily injury or property damage, naming Grantor as additional insured, and furnish Grantor a certificate of insurance before entering onto the Easement Property. The commercial general liability insurance shall be primary to the contractor and not contributory to any similar insurance carried by Grantor and shall contain a severability-of-interest clause.
- 18) *Attorneys' Fees.* If either party retains an attorney to enforce this easement and agreement, the party prevailing in litigation is entitled to recover reasonable attorneys' fees and court and other costs.
- 19) *Choice of Law.* This easement and agreement will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in the county or counties in which the Easement Property is located.
- 20) *Counterparts.* This agreement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.
- 21) *Waiver of Default.* It is not a waiver of or consent to default if the nondefaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this agreement does not preclude pursuit of other remedies in this agreement or provided by law.
- 22) *Further Assurances.* Each signatory party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this agreement and all transactions contemplated by this agreement.
- 23) *Entire Agreement.* This agreement and any exhibits are the entire agreement of the parties concerning the Dominant Estate Property, the Easement Property, and the grant of the Easement by Grantor to Grantee. There are no representations, agreements, warranties, or promises, and neither party is relying on any statements or representations of any agent of the other party, that are not expressly set forth in this agreement and any exhibits.
- 24) *Legal Construction.* If any provision of this agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision hereof, and this agreement will be construed as if the unenforceable provision had never been a part of the agreement. Whenever the context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Article and section headings in this agreement are for reference only and are not intended to restrict or define the text of any section. This agreement will not be construed more or less favorably between the parties by reason of authorship or origin of language.

25) **Notices.** Any notices required or permitted under this agreement must be in writing. Any notice required by this agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

26) **Time.** Time is of the essence. Unless otherwise specified, all references to "days" mean calendar days. Business days exclude Saturdays, Sundays, and legal public holidays. If the date for performance of any obligation falls on a Saturday, Sunday, or legal public holiday, the date for performance will be the next following regular business day.

Executed by the parties to be effective as of the Effective Date.

Grantor:
Lois Forsyth Lovett Trust

By: Lois Forsyth Lovett
Lois Forsyth Lovett, Trustee

Grantee:

City of Amarillo, Texas

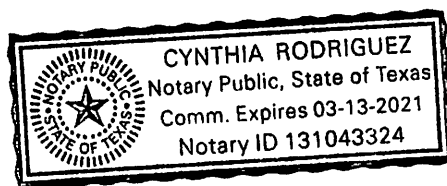
By: _____
Jared Miller, City Manager

ACKNOWLEDGEMENTS

STATE OF TEXAS §
 §
COUNTY OF POTTER §

This instrument was acknowledged before me on the 11th day of December, 2017, by Lois Forsyth Lovett, Trustee of the Lois Forsyth Lovett Trust, on behalf of said trust.

Cynthia Rodriguez
Notary Public in and for the State of Texas



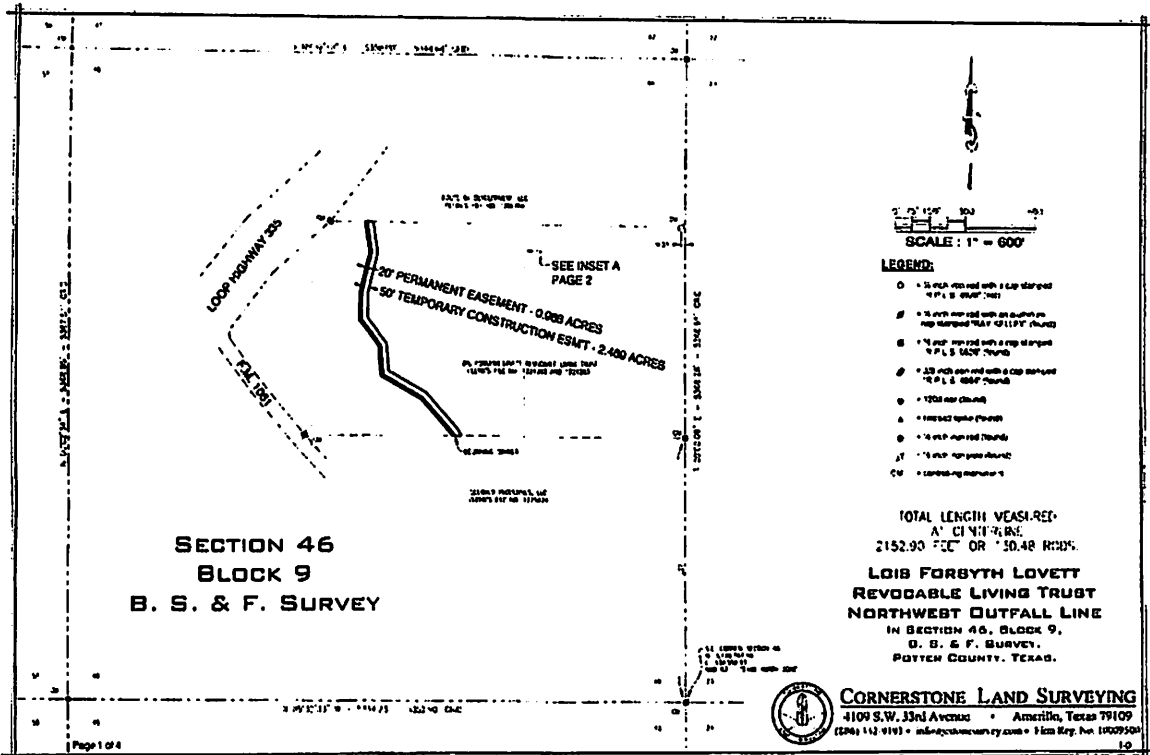
STATE OF TEXAS §
 §
COUNTY OF POTTER §

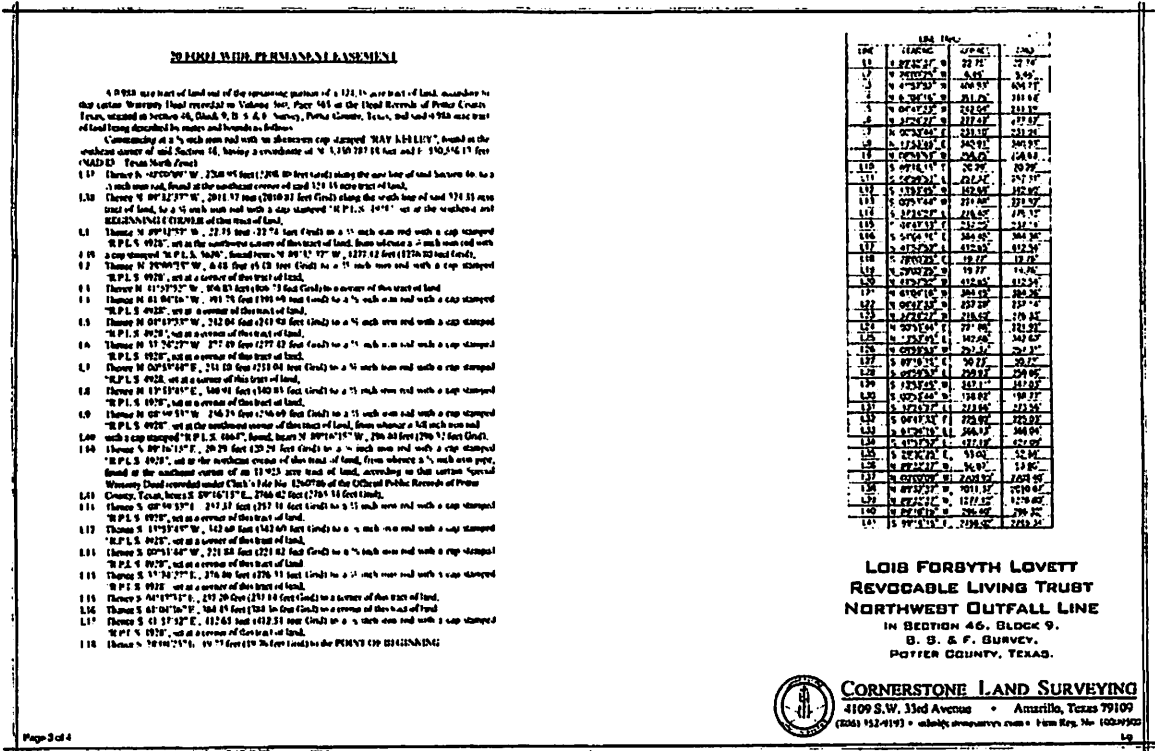
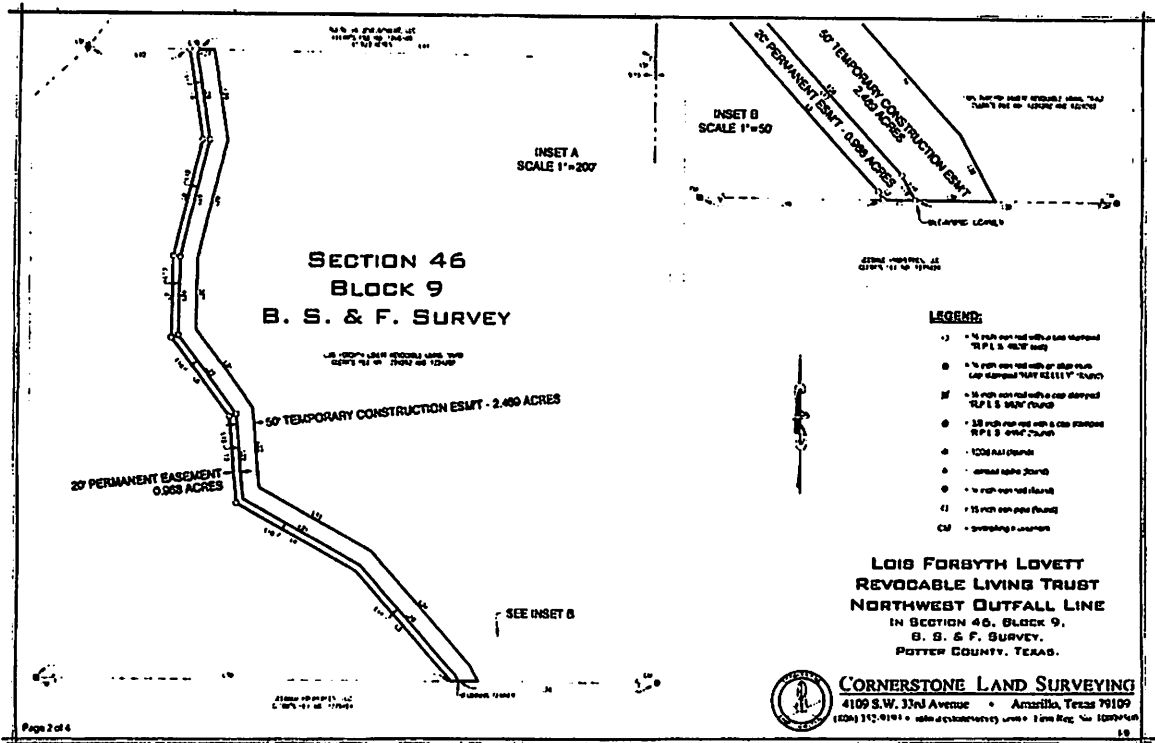
This instrument was acknowledged before me on the _____ day of _____, 2017, by Jared Miller, City Manager of the City of Amarillo, Texas, a Texas municipal corporation, on behalf of said corporation.

Notary Public in and for the State of Texas

After Recording Return to:
City of Amarillo, Texas
P. O. Box 1971
Amarillo, TX 79105-1971

EXHIBIT "B"





Thence N. 41° 57' 52" W., 406.83 feet (406.73 feet Grid) to a corner of this tract of land;

Thence N. 61° 04' 16" W., 391.78 feet (391.69 feet Grid) to a 1/2 inch iron rod with a cap stamped "R.P.L.S. 4928", set at a corner of this tract of land;

Thence N. 04° 47' 33" W., 242.04 feet (241.98 feet Grid) to a 1/2 inch iron rod with a cap stamped "R.P.L.S. 4928", set at a corner of this tract of land;

Thence N. 37° 24' 27" W., 277.49 feet (277.42 feet Grid) to a 1/2 inch iron rod with a cap stamped "R.P.L.S. 4928", set at a corner of this tract of land;

Thence N. 00° 53' 44" E., 231.10 feet (231.04 feet Grid) to a 1/2 inch iron rod with a cap stamped "R.P.L.S. 4928", set at a corner of this tract of land;

Thence N. 13° 53' 45" E., 340.91 feet (340.83 feet Grid) to a 1/2 inch iron rod with a cap stamped "R.P.L.S. 4928", set at a corner of this tract of land;

Thence N. 08° 59' 53" W., 256.75 feet (256.69 feet Grid) to a 1/2 inch iron rod with a cap stamped "R.P.L.S. 4928", set at the northwest corner of this tract of land, from whence a 3/8 inch iron rod with a cap stamped "R.P.L.S. 4664", found, bears N. 89° 16' 15" W., 296.40 feet (296.32 feet Grid);

Thence S. 89° 16' 15" E., 20.29 feet (20.29 feet Grid) to a 1/2 inch iron rod with a cap stamped "R.P.L.S. 4928", set at the northeast corner of this tract of land, from whence a 1/2 inch iron pipe, found at the southeast corner of an 11.923 acre tract of land, according to that certain Special Warranty Deed recorded under Clerk's File No. 1260786 of the Official Public Records of Potter County, Texas, bears S. 89° 16' 15"E., 2766.02 feet (2765.34 feet Grid);

Thence S. 08° 59' 53" E., 257.37 feet (257.31 feet Grid) to a 1/2 inch iron rod with a cap stamped "R.P.L.S. 4928", set at a corner of this tract of land;

Thence S. 13° 53' 45" W., 342.68 feet (342.60 feet Grid) to a 1/2 inch iron rod with a cap stamped "R.P.L.S. 4928", set at a corner of this tract of land;

Thence S. 00° 53' 44" W., 221.88 feet (221.82 feet Grid) to a 1/2 inch iron rod with a cap stamped "R.P.L.S. 4928", set at a corner of this tract of land;

Thence S. 37° 24' 27" E., 276.40 feet (276.33 feet Grid) to a 1/2 inch iron rod with a cap stamped "R.P.L.S. 4928", set at a corner of this tract of land;

Thence S. 04° 47' 33" E., 237.20 feet (237.14 feet Grid) to a corner of this tract of land;

Thence S. 61° 04' 16" E., 384.45 feet (384.36 feet Grid) to a corner of this tract of land;

Thence S. 41° 57' 52" E., 412.65 feet (412.54 feet Grid) to a 1/2 inch iron rod with a cap stamped "R.P.L.S. 4928", set at a corner of this tract of land;

Thence S. 28° 00' 25" E., 19.77 feet (19.76 feet Grid) to the POINT OF BEGINNING.

50 FOOT WIDE TEMPORARY CONSTRUCTION EASEMENT

A 2.469 acre tract of land out of the remaining portion of a 324.35 acre tract of land, according to that certain Warranty Deed recorded in Volume 360, Page 565 of the Deed Records of Potter County, Texas, situated in

Section 46, Block 9, B.S. & F. Survey, Potter County, Texas, and said 2.469 acre tract of land being described by metes and bounds as follows:

Commencing at a 1/2 inch iron rod with an aluminum cap stamped "RAY KELLEY", found at the southeast corner of said Section 46, having a coordinate of N: 3,730,787.18 feet and E: 530,556.13 feet (NAD 83 - Texas North Zone);

Thence N. 00° 00' 09" W., 2208.95 feet (2208.40 feet Grid) along the east line of said Section 46, to a 1/2 inch iron rod, found at the southeast corner of said 324.35 acre tract of land;

Thence N. 89° 32' 37" W., 2011.37 feet (2010.87 feet Grid) along the south line of said 324.35 acre tract of land, to a 1/2 inch iron rod with a cap stamped "R.P.L.S. 4928", set at the southwest and BEGINNING CORNER of this tract of land;

Thence N. 28° 00' 25" W., 19.77 feet (19.76 feet Grid) to a 1/2 inch iron rod with a cap stamped "R.P.L.S. 4928", set at a corner of this tract of land;

Thence N. 41° 57' 52" W., 412.65 feet (412.54 feet Grid) to a corner of this tract of land;

Thence N. 61° 04' 16" W., 384.45 feet (384.36 feet Grid) to a corner of this tract of land;

Thence N. 04° 47' 33" W., 237.20 feet (237.14 feet Grid) to a 1/2 inch iron rod with a cap stamped "R.P.L.S. 4928", set at a corner of this tract of land;

Thence N. 37° 24' 27" W., 276.40 feet (276.33 feet Grid) to a 1/2 inch iron rod with a cap stamped "R.P.L.S. 4928", set at a corner of this tract of land;

Thence N. 00° 53' 44" E., 221.88 feet (221.82 feet Grid) to a 1/2 inch iron rod with a cap stamped "R.P.L.S. 4928", set at a corner of this tract of land;

Thence N. 13° 53' 45" E., 342.68 feet (342.60 feet Grid) to a 1/2 inch iron rod with a cap stamped "R.P.L.S. 4928", set at a corner of this tract of land;

Thence N. 08° 59' 53" W., 257.37 feet (257.31 feet Grid) to a 1/2 inch iron rod with a cap stamped "R.P.L.S. 4928", set at the northwest corner of this tract of land, from whence a 1/2 inch iron pipe, found at the southeast corner of an 11.923 acre tract of land, according to that certain Special Warranty Deed recorded under Clerk's File No. 1260786 of the Official Public Records of Potter County, Texas, bears S. 89° 16' 15" E., 2766.02 feet (2765.34 feet Grid);

Thence S. 89° 16' 15" E., 50.73 feet (50.72 feet Grid) to the northeast corner of this tract of land;

Thence S. 08° 59' 53" E., 258.93 feet (258.86 feet Grid) to a corner of this tract of land;

Thence S. 13° 53' 45" W., 347.11 feet (347.03 feet Grid) to a corner of this tract of land;

Thence S. 00° 53' 44" W., 198.82 feet (198.77 feet Grid) to a corner of this tract of land;

Thence S. 37° 24' 27" E., 273.66 feet (273.59 feet Grid) to a corner of this tract of land;

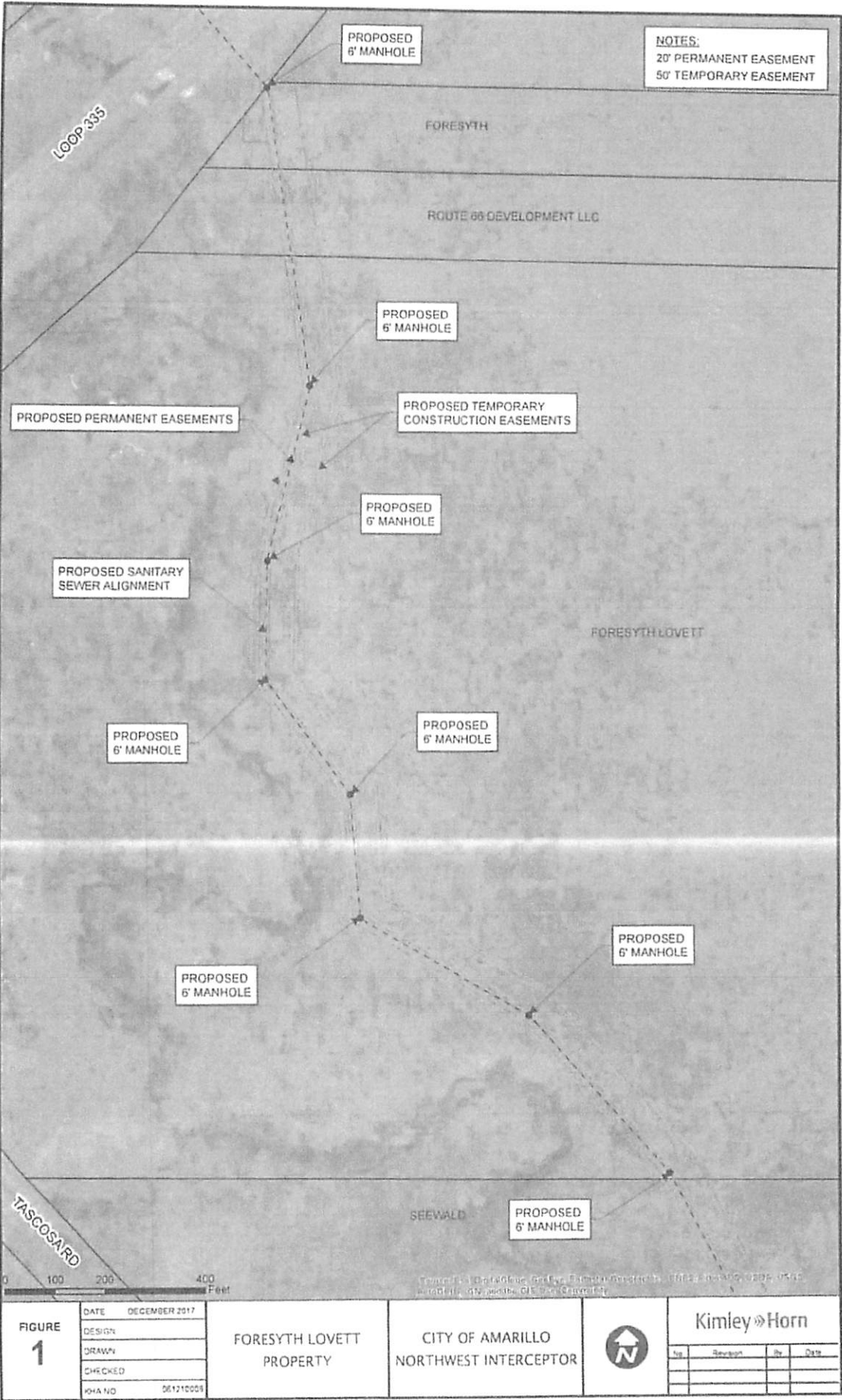
Thence S. 04° 47' 33" E., 2509 feet (225.03 feet Grid) to a corner of this tract of land;

Thence S. 61° 04' 16" E., 366.13 feet (366.04 feet Grid) to a corner of this tract of land;

Thence S. 41° 57' 52" E., 427.18 feet (427.08 feet Grid) to a corner of this tract of land;

Thence S. 28° 00' 25" E., 53.00 feet (52.98 feet Grid) to the southeast corner of this tract of land;

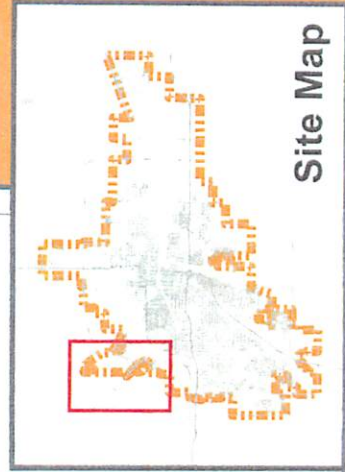
Thence N. 89° 32' 37" W., 56.87 feet (56.86 feet Grid) along the south line of said 324.35 acre tract of land to the POINT OF BEGINNING.



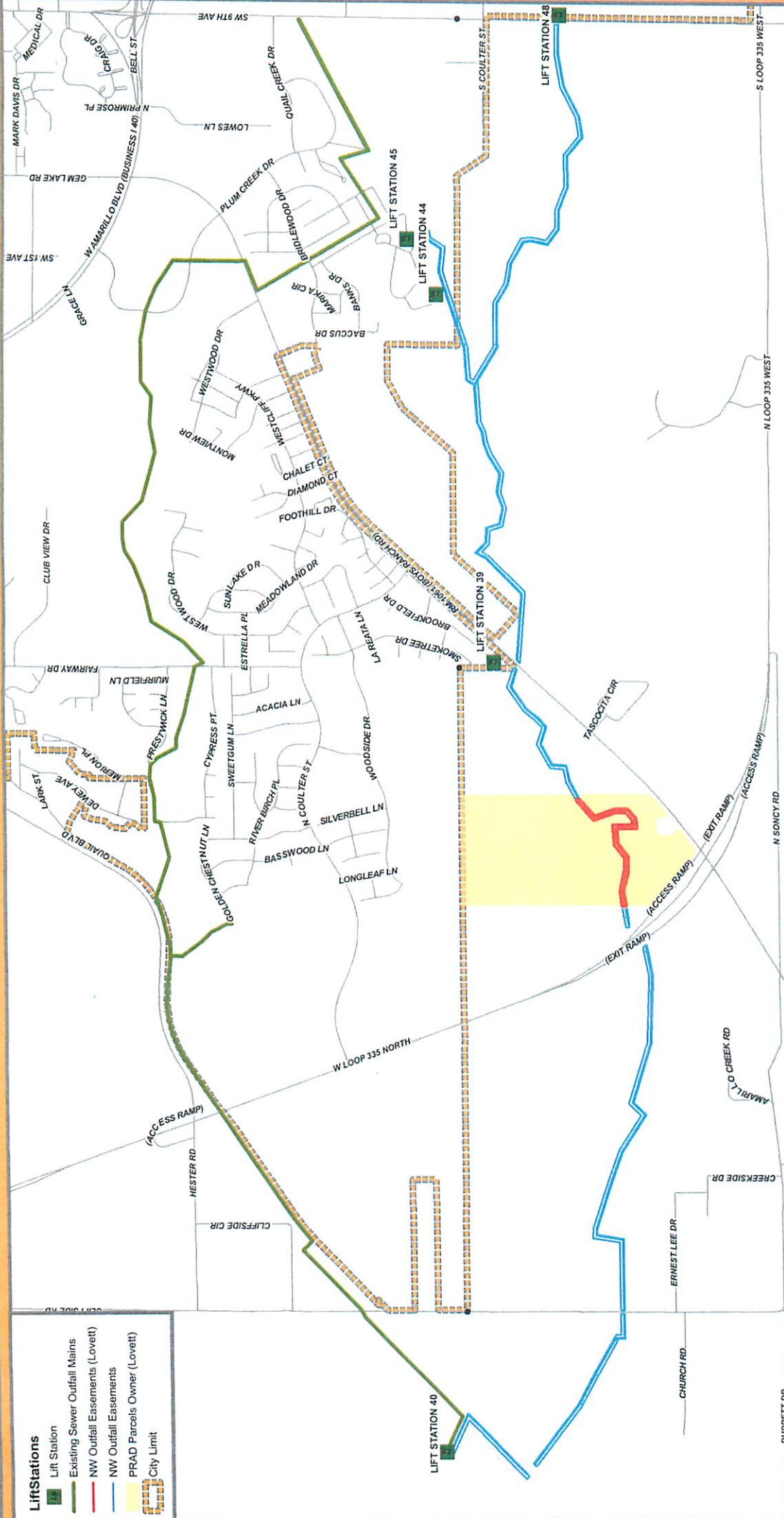


1" = 1,700'

Capital Projects and Development Engineering
Simms Municipal Building
PH: 806-378-9334



Site Map



Lift Stations

- Lift Station
- Existing Sewer Outfall Mains
- NW Outfall Easements (Lovett)
- NW Outfall Easements
- PRAD Parcels Owner (Lovett)
- City Limit





Amarillo City Council

Agenda Transmittal Memo



Meeting Date	December 19, 2017	Council Priority	Best Practices
Department	Radio Communications		
Contact	Kevin Starbuck, Assistant City Manager		

Agenda Caption

CONSIDER APPROVAL OF THE COMMUNICATIONS SYSTEM AGREEMENT WITH BSA HEALTH SYSTEM

Agenda Item Summary

This agreement will authorize BSA Health System to operate on the City of Amarillo NEXGEN Radio Communications System with applicable infrastructure support fees assessed per the agreement.

Requested Action

Request City Council approve the Communications System Agreement; System Subscriber – BSA Health System. The agreement will ensure interoperability between the City of Amarillo and BSA Health System for day-to-day and emergency operations, enhancing overall coordination of the community response to crisis situations.

Funding Summary

BSA Health Systems will pay the City of Amarillo an annual Infrastructure Support Fee in the amount of \$20.00 per month, per subscriber radio or console and \$500.00 per year for each assigned talk-group on the radio communications system. Additional fees for OTAR services will be assessed as applicable. Revenue is estimated to be \$14,000 annually. Revenue will be used to offset annual maintenance and operating costs of the NEXGEN Radio Communications System.

Community Engagement Summary

N/A

Staff Recommendation

Staff recommends approval of the Communications System Agreement with BSA Health System.

COMMUNICATIONS SYSTEM AGREEMENT

SYSTEM SUBSCRIBER – BSA HEALTH SYSTEM

This **COMMUNICATIONS SYSTEM AGREEMENT** (the “Agreement”) is made and entered into by and between the **City of Amarillo** (“City” or “COA”) acting herein by and through its duly authorized City Manager, and **BSA Health System** (“USER”), acting herein by and through its duly authorized CEO, individually referred to as a “party,” collectively referred to herein as the “parties.” The COA or City shall include all employees, directors, officers, agents, and authorized representatives. USER shall include all employees, directors, officers, agents, and authorized representatives.

RECITALS

WHEREAS, this Agreement is made under the authority of Sections 791.001-791.029, Texas Government Code; and

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party; and

WHEREAS, each governing body finds that the subject of this Agreement is necessary for the benefit of the public and each has the legal authority to perform and to provide the governmental function or service which is the subject matter of this Agreement; and

WHEREAS, each governing body finds that the performance of this Agreement is in the common interest of both parties and that the division of costs fairly compensates the performing party for the services or functions under this Agreement; and

WHEREAS, City owns, operates, and maintains trunked voice radio systems for the purpose of providing public safety voice radio communications and is the sole license holder of the COA trunked voice radio systems with all privileges and responsibilities thereof.

NOW THEREFORE, City and USER agree as follows:

1. GRANT OF LICENSE

City hereby grants the USER specific permission to operate USER’s owned or leased field radio equipment or equipment attached and/or interfaced to the COA trunked voice radio system (the “radio system”) infrastructure in accordance with the specific details and requirements for use as set forth in “Exhibit A, Terms of Use,” which is attached hereto, incorporated herein, and made a part of this Agreement for all purposes. Failure to comply with these specific details and requirements may result in the immediate withdrawal of the specified permissions.

2. TERM

This Agreement shall begin upon the last day executed by all authorized parties and shall continue in full force and effect unless terminated in accordance with the provisions set forth herein and in Exhibit A.

3. COMPENSATION

USER shall remit payment to City in the amount and manner set forth in Exhibit A.

4. LIABILITY

Each party agrees to be liable for any damages or loss that may be caused by its own negligence, omission or intentional misconduct. For purposes of this Section 4, the term party shall include employees, directors, officers, agents, authorized representatives, subcontractors, consultants, and volunteers of the respective party. Nothing in the performance of this Agreement shall impose any liability for claims against either party other than for claims for which the Texas Tort Claims Act may impose liability.

5. INDEPENDENT CONTRACTOR

It is expressly understood and agreed that USER shall operate as an independent contractor as to all rights and privileges granted herein, and not as agent, representative or employee of the City. Subject to and in accordance with the conditions and provisions of this Agreement, USER shall have the exclusive right to control the details of its operations and activities and be solely responsible for the acts and omissions of its employees, directors, officers, agents, authorized representatives, subcontractors, and consultants. USER acknowledges that the doctrine of *respondeat superior* shall not apply as between the City, its employees, directors, officers, agents, and authorized representatives, and USER and its employees, directors, officers, agents, authorized representatives, subcontractors, and consultants. USER further agrees that nothing herein shall be construed as the creation of a partnership or joint enterprise between the City and USER.

6. NON-APPROPRIATION OF FUNDS

City and USER will use best efforts to appropriate sufficient funds to support obligations under this Agreement. However, in the event that sufficient funds are not appropriated by either party's governing body, and as a result, that party is unable to fulfill its obligations under this Agreement, that party (i) shall promptly notify the other party in writing and (ii) may terminate this Agreement, effective as of the last day for which sufficient funds have been appropriated.

7. RIGHT TO AUDIT

USER agrees that the City shall, until the expiration of three (3) years after termination of this Agreement, have access to and the right to examine at reasonable times any directly pertinent books, documents, papers, records, and communications of the USER involving transactions

relating to this Agreement at no additional cost to the City. USER agrees that the City shall have access during normal working hours to all necessary USER facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. The City shall give USER reasonable advance notice of intended audits.

8. ASSIGNMENT

This Agreement is not assignable.

9. NO WAIVER

The failure of either party to insist upon the performance of any provision or condition of this Agreement or to exercise any right granted herein shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.

10. GOVERNMENTAL POWERS/IMMUNITIES

It is understood and agreed that by execution of this Agreement, the neither COA nor USER waives or surrender any of its governmental powers or immunities.

11. AMENDMENTS

No amendment to this Agreement shall be binding upon either party hereto unless such amendment is set forth in writing and signed by both parties.

12. SEVERABILITY

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

13. CONFIDENTIAL INFORMATION

To the extent permitted by law, USER for itself and its officers, agents and employees, agrees that it shall treat all information provided to it by the City as confidential and shall not disclose any such information to a third party without the prior written approval of the City, unless such disclosure is required by law, rule, regulation, court order, in which event USER shall notify the City in writing of such requirement in sufficient time to allow the City to seek injunctive or other relief to prevent such disclosure. USER shall store and maintain City information in a secure manner and shall not allow unauthorized users to access, modify, delete or otherwise corrupt City information in any way. USER shall notify the COA immediately if the security or integrity of any City information has been compromised or is believed to have been compromised.

14. FORCE MAJEURE

The parties shall exercise their best efforts to meet their respective duties and obligations hereunder, but shall not be held liable for any delay in or omission of performance due to force majeure or other causes beyond their reasonable control, including, but not limited to, compliance with any state or federal law or regulation, acts of God, acts of omission, fires, strikes, lockouts, national disasters, wars, riots, material or labor restrictions, transportation problems, existing contractual obligations directly related to the subject matter of this Agreement, or declaration of a state of disaster or emergency by the federal, state, county, or city government in accordance with applicable law.

15. NOTICES.

Notices required pursuant to the provisions of this Agreement shall be conclusively determined to have been delivered when (1) hand-delivered to the other party, its agents, employees, servants or representatives, (2) delivered by facsimile with electronic confirmation of the transmission, or (3) received by the other party by United States Mail, registered, return receipt requested, addressed as follows:

City of Amarillo
Attn: Kevin Starbuck
Assistant City Manager
P.O. Box 1971
Amarillo, TX 79105-1971
Facsimile: (806) 378-9394

BSA Health System
Attn: Justin Baker
Emergency Preparedness Coordinator
1600 Wallace Blvd.
Amarillo, TX 79106
Facsimile: (806) 212-4682

With copy to the City Attorney at same address

16. GOVERNING LAW / VENUE

This Agreement shall be construed in accordance with the laws of the State of Texas. Venue for any action brought on the basis of this Agreement shall lie exclusively in state courts located in Potter County, Texas or the United States District Court for the Northern District of Texas – Amarillo Division. In any such action, each party shall pay its own attorneys' fees, court costs and other expenses incurred as a result of the action.

17. SIGNATURE AUTHORITY

The person signing this Agreement hereby warrants that he/she has the legal authority to execute this Agreement on behalf of his or her respective party, and that such binding authority has been granted by proper order, resolution, ordinance or other authorization of the entity. The other party is fully entitled to rely on this warranty and representation in entering into this Agreement.

18. ENTIRETY OF AGREEMENT

This written instrument, including all Exhibits attached hereto, contains the entire understanding and agreement between City and USER as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with this Agreement. Any previously executed Communication System Agreement between the parties shall be terminated simultaneously with the final execution of this Agreement by both parties.

19. COUNTERPARTS.

This Agreement may be executed in one or more counterparts and each counterpart shall, for all purposes, be deemed an original, but all such counterparts shall together constitute one and the same instrument.

EXECUTED IN MULTIPLE ORIGINALS on this the ____ day of _____, 20 ____.

CITY OF AMARILLO:

By: _____
Jared Miller
City Manager
Date: _____

ATTEST:

By: _____
Frances Hibbs
City Secretary

BSA HEALTH SYSTEM:

By: _____
Bob Williams
CEO
Date: 12-6-17

ATTEST:

By: _____
Name: MICHAEL A. DRUE
Title: COO

EXHIBIT A

CATEGORY 1, TERMS OF USE

The following definitions shall have the meanings set forth below and apply to this Agreement and the Terms of Use set forth herein:

DEFINITIONS

“Console System” shall mean all hardware and software associated with any dispatch console or set of consoles operated by the USER that are connected to the COA master site.

“Infrastructure Support Fee” shall mean the annual fee charged by COA to offset costs incurred by the COA in the operation and maintenance of the radio system.

“Interoperable Communications Plan” means the plan developed and established by COA to enhance and simplify radio communications among all agencies utilizing the COA public safety radio system or connecting its site repeater systems or console systems to the COA master site.

“Master Site” shall mean the hardware and software provided by COA as the core component of the Motorola Solutions ASTRO 25 radio communications system. All site repeater systems and console systems must connect to the master site.

“Over The Air Rekeying” (“OTAR”) shall mean the management and support of subscriber radio encryption keys via over-the-air, radio channel transmission.

“OTAR Administration Fee” shall mean the annual fee charged by COA to offset costs incurred by the COA in the management and support of subscriber radio encryption keys administered through the radio system’s OTAR functions.

“Over the Air Programming” (“OTAP”) shall mean the method of implementing programming changes to subscriber radios using the over-the-air data capabilities of the radio system.

“Private Call” shall mean a feature that reserves channel resources specifically for conversations between two subscriber radios.

“Site Repeater System” shall mean the base stations, shelter, tower and all site-specific hardware and software infrastructure associated with the provision of a radio site connected to the COA master site.

“Subscriber Radio” shall mean a control station (desk top radio), mobile radio, or portable radio, which has a unique identification number and is programmed to operate on the COA trunked voice radio system.

“System Upgrade Agreement Fee” shall mean the annual fee charged by COA to offset cost incurred by the City from Motorola Solutions for the maintenance of the System Upgrade Agreement applicable to the master site, site repeater systems, and console systems.

“Talk Group” shall mean a specific group of subscriber radios allowed to communicate privately within that group over shared infrastructure resources.

TERMS OF USE

1. The COA shall provide and maintain the Motorola Solutions ASTRO 25 Master Site to which the USER’s equipment will connect. If the USER increases its number of equipment, the USER will incur all costs, if any, resulting from the expansion of capacity of the system and associated hardware and software required to accommodate the USER’s additions.

2. The COA shall execute with Motorola Solutions a System Upgrade Agreement for the System, every ASTRO 25 radio site connecting to the System, and all other hardware such as console systems that would be affected by the software upgrades. The USER is responsible for executing similar agreements for site repeater systems and/or console systems owned (or leased) and operated by the USER. Unless the USER is notified otherwise by COA, the radio system, site repeater systems, and console systems will be upgraded to the current level every two years. The USER will provide all reasonable coordination necessary for the upgrade of its site repeater systems and/or console systems. USER acknowledges that reductions in functionality may occur during the upgrade process.

3. The COA shall provide radio IDs for all radios and dispatch consoles owned and operated by the USER. USER must provide written authorization to the COA prior to the release of the USER’s radio IDs or any other information to a third party vendor or agency.

4. The acquisition, installation and maintenance of the USER’s console systems are the responsibility of the USER unless otherwise stated in this Agreement.

5. USER will be responsible for the acquisition, programming, and maintenance of all equipment USER will be utilizing in connection with the radio system infrastructure, including, but not limited to, subscriber radios, consoles, and special equipment.

6. In order to ensure hardware and software compatibility with the radio system infrastructure, all subscriber radios and consoles intended for use by USER on the radio system shall be compliant with Project 25 Phase II (TDMA) standards established by the Telecommunications Industry Association. The use of unauthorized radios on the radio system may result in suspended operation of the radios and/or termination of the Agreement.

7. The USER is responsible for providing all network connectivity and associated hardware and software necessary to connect its site repeater systems and console systems to the system. All costs associated with provision of connectivity will be borne by the USER.

8. USER agrees to exclusively utilize antennas specifically approved by the radio manufacturer for use with the specific models of USER's radios. The use of short, broad spectrum, or "stubby," antennas is not recommended. USER shall be solely liable for coverage gaps in the event USER utilizes short broad spectrum or stubby antennas or other antennas not approved by the manufacturer for use with the specific models of USER's radios.

9. The COA is the holder of the FCC (Federal Communications Commission) license(s) that the radio system uses for its operation. This Agreement shall not be construed or interpreted to grant, convey, or otherwise provide USER with any rights whatsoever to the COA FCC license(s) or to the radio frequency spectrum used by the radio system.

10. The COA makes no guarantee, either express or implied, as to radio signal strength or a specific level of radio coverage in a particular location. The USER is responsible for conducting appropriate and applicable in-building and geographical coverage testing to determine the expected radio coverage level for USER's equipment.

11. USER shall use due diligence in the maintenance and configuration of their subscriber radio equipment to ensure that no USER radio causes a degradation to system operation. The COA shall have the right to remove from operation any field radio unit or equipment owned by USER that is operating on, attached and/or interfaced to the COA infrastructure, if such equipment is found to cause interference or harm to the system in any way. The COA will make the USER aware of any subscriber radio equipment that is subject to being removed from the system prior to being removed except for severe circumstances. The COA reserves the right to request that USER operated field radio units or equipment operating on, attached and/or interfaced to the infrastructure be tested for proper operation and/or repaired by an authorized radio repair facility. The cost of such testing or repair will be the sole responsibility of USER. Furthermore, the COA shall have the right to deactivate, without prior notification to or consent of USER, any field radio suspected of causing interference, intentionally or unintentionally, to any other radios on the radio system or to the radio systems overall operation.

12. USER's radios may be used for voice radio communications over the radio system infrastructure in accordance with the terms and conditions of this Agreement for as long as this Agreement remains in effect.

13. The COA will be responsible for managing infrastructure loading and demand. COA reserves the right, without notice to incumbent users, to enter into a similar agreement with other entities or to deny the addition of new subscriber radio equipment to any user of the radio system. The COA shall have sole discretion in determining whether to allow additional users or radios based on COA's determination of whether such addition to the radio system can be made without adversely impacting the radio system.

14. USER is prohibited from utilizing telephone interconnect on the radio system. This prohibition shall include, but is not limited to, connecting to either the PSTN (Public Switched Telephone Network) or USER's internal phone system(s) through a console patch into the radio system or to any subscriber radio on the radio system.

15. Due to the radio infrastructure resource allocations required by "Private Call," USER is not permitted to utilize "Private Call" on the radio system.

16. USER's utilization of data communications on the radio system will be limited to the radio system's OTAP functions. Performance of data communications over the radio system is not guaranteed. For programming changes involving more than ten subscriber radios, USER agrees to coordinate with COA prior to executing changes to minimize impact on other users and on the radio system.

17. The use of OTAR in association with subscriber radio encryption is prohibited without prior approval of COA. Administration of encryption keys will be performed exclusively by COA, unless otherwise agreed to in writing between the COA and USER. USER may utilize and administer other encryption methods as required.

18. The COA may provide USER with an Advanced System Key (ASK) for use with the USER's subscriber radios only. The ASK will be updated annually. USER will be responsible for safeguarding the security of the ASK to prevent theft and/or loss. USER agrees to notify COA immediately upon the theft or loss of the ASK.

19. COA will assign the USER talk group IDs unique to USER operation. All talk group names shall include a prefix unique to the USER's agency. No other agency will be authorized to use USER talk groups without the express written permission of USER, and a copy of such permission must be on file with the COA before such use may occur. The COA reserves the right to require certain talk group ID's to be programmed in USER radios. Additionally, the COA shall have the right to limit the number of talk group ID's to be used by USER and to disable talk groups ID's as it deems appropriate.

20. The COA will maintain a coordinated Interoperable Communications Plan to apply to COA and the users of its Radio System. USER agrees to participate in the Plan and include the Plan's interoperable talk groups in the programming of its subscriber radios and console systems.

21. Roaming to other systems or the use of USER's talk groups on other trunked systems that are interconnected to the radio system is prohibited without prior approval by COA. Roaming to other trunked systems will be limited to the radio system's interoperable talk groups, although this capability may be terminated by COA if its use is determined to result in performance degradation to either the radio system or the interconnected trunked system.

22. USER may utilize a Network Management Console (NMC) to manage its own environment. USER is responsible for acquiring and maintaining, at USER's sole cost, all components required to connect the NMC to the radio system. The USER's NMC must be partitioned in manner to limit access to USER's own environment only and to prevent USER from viewing, accessing, or making any changes to equipment that is not owned or leased by USER. The USER must ensure the NMC is located in a secure area. USB ports on the NMC must be deactivated except during maintenance activity. All security patches related to operating systems and other associated software must be maintained at current manufacturer-tested levels. No other software applications may be utilized by the NMC.

23. USB ports on the USER's console systems must be deactivated except during maintenance activity. All security patches related to operating systems and other associated software must be maintained at current manufacturer-tested levels. If required, all connectivity between the console systems and the radio system is the responsibility of the USER, including software, hardware and carrier services. Associated costs will be incurred by the USER. Unless otherwise approved by COA, connectivity will be achieved through local terrestrial circuit facilities. The use of other connectivity methods, including but not limited to microwave or fiber, must be approved by the COA. USER may incur additional costs from COA for other connectivity methods.

APPLICABLE FEES; TERMINATION; REFUNDS

24. USER shall pay the COA an annual Infrastructure Support Fee in the amount of \$20.00 per month, per subscriber radio or console and \$500.00 per year for each USER assigned talk-group. This fee is payable in advance on an annual basis for all active radio IDs and talk-groups issued to the USER at the time of the annual billing. Invoicing will occur on a pro-rata basis when new radio IDs or talk-groups are issued, and thereafter, at the beginning of each COA fiscal year. There will be no refunds or credits for radios or talk-groups removed from service during the fiscal year.

25. If the USER subscribes to OTAR services, the USER shall pay the COA an annual OTAR Administration Fee in the amount of \$3 per month, per subscriber radio. This fee is payable in advance on an annual basis for all active radio IDs issued to USER at the time of the annual billing. Invoicing will occur on a pro-rata basis when new radio IDs are issued, and thereafter, at the beginning of each COA fiscal year.

26. COA shall have the right to increase any applicable fees under this Agreement each fiscal year to offset any increased costs incurred by COA in the operation or maintenance of the radio system. Any increase in applicable fees will be effective at the beginning of the next COA fiscal year. COA shall provide USER with 60 days' written notice of any intended fee increase, provided, however, that this notice period may be less than 60 days if Motorola Solutions provides COA with less than 60 days' notice of an increase in the System Upgrade Agreement Fee and such reduced notice period shall not impact USER's obligation to pay the increased fee.

27. Either party may terminate this Agreement upon ninety (90) days written notice. Additionally, the COA in its sole discretion shall have the right to deny USER access to the radio infrastructure and/or the right to terminate the Agreement immediately if USER fails to make full payment of invoiced system fees as referenced in paragraphs 24 and 25 within thirty (30) days after USER's receipt of written notice that payment of such fees is delinquent. Additionally, the COA further reserves the right to terminate this Agreement immediately, or deny access to USER, upon USER misuse of the system in a way that compromises the security or functionality of the system for the COA's purposes.

COMPLIANCE WITH LAWS

28. The USER shall comply with all current and future federal, state, and local laws, ordinances, and mandates, including FCC rules and regulations regarding proper use of radio communications equipment. The USER will also comply with the guidelines, or procedures set out in this agreement. Furthermore, the USER is responsible for enforcing such compliance by its employees, volunteers, or any individual operating USER subscriber radio equipment. Furthermore, the USER will be responsible for payment of any fines and penalties levied against the COA (as the licensee) as a result of improper or unlawful use of subscriber radio equipment owned by USER.

29. In order to comply with federal, state, and local laws and/ or mandates, the COA, as the licensee, may need to act on behalf of the USER regarding possible modifications, reconfiguration, or exchange of owned subscriber radio equipment in order to meet these obligations. For as long as this agreement is in force, the USER will allow the COA to facilitate such activities on USER's behalf as necessary.

[End of Document]

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Amarillo City Council

Agenda Transmittal Memo



Meeting Date	December 19, 2017	Council Priority	Long Term Plan for Infrastructure, Economic Development
Department	Capital Projects and Development Engineering		
Contact	Floyd Hartman, Director of Capital Projects and Development Engineering		

Agenda Caption

Consideration and Approval – Addendum # 5 to Agreement for Engineering Services- additional fee of \$72,000.

Agenda Item Summary

Addendum #5 is necessary to provide professional service construction and compliance observation services including monitoring and reporting for the final closeout of the Arden Road Pipeline installation and the installation of the baffle system in the clearwells at the Osage Water Treatment Plant. The installation of baffles in the existing clearwell tanks will provide multiple options in the water treatment process to ensure the highest quality of drinking water.

Previous Addendums adjusted the original contract amount of \$1,417,650 as follows:

1. Added \$4,900 to provide the City with services to assist in the application of TWDB funding.
2. Added \$198,000 to provide for the anticipated construction services inspection for the installation of the pipeline.
3. Added \$178,150 for the evaluation, report, and design of the clearwell baffling project.
4. Deducted \$27,000 for services City staff were better suited to provide.

Requested Action

Consider and approve the attached Addendum # 5 to Agreement for Engineering Services.

Funding Summary

Funding is available in City CIP project #521725 from a Texas Water Development Board loan. Both the Arden Road Transmission Main and the installation of baffles in the clearwells are eligible project for TWDB funding.

Community Engagement Summary

Staff will continue to conduct monthly progress meetings and provide regular updates.

Staff Recommendation

City staff is recommending approval of the Addendum # 5.

ADDENDUM #5 TO AGREEMENT
FOR
ENGINEERING SERVICES
PROJECT #521725

WHEREAS:

HDR ENGINEERING, INC. ("ENGINEER") entered into an Agreement on June 5, 2013 to perform engineering services for CITY OF AMARILLO ("OWNER");

OWNER desires to amend this Agreement in order for ENGINEER to add services beyond those previously contemplated;

ENGINEER is willing to amend the agreement and add the following additional engineering services.

1. Add 2 months of fulltime daily construction observation to monitor construction progress, photograph site, prepare daily (TWDB required) reports and monitor compliance with the contract and meet the requirements of the Texas Water Development Board Drinking Water State Revolving Fund Loan Program (DWSRF) Program Guidance Manual (TWDB-0115). This task will add \$27,000 to the agreement.
2. Add 7 months of halftime daily construction observation for the Osage Water Treatment Plant Clearwell Improvements project to monitor construction progress, photograph site, prepare daily (TWDB required) reports and monitor compliance with the contract and meet the requirements of the Texas Water Development Board Drinking Water State Revolving Fund Loan Program (DWSRF) Program Guidance Manual (TWDB-0115). This task will add \$45,000 to the agreement starting from the OWNER's Notice to Proceed to the Contractor.

NOW, THEREFORE, ENGINEER and OWNER do hereby agree:

The addition in lump sum fee for the ENGINEER to add the engineering services in this Addendum is \$72,000. The Agreement and the terms and conditions therein shall remain unchanged other than those sections and exhibits listed below;

Section "I" shall be replaced with the following:

"ENGINEER agrees to accept for all services to be provided under this Agreement a lump sum fee including expenses (reference Expenses Addendum attached hereto and by reference made a part hereof) not to exceed one million, eight hundred and forty-three thousand, seven hundred Dollars (\$1,843,700 USD). ENGINEER'S fee is based on a lump sum basis as shown in Exhibit "B" attached hereto and by reference made a part hereof."

Exhibit B from the original Agreement, first paragraph, shall be replaced with the following:

"A Lump Sum amount not to exceed a total Lump Sum amount of \$1,843,700 for the entire project."

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year written below:

HDR ENGINEERING, INC. ("ENGINEER")

CITY OF AMARILLO ("OWNER")

By: 

By: _____

Its: VICE PRESIDENT

Its: _____

Date: 11-16-17

Date: _____

PROJECT NUMBER
521725

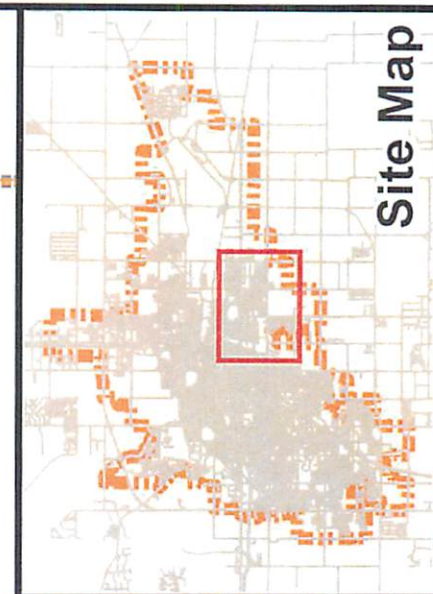
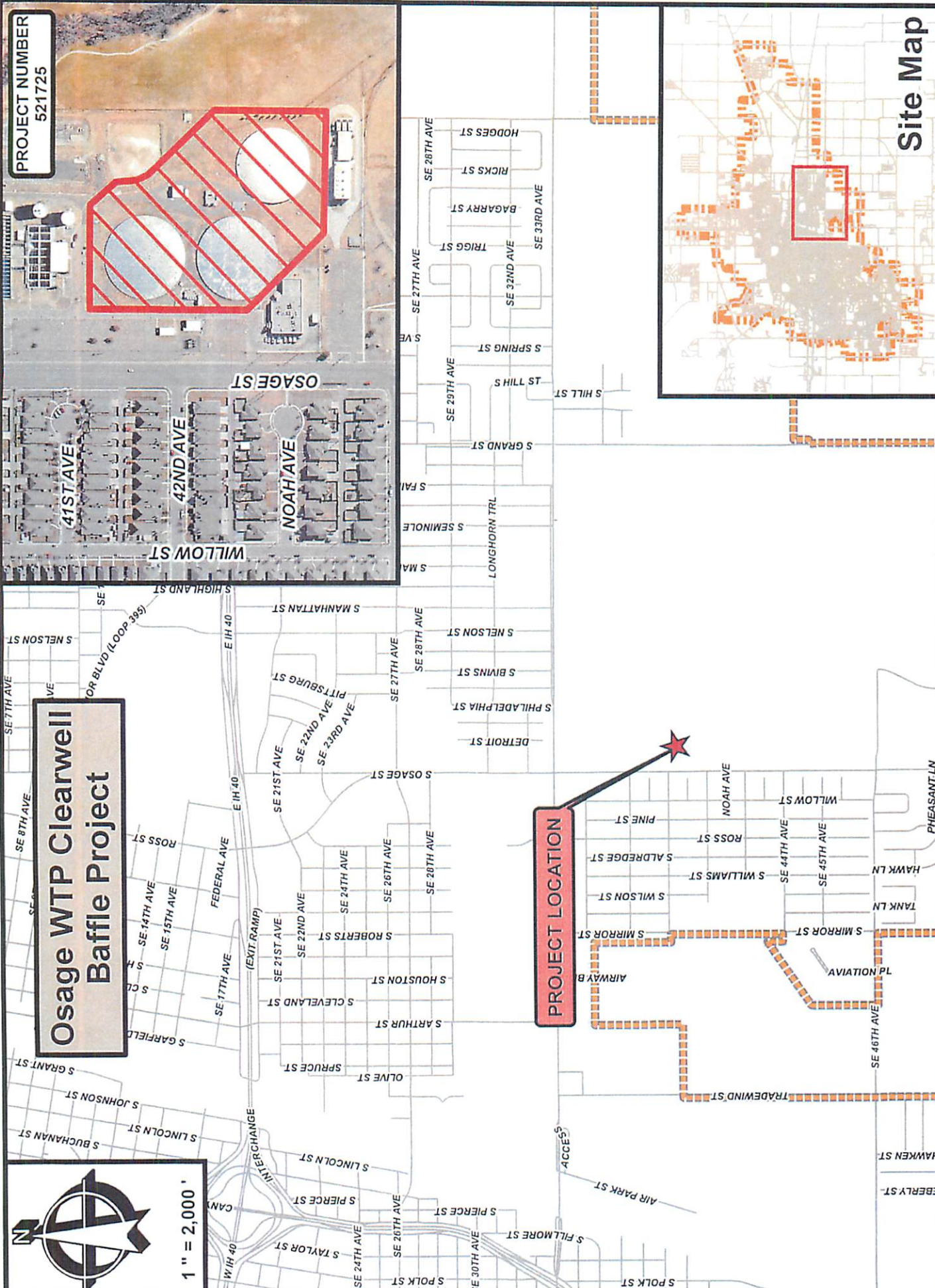


1" = 2,000'

Osage WTP Clearwell Baffle Project



PROJECT LOCATION



Site Map

Amarillo City Council

Agenda Transmittal Memo



Meeting Date	December 12, 2017	Council Priority	N/A
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Department	Water Production
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Agenda Caption

Award Bid #5897 – Split Case Pump Repair at Potter Co. Pump Station

Award to Gasket & Packings Inc.

Total \$59,495.00

This award is to approve a contract for the repair of Split Case Pump at Potter Co. Pump Station.

Agenda Item Summary

This item is award of bid for the repair of Split Case Pump at Potter Co. Pump Station.

Requested Action

Consider approval and award of bid for total contract in the amount of \$59,495.00 to Gasket & Packings, Inc.

Funding Summary

Funding for this award is available in the Water Production CIP 2017-2018 budget: Bid No. 5897 52200.83200

Community Engagement Summary

N/A

Staff Recommendation

City Staff is recommending approval and award of the contract.

Bid No. 5897 REPAIRS FOR POTTER COUNTY PUMP STATION SPLIT CASE PUMP
Opened 4:00 p.m. December 16, 2017

To be awarded as one lot		GPI- GASKET & PACKINGS INC	JCI INDUSTRIES INC	EVANS ENTERPRISES INC
Line 1 Pumps and pump accessories maintenance and repair, furnish all materials, equipment, labor and any other necessary items, per specifications				
1 ea				
Unit Price	\$59,495.000	\$75,031.000		\$91,183.970
Extended Price		59,495.00	75,031.00	91,183.97
Bid Total		59,495.00	75,031.00	91,183.97
Award by Vendor				
		59,495.00		

Amarillo City Council

Agenda Transmittal Memo



Meeting Date	Dec 19, 2017	Council Priority	N/A
Department	Fleet Services		
Contact	Glenn Lavender, Fleet Services Superintendent		

Agenda Caption

CONSIDER purchase approval of Fire Truck-Ladder Style

Agenda Item Summary

Replacement of unit 7105, 2008 Ferrera 107' Ladder Truck used by the Fire Department. This vehicle will be used by the Fire Department for daily operational requirements throughout the City. Unit 7105 has reached the end of its manageable life cycle within the Fleet. Unit 7105 will be traded in at a cost savings of \$200,000.00.

Requested Action

Recommend approval of Fire Truck- 107 'Ladder Style purchased through Hall Buick – GMC .
This is a HGAC Contract Purchase using Contract FS12-15.

Funding Summary

Funding for this purchase will be from 61120.84100 Fleet Services Auto Rolling Stock.
Purchase cost of \$825,556.88, remaining fund balance \$3,995,615.00

Community Engagement Summary

N/A

Staff Recommendation

Staff recommends the approval of replacement vehicle using HGAC contract.

Bid No. 5971 FIRE TRUCK 107 LADDER
Opened 4:00 p.m. December 12, 2017

To be awarded as one lot		HALL BUICK GMC
Line 1 Truck, fire protection and cras rescue schduled replacement unit 7105, per specifications		
1 ea		
Unit Price	\$1,043,556.880	
Extended Price		1,043,556.88
Line 2 Shipping, handling & misc fees, HGAC contract Fs12-15 fee, per specifications		
1 ea		
Unit Price	\$2,000.000	
Extended Price		2,000.00
Line 3 Shipping, handling & misc fees, discount, per specifications		
1 ea		
Unit Price	(\$20,000.000)	
Extended Price		(20,000.00)
Line 4 Shipping, handling & misc fees, trade-in, per specifications		
1 ea		
Unit Price	(\$200,000.000)	
Extended Price		(200,000.00)
Bid Total		825,556.88
Award by Vendor		825,556.88

Amarillo City Council

Agenda Transmittal Memo



Meeting Date	Dec 12, 2017	Council Priority	N/A
Department	Fleet Services		
Contact	Glenn Lavender, Fleet Services Superintendent		

Agenda Caption

CONSIDER purchase approval of replacement vehicle for Fire department.

Agenda Item Summary

Scheduled replacement of unit 6626, 2005 American LaFrance Fire Truck/Pumper Style. New Fire Truck will be used for daily operational requirements. Vehicle 6626 has reached or exceeded its useable life cycle.

Requested Action

Recommend approval of Fire Truck/Pumper Style purchased through Hall Buick – GMC.
This is a HGAC Contract Purchase using contract number FS12-15

Funding Summary

Funding for this purchase will be from 61120.84100, Fleet Services Rolling Stock.
Cost \$564,777.88, remaining fund balance \$ 4,256,394.00

Community Engagement Summary

N/A

Staff Recommendation

Staff recommends purchase approval of the Fire Truck using HGAC contract.

Bid No. 5951 FIRE TRUCK PUMPER
Opened 4:00 p.m. December 1, 2017

To be awarded as one lot		HALL BUICK GMC
Line 1 Truck, fire protection and cras rescue schduled replacement unit 6626, per specifications		
1 ea		
Unit Price	\$617,777.880	
Extended Price		617,777.88
Line 2 Shipping, handling & misc fees, HGAC contract Fs12-15 fee, per specifications		
1 ea		
Unit Price	\$2,000.000	
Extended Price		2,000.00
Line 3 Shipping, handling & misc fees, discount, per specifications		
1 ea		
Unit Price	(\$55,000.000)	
Extended Price		(55,000.00)
Bid Total		564,777.88
Award by Vendor		
		564,777.88

Amarillo City Council

Agenda Transmittal Memo



Meeting Date	December 19, 2017	Council Priority	N/A
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Department	Parks and Recreation
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Agenda Caption

Award of golf product purchase contract to the Acushnet Company for Titleist, Pinnacle and FootJoy products.

Agenda Item Summary

This award is to approve an annual "not-to-exceed" contract price for the whole sale purchase of Titleist, Pinnacle and Foot-Joy golf products in the amount of \$200,000. The Acushnet Company is the exclusive manufacturer and wholesale distributor of these products and is the sole source of the products at wholesale prices. The wholesale purchase of these products provide inventory for retail sale at both pro shops at Ross Rogers Golf Complex and Comanche Trail Golf Complex. Sales of merchandise will produce an estimated gross margin of 40% or approximate 20% net profit.

Requested Action

Consider approval and award for the City annual contract.

Funding Summary

Funding for this award is available in the Ross Rogers Golf Complex budget 1811.51205 and the Comanche Trail Golf Complex budget 1812.51205

Community Engagement Summary

N/A

Staff Recommendation

City staff is recommending approval and award of the contract.

Bid No. 5915 ACUSHNET GOLF PRODUCT CONTRACT
Opened 4:00 p.m. November 3, 2017

To be awarded as one lot		ACUSHNET
Line 1 Golfing equipment award of golf product purchase contract to the Acushnet company for titleist ad foot-joy products in the amount of \$200,000., per specifications		
1 ea		
Unit Price	\$200,000.000	
Extended Price		200,000.00
Bid Total		200,000.00
Award by Vendor		200,000.00

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Amarillo City Council

Agenda Transmittal Memo



Meeting Date	12/19/2017	Council Priority	Infrastructure Initiative
Department	Capital Projects & Development Engineering		
Contact	Floyd Hartman, CP&DE Director		

Agenda Caption

CONSIDER AWARD – BID # 5893/JOB # 523184 Hasting-Broadway Sewer Extension and Rehabilitation
Horseshoe Construction, Inc. - \$541,111.00

Agenda Item Summary

This item is to consider award of the construction contract for Wastewater Collection Improvements for the replacement and upsizing of select sanitary sewer lines in Hetrick Acres and the construction of new sanitary sewer lines to serve future development west of Ross Rogers Golf Course.

Requested Action

Consider approval and award to Horseshoe Construction, Inc. - \$541,111.00

Funding Summary

Funding for this project is available in Project Number 523184.17400.1040

Community Engagement Summary

This project will have modest impact to the neighborhood. The Project Manager will send notifications to affected property owners and conduct a public meeting prior to construction. City staff will update the public with press releases and public announcements through social media before and during the project.

Staff Recommendation

City Staff is recommending approval and award of the contract.

Bid No. 5893 Wastewater Collection Improvements: Hastings-Broadway Sewer Extension and Rehab
Opened 4:00 p.m., November 16, 2017

To be awarded as one lot		Horseshoe Construction	Amarillo Utility Contractors
Line 1 Fill existing pipe as identified on plans with flowable fill material, (TxDOT item 401) complete, per specifications			
7 cy			
Unit Price	\$3,000.00	\$800.000	
Extended Price	21,000.00		5,600.00
Line 2 Remove and replace fence, complete, per specifications			
726 lf			
Unit Price	\$25.00	\$20.000	
Extended Price	18,150.00		14,520.00
Line 3 Furnish and Install 10" sewer pipe , complete, per specifications			
898 lf			
Unit Price	\$85.00	\$86.000	
Extended Price	76,330.00		77,228.00
Line 4 Furnish and install 10" sewer pipe 150 PSI, complete, per specifications			
1,025 lf			
Unit Price	\$85.00	\$106.000	
Extended Price	87,125.00		108,650.00
Line 5 Furnish and install four (4") foot diameter fiberglass manhole, complete, per specifications			
13 ea			
Unit Price	\$3,200.00	\$4,500.000	
Extended Price	41,600.00		58,500.00
Line 6 Furnish and install reopening of (4") taps, complete, per specifications			
51 ea			
Unit Price	\$800.00	\$1,000.000	
Extended Price	40,800.00		51,000.00

To be awarded as one lot		Horseshoe Construction	Amarillo Utility Contractors
Line 7 Furnish and install 10" HDPE SS pipe by the pipebursting method, complete, per specifications			
4,038 lf			
Unit Price	\$37.00	\$65.000	
Extended Price	149,406.00	262,470.00	
Line 8 Bore, furnish and install ten (10") gravity sewer pipe, complete, per specifications			
250 lf			
Unit Price	\$110.00	\$90.000	
Extended Price	27,500.00	22,500.00	
Line 9 Bore and shove/pull 16:" steel casing pipe, complete, per specifications			
100 lf			
Unit Price	\$477.00	\$140.000	
Extended Price	47,700.00	14,000.00	
Line 10 Furnish and install 10-inch restrained joint gravity sewer pipe through casing, complete, per specifications			
100 lf			
Unit Price	\$75.00	\$80.000	
Extended Price	7,500.00	8,000.00	
Line 11 Furnish, install and maintain Traffic Control Plan (COA 9.04), complete, per specifications			
1 ls			
Unit Price	\$2,500.00	\$8,000.000	
Extended Price	2,500.00	8,000.00	

To be awarded as one lot		Horseshoe Construction	Amarillo Utility Contractors
Line 12 Mobilization/demobilization including insurance, payment bond, performance bond, maintenance bond and related ancillary costs. (Shall not exceed five percent (5%) of the total construction cost)(COA 10.02), complete, per specifications			
1 ls			
Unit Price	\$20,000.00	\$30,000.000	
Extended Price		20,000.00	30,000.00
Line 13 Erosion Control Plan, (COA 10.02) prepared and installed, complete, per specifications			
1 ls			
Unit Price	\$1,500.00	\$1,000.000	
Extended Price		1,500.00	1,000.00
Bid Total		541,111.00	661,468.00
Award by Vendor			
		541,111.00	

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Amarillo City Council

Agenda Transmittal Memo



Meeting Date	December 19, 2017	Council Priority	Transportation Systems
Department	Amarillo City Transit (ACT)		
Contact	Marita Wellage-Reiley, Transit Director		

Agenda Caption
CONSIDER ASSIGNMENT OF A DEED OF TRUST FOR PROPERTY ACQUIRED THROUGH A FEDERAL GRANT

Agenda Item Summary
The City of Amarillo has received federal funds through the Bus and Bus Facilities Public Transportation Grant Program, administered by Texas Department of Transportation (TxDOT). The Texas Transportation Code, Chapter 455, authorizes the State through TxDOT to secure in trust from the City of Amarillo for the following property: (1) Pump Service. New Air and Lube System Installed; (2) Lighting. Bay Lighting Fixtures and Block Heater Cord Reels Installed; (3) Flooring. Shop flooring with Dur-A-Flex and Yellow Safety Striping Resurfaced; (4) Mechanical. Two Cyclone Water Heaters, Loop Line and Pressure Pump Installed; and (5) Exterior Metal Door with Glass Insert Installed.

Requested Action
Request approval to assign to the State of Texas a Deed of Trust for capital improvements until such time as the property is sold or transferred, and at that time the Deed of Trust will no longer be in effect.

Funding Summary
The assets covered by this Deed of Trust were approved in FY 14 by the City Council. The purchase and installation of the property located in the ACT Operating and Maintenance Facility located at the City Service Center has been completed. No additional funding is required.

Community Engagement Summary
Amarillo City Transit conducted outreach and a public hearing at the time the project was authorized.

Staff Recommendation
Staff recommends granting a deed of trust to the State of Texas as required by the Texas Transportation Code.

Notice of Confidentiality Rights: If you are a natural person, you may remove or strike any or all of the following information from any instrument that transfers an interest in real property before it is filed for record in the public records: Your social security number or your driver’s license number.

Deed of Trust

STATE OF TEXAS §
 §
COUNTY OF POTTER §

Recitals

- A. The City of Amarillo, Texas, Transit Provider, is periodically an eligible recipient of federal funds through the Bus and Bus Facilities Public Transportation Grant Program, a federal assistance program the Federal Transit Administration administers to provide capital funding to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities (“Property”) in accordance with 49 U. S. Code, Section 5339.

- B. The Texas Transportation Code, Chapter 455, authorizes the State to assist the Transit Provider in acquiring such aid to establish and maintain public and mass transportation projects and to administer funds appropriated for public transportation under Texas Transportation Code, Chapter 456.

- C. The Governor of the State of Texas has designated the Texas Department of Transportation to receive federal funds for 49 U. S. Code, Section 5339 grants.

- D. The Transit Provider received a Fiscal Year 2014 Grant to provide for capital improvement funding.

- E. The undersigned acknowledges that the Texas Department of Transportation acts as the Trustee to secure a trust in such capital improvements as well as all other future capital improvement projects funded through the Bus and Bus Facilities Public Transportation Grant Program administered through the Texas Department of Transportation to the Transit Provider, City of Amarillo.

NOW, THEREFORE, in consideration of federal funds granted for capital improvement projects at the City of Amarillo Transit Facilities in Potter County, Texas, (“Grantor”), hereinafter Grants, Bargains, Sells, and Conveys unto the State of Texas, acting through the Texas Department of Transportation, Trustee, and to its successors and assigns forever, in trust for the following described property located at 801 S.E. 23rd, Amarillo, Texas:

- (1) Pump Service. New Air and Lube System Installed;

- (2) Lighting. Bay Lighting Fixtures and Block Heater Cord Reels Installed;
- (3) Flooring. Shop flooring with Dur-A-Flex and Yellow Safety Striping Resurfaced;
- (4) Mechanical. Two Cyclone Water Heaters, Loop Line and Pressure Pump Installed; and
- (5) Exterior Metal Door with Glass Insert Installed.

Such property shall be hereinafter referred to collectively as "Property." Grantor, City of Amarillo, warrants and agrees to defend the title to the Property, subject to Prior Lien and Other Exceptions to Conveyance and Warranty.

Other Exceptions to the Conveyance and Warranty include: (1) Any and all matters affecting the state of title to the Property recorded in the appropriate public records of Potter County, Texas, or visible or apparent from an inspection of the Property; and (2) all zoning, building and other laws, regulations and ordinances of any and all municipal governmental and quasi-governmental bodies and agencies having jurisdiction over the Property or any part thereof.

Such Obligation secured by this Deed of Trust shall extend until such time as the Property is sold or transferred, and at this time, this Deed of Trust shall have no further effect, and it shall be released at the Grantor's expense.

Clauses and Covenants are as follows:

A. Grantor's Obligations.

Grantor agrees to:

1. keep the Property in good repair and condition;
2. pay all taxes and assessments on the Property before delinquency;
3. defend title to the Property subject to the Other Exceptions to Conveyance and Warranty and preserve the lien's priority as it is established in this Deed of Trust;
4. obey all laws, ordinances, and restrictive covenants applicable to the Property; and
5. if the lien of this Deed of Trust is not a first lien, pay or cause to be paid all prior lien notes (including, without limitation, the Prior Lien) and abide by or cause to be abided by all prior lien instruments (including, without limitation, all instruments and documents evidencing the Prior Lien).

B. Lender's Rights.

1. If Grantor fails to perform any of Grantor's Obligations, the Federal Transit Administration, acting through the Bus and Bus Facilities Public Transportation Grant Program ("Lender"), may immediately demand reimbursement from Grantor

for any amounts so paid. The amount to be reimbursed will be secured by this Deed of Trust, and Grantor shall reimburse Lender in proportion to the Property's depreciation value unless the Property is no longer useable.

2. If Grantor defaults on the Obligations or fails to perform any of its Obligations, and the default continues for a period of ten (10) days after Lender sends Grantor written notice of such default, Lender may:

- a. declare the reimbursement from the Grantor be immediately due and payable;
- b. direct Trustee to foreclose this lien, in which case Lender or Lender's agent will cause notice of the foreclosure sale to be given as provided by the Texas Property Code, as then in effect; and
- c. purchase the Property at any foreclosure sale by offering the highest bid and then have the bid credited to the Grantor's Obligation.

C. Trustee's Rights and Duties.

If Trustee is directed by Lender to foreclose this lien, then Trustee will:

1. either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code, as then in effect;
2. sell and convey all or part of the Property "AS IS" to the highest bidder for cash with a general warranty binding Grantor, subject to any Prior Lien and the Other Exceptions to Conveyance and Warranty and without representation or warranty, express or implied, by Trustee;
3. from the proceeds of the sale, pay, in this order:
 - a. expenses of foreclosure, including a reasonable commission to Trustee;
 - b. to Lender, the full amount of principal and other charges due and unpaid;
 - c. any amounts required by law to be paid before payment to Grantor; and
 - d. to Grantor, any balance.

D. General Provisions.

1. If any of the Property is sold under this Deed of Trust, Grantor must immediately surrender possession to the purchaser. If Grantor fails to do so, Grantor will become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.
2. Recitals in any trustee's deed conveying the Property will be presumed to be true.
3. Proceeding under this Deed of Trust, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.

4. This lien will remain superior to liens later created even if the time of payment of all or part of the Obligation is extended or part of the Property is released.

5. Grantor will immediately give Lender written notice of any actual or threatened proceedings for condemnation of all or part of the Property. Lender will not be liable for failure to collect or to exercise diligence in collecting any such amounts, even from a private sale in lieu of condemnation, and from damages caused by construction on or near the Property.

6. Subject to any Prior Lien, Grantor assigns Lender collateral in such Property should Grantor default on their Obligations under this Deed of Trust. Lender may exercise Lender's rights and remedies under this paragraph without taking possession of the Property. Lender will apply all income and receipts collected under this paragraph first to expenses incurred in exercising Lender's rights and remedies, then to Grantor's obligations with respect to the Obligation, and this Deed of Trust in the order determined by Lender. Lender is not required to act under this paragraph, and acting under this paragraph does not waive any of Lender's other rights and remedies.

7. If the principal of the lien has been depreciated beyond the Property's normal use, then this Deed of Trust expires as to any debt owed to Lender. This provision overrides any conflicting provisions in this and all other instruments concerning the debt.

8. In no event may this Deed of Trust secure payment of any debt that may not lawfully be secured by a lien on real estate or create a lien otherwise prohibited by law.

9. When the context requires, singular nouns and pronouns include the plural.

10. This Deed of Trust binds, benefits, and may be enforced by the successors in interest of all parties.

11. If any provision of this Deed of Trust is determined to be invalid or unenforceable, the validity or enforceability of any other provisions will not be affected.

12. The purpose of this Deed of Trust is to secure a lien in the Property that the Grantor received grant federal funds approved for capital improvement projects at the City of Amarillo Transit Facilities in Potter County, Texas.

[The remainder of this page is intentionally left blank. The signature page follows.]

GRANTOR:

By: _____

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF POTTER §

 This instrument was acknowledged before me, the undersigned authority, on
November _____, 2017, by _____, of _____,
a Texas _____, for and on behalf of said _____.

Notary Public, State of Texas

My Commission
expires: _____



Amarillo City Council

Agenda Transmittal Memo



Meeting Date	December 19, 2017	Council Priority	Community Appearance
Department	Planning		
Contact	AJ Fawver		

Agenda Caption

Vicinity: S Buchanan Street & SE 8th Avenue

PRESENTATION AND CONSIDERATION of Rezoning of Lot 1, Block 1, Plemons Addition Unit No. 22, in Section 155 and Section 170, Block 2, AB&M Survey, Potter County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Central Business District (CB) and Light Industrial District (I-1) to Planned Development District 387 (PD-387).

Agenda Item Summary

Staff’s analysis of zoning change requests begins with referring to the Comprehensive Plan’s Future Land Use and Character (FLUC) Map in order to identify what it recommends for future land uses. Staff also considers how any zoning change would impact the Comprehensive Plan’s recommended Neighborhood Unit Concept (NUC) of development whereby non-residential land uses are encouraged at section-line arterial intersections with a transition to residential uses as development occurs away and inward from the arterial intersections. Staff also considers the principles and recommendations laid out within the Comprehensive Plan, as well existing zoning and development patterns in the area.

PD-387 is a brand new Planned Development District for the Multi-Purpose Event Venue (MPEV) facility facing the intersection of South Buchanan Street and Southeast 8th Avenue. It is being processed as a PD because it is intended to host a mix of uses which are not easily categorized under the predetermined use categories outlined in the adopted Zoning Ordinance, and because the design of the facility – within the Downtown Amarillo Urban Design District – is under review as well.

The items associated with this Planned Development hearing are:

- The establishment of PD-378 regulations.
- The associated site plan for the proposed new development of the MPEV on Lot 1, Block 1, Plemons Addition Unit No. 22.

A site plan is required to be approved and filed as part of the Planned Development ordinance, meaning the approval of the PD ordinance shall constitute approval of the associated site plan as well [Zoning Ordinance, Section 4-10-104].

As mentioned before, the proposed new development of Lot 1, Block 1, Plemons Addition Unit No. 22 is a venue that will host multiple uses which fall within the following use categories: Event Center, Restaurant, General Retail, Office, and Storage. The building will be two stories tall, and the construction materials have been approved by the Local Government Corporation (LGC), and are consistent with materials recommended within the Downtown Amarillo Urban Design Standards (DAUDS). One parking lot will be built on the east side of the facility with a 6’ metal fence around the entire facility for security

Amarillo City Council

Agenda Transmittal Memo



purposes. The facility has met all of the Downtown Amarillo Urban Design Standards at this time.

This request is accompanied by multiple applications which are a part of this single development project. Those applications include:

- (1) a vacation application for existing streets (public right-of-way) and public utility easements in the area; APPROVED 09/26/2017
- (2) a plat application dedicating new public right-of-way to the city; APPROVED 10/09/2017;
- (3) a Downtown Amarillo Urban Design Standards (DAUDS) Certificate of Appropriateness application, which was administratively APPROVED 12/8/2017 and;
- (4) a Planned Development rezoning application, accompanied by a site plan.

Although within the Downtown Amarillo Urban Design District, the project has gone through several meetings for public input, as well as public hearings for each of the items listed above. The standards state that, "Public projects that undergo a public review/comment process do not require review by the Downtown Design Review Board but still require standard permitting and staff review" on page 6 of that document.

The future land use map shows this area to be categorized as Urban (U). This category allows for Public/Institutional, Entertainment, Office, Commercial Retail, and Mixed Use (On a single site and within individual structures) to be used in Urban. All of these will be used within the facility. There are also a couple of action strategies that can help in the decision making process:

- Encourage infill development to achieve more efficient utilization of the City's existing resources and infrastructure. (*page 3.3, Growth Management & Capacity*).
- Promote infill development of various types as appropriate areas to reduce urban sprawl and duplication of public services thereby saving tax dollars. (*page 3.3, Growth Management & Capacity*).

The Neighborhood Unit Concept is also a key piece of the adopted plan, in which zoning transitions from areas of lower density at section line corners to areas of high density. This concept of development ensures that commercial areas will have less of an impact to residential areas. This concept does not follow the Neighborhood Unit Concept as it is downtown along a section line arterial and it is important to note that this area was developed before the Neighborhood Unit Concept was adopted by City Council.

The adopted Comprehensive Plan contains a number of action strategies that are to be followed when making decisions about land use, development, and other community elements. These include:

- Provide a full range of community facilities, including public buildings, parks and related areas, and structures to meet the broad social, cultural, recreational, educational, safety, and service
-

Amarillo City Council

Agenda Transmittal Memo



- needs of the citizens of Amarillo and the region. *(page 5.2, Parks & Cultural Resources)*.
- Make the Central Business District the heart of Amarillo by preserving and promoting the concentration of businesses, offices, and governmental services and making the CBD the cultural and entertainment focus of the city. *(page 5.2, Parks & Cultural Resources)*.
 - Nurturing a cultural/entertainment focal point in downtown Amarillo through the clustered development of a multi-purpose Civic Center, the Globe-News Center for the Performing Arts, and the Central Library, together with expanded dining and nightlife offerings in downtown – plus ongoing efforts to revive downtown lodging. *(page 5.4, Parks & Cultural Resources)*.

As such, the Comprehensive Plan supports approval of this item.

Requested Action

The applicant is requesting the Rezoning of Lot 1, Block 1, Plemons Addition Unit No. 22, in Section 155 and Section 170, Block 2, AB&M Survey, Potter County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Central Business District (CB) and Light Industrial District (I-1) to Planned Development District 387 (PD-387) in order to build the Multi-Purpose Event Venue (MPEV).

Funding Summary

N/A

Community Engagement Summary

Level 4 - The item was distributed to all applicable internal and external entities. Notices have been sent out to 7 property owners within 200 feet regarding this proposed rezoning. At the time of this writing, the Planning Department has received no comments regarding this request.

The item was recommended for approval by 4:0 vote of the Planning and Zoning Commission at its December 11, 2017 public meeting.

City Manager Recommendation

Planning Staff has reviewed the associated ordinance and exhibit and recommends the City Council **approve** the item as submitted.

ORDINANCE NO. 7701

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 SOUTH BUCHANAN STREET AND SOUTHEAST EIGHTH AVENUE, POTTER COUNTY, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission held public hearings on proposed zoning changes on the property hereinafter described and 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 1, Block 1, Plemons Addition Unit No. 22, in Section 155 and Section 170, Block 2, AB&M Survey, Potter County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Central Business District (CB) and Light Industrial District (I-1) to Planned Development District 387 (PD-387).

SECTION 2. DEVELOPMENT STANDARDS. The development standards for Planned Development 387, such as lot areas, lot widths, lot depths, front yard, side yard, rear yard, lot coverage, as well as height and off-street loading requirements, shall conform to the Downtown Amarillo Urban Design Standards (DAUDS) and Central Business District (CB) zoning regulations, except as otherwise stated below:

- A. Minimum Lot Area: None per Zoning Ordinance for Non-Residential Main Building.
- B. Minimum Lot Width: None per Zoning Ordinance for Non-Residential Main Building.
- C. Minimum Lot Depth: None per Zoning Ordinance for Non-Residential Main Building.
- D. Minimum Building Setbacks.
 - a. Front Yard: 0 Feet per DAUDS.
 - b. Side Yard: None per Zoning Ordinance for Non-Residential Main Building.

- c. Rear Yard: None per Zoning Ordinance for Non-Residential Main Building.
- E. Maximum Lot Coverage standards: These will follow the Central Business District (CB) zoning standards for Non-Residential Main Building which allows for 100% lot coverage.
- F. Maximum Height standards: These will follow the Central Business District (CB) zoning standards for Non-Residential Main Building which allows for unlimited height or if applicable to any legal height not prohibited by other laws or ordinances.

SECTION 3. LANDSCAPING AND STREETSCAPING STANDARDS. These standards for Planned Development 387 shall conform to the Downtown Amarillo Urban Design Standards (DAUDS) and Central Business District (CB) zoning regulations, except as otherwise stated below.

SECTION 4. SIGNAGE STANDARDS. All signage that was not previously approved by the Local Government Corporation (LGC) on November 1st, 2017 for Planned Development 387 shall conform to Downtown Amarillo Urban Design Standards (DAUDS) and Central Business District (CB) zoning regulations, except as otherwise stated below:

- A. Exterior Signage as approved by the Local Government Corporation.
 - 1. South Buchanan Street Signage as shown in Exhibit A5-3 – West Elevation, attached hereto and incorporated herein:
 - a. The Local Government Corporation approved the following sign requirements:
 - i. Amarillo Ballpark sign along South Buchanan St.:
 - 1. Height of 6' and width of 90'.
 - ii. Amarillo sign at the corner of S.E. 8th Ave. and South Buchanan St.:
 - 1. Height of 6' and width of 55'.
 - iii. Team store sign along South Buchanan St.:
 - 1. Height of 3' and width of 15'.
 - iv. Home Plate sign at the corner of S.E. 8th Ave. and South Buchanan St.:
 - 1. Height of 3' and width of 20'.
 - v. Northwest Gate sign entrance along South Buchanan St.:
 - 1. Height of 3' and width of 10'.
 - vi. Ticket and Office signs along South Buchanan St.:
 - 1. Both heights of 2' and widths of 8'.
 - b. Temporary Construction Signs shall be taken down no later than 30 days after a Certificate of Occupancy has been issued by the Building Official in accordance with the Amarillo Municipal Code at

Sec. 4-2-7(B).

c. Event Signs shall be removed within 24 hours of the end of an event as set forth in DAUDS.

i. Event signs may not be handwritten, paper, cardboard, or plastic in material.

ii. Sign placement locations are limited to one per window pane or framed area.

d. Window Signs.

i. Window wraps are allowed according to the design standards, as long as they are not entirely opaque complying with DAUDS. These are limited to one per pane or framed area. Window wraps in accordance with this requirement shall be approved administratively by the Planning Department.

2. S.E. 8th Avenue signage details as approved by the LGC and shown at Exhibit A5-3 – South Elevation, attached hereto and incorporated herein.

3. South Johnson Street signage details as approved by the LGC and shown at Exhibit A5-3 – Maint. E. Elevation, attached hereto and incorporated herein.

B. Interior Signage (Visible from Public Right-of-Way).

1. Outfield Wall:

a. Wall Signs Outfield Wall as depicted in Exhibit A5-1-1, Overall Perspective – Six, attached hereto and incorporated herein:

i. Left Field: Heights of 8' and Lengths of the wall.

ii. Center Field: Heights of 8' and Lengths of the wall.

iii. Right Field: Height of 5' and Lengths of the wall.

2. Concourse areas as depicted in Exhibit A5-1-1, Overall Perspectives – Three & Four, attached hereto and incorporated herein:

a. Wall Signs (Potential Electronic Ribbons along upper deck/suites)

i. Exhibits A5-1-1 through A5-4, attached hereto and incorporated herein, show signage details as approved by the LGC board on November 1st, 2017.

b. Score Board (Located behind Left Field)

i. Height of 33' and a width of 60'.

SECTION 5. PARKING STANDARDS. Parking standards shall follow Central Business District (CB) standards for off-street parking requirements.

SECTION 6. UNDERLYING ZONING. The entire property previously described may contain listed below allowed uses, subject to the approved site plan(s) for this Ordinance. Any standards not specifically addressed here shall follow requirements for Central Business District (CB) zoning. In addition, the below-listed uses are approved specific to the placement illustrated on the site plan:

- A. Amusement, Commercial (Outdoor)
- B. Play Field or Stadium (Public)
- C. On-Premise Primary or Incidental Sales and Service (Alcohol)
- D. Restaurant and Cafeteria (Not Drive-In Type)
- E. Restaurant or Eating Establishment (Drive-in Service)
- F. Retail Shop, Apparel, Gift Accessory, and Similar Items
- G. Offices, General Business, or Professional
- H. Storage Warehouse

SECTION 7. All ordinances and resolutions or parts thereof that conflict with this ordinance are hereby repealed, to the extent of such conflict.

SECTION 8. 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 9. 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 December, 2017 and PASSED on Second and Final Reading on this the _____ day of January, 2018.

Ginger Nelson, Mayor

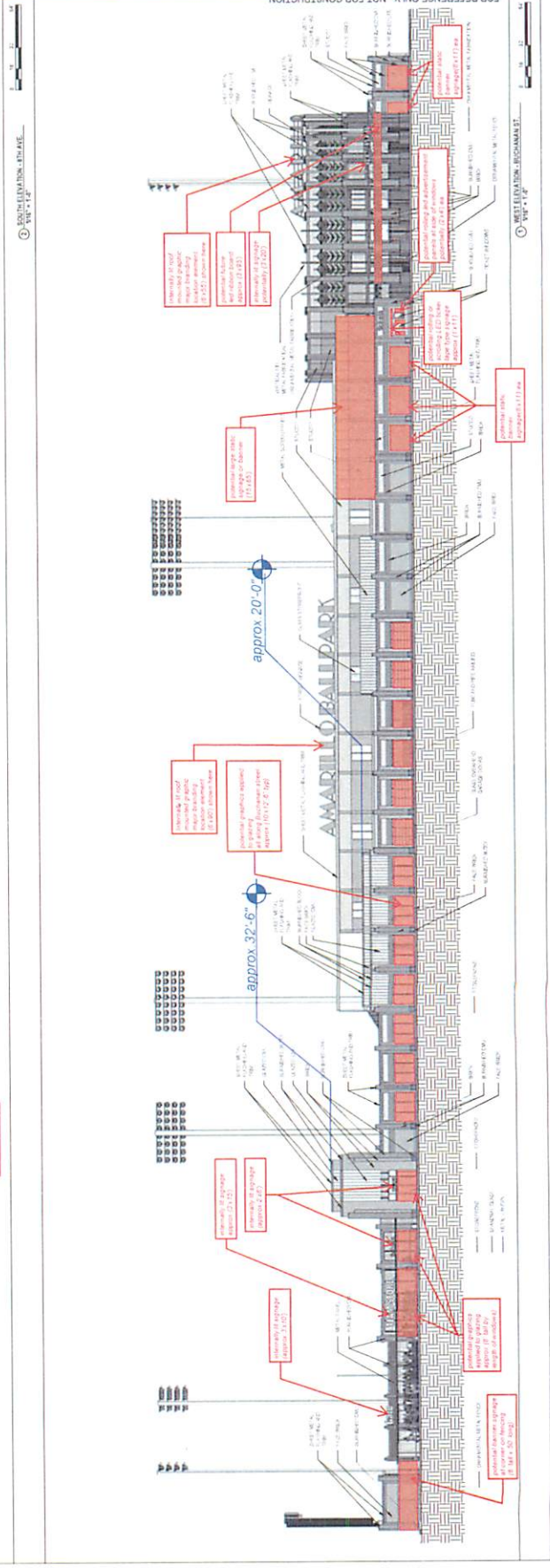
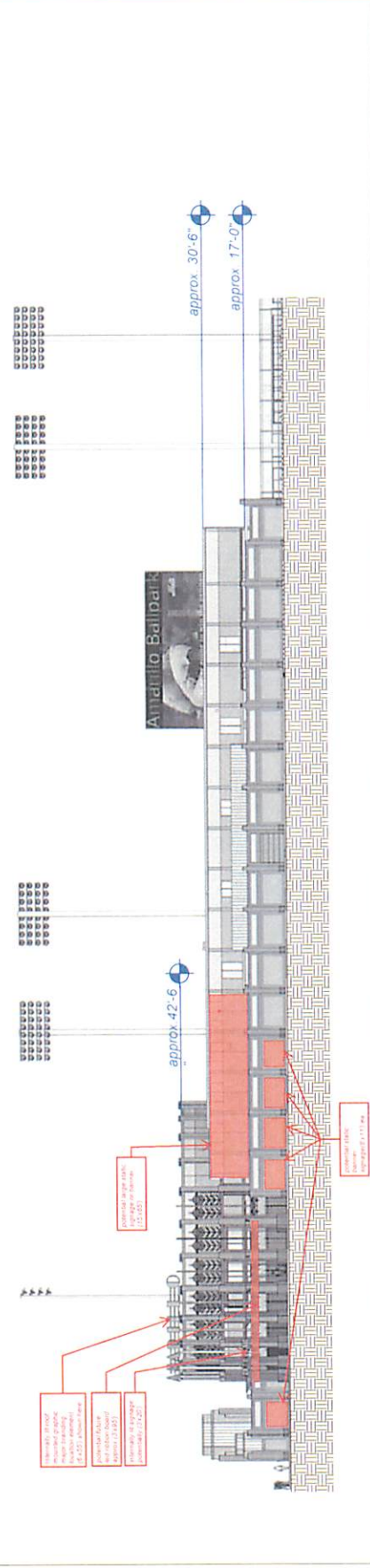
ATTEST:

Frances Hibbs, City Secretary

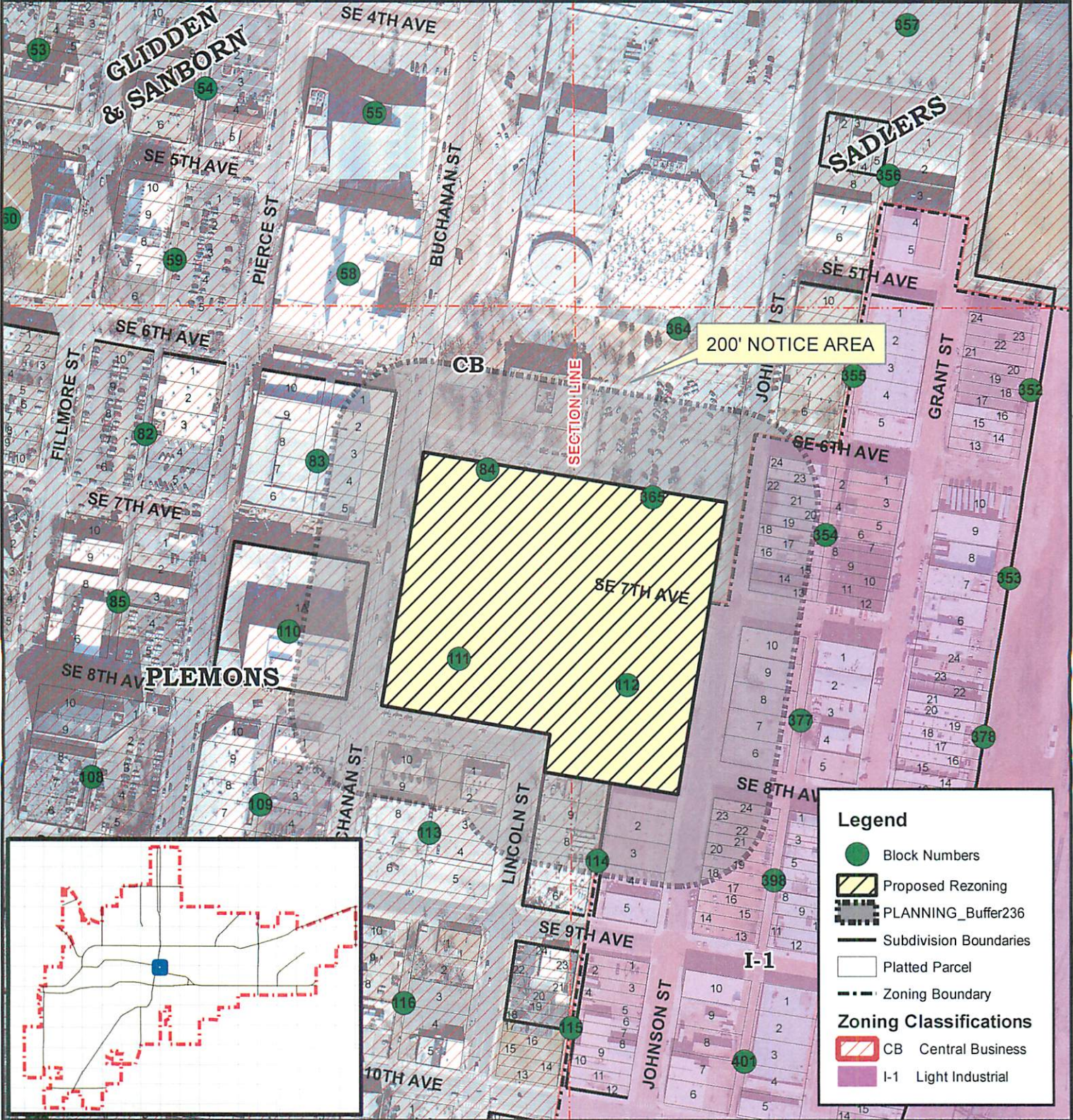
APPROVED AS TO FORM:

William M. McKamie, City Attorney



[illegible]

CASE Z-17-28
REZONING FROM CENTRAL BUSINESS DISTRICT (CB) & LIGHT INDUSTRIAL (I-1)
TO PLANNED DEVELOPMENT DISTRICT 378 (PD-378)



CITY OF AMARILLO
PLANNING DEPARTMENT

Scale: 1 inch = 300 feet
Date: 9/5/2017



Rezoning of Lot 1, Block 1, Plemons Addition Unit No. 22, in Section 170, Block 2, AB&M Survey, Potter County, Texas plus one-half of all bounding streets, alleys, and public ways to change from Central Business District (CB) and Light Industrial (I-1) to Planned Development District 378 (PD-378).

Applicant: City of Amarillo
Vicinity: SE 8th Ave. & S Buchanan St.

DISCLAIMER: The City of Amarillo is providing this information as a public service. The information shown is for information purposes only and except where noted, all of the data or features shown or depicted on this map is not to be construed or interpreted as accurate and/or reliable; the City of Amarillo assumes no liability or responsibility for any discrepancies or errors for the use of the information provided.



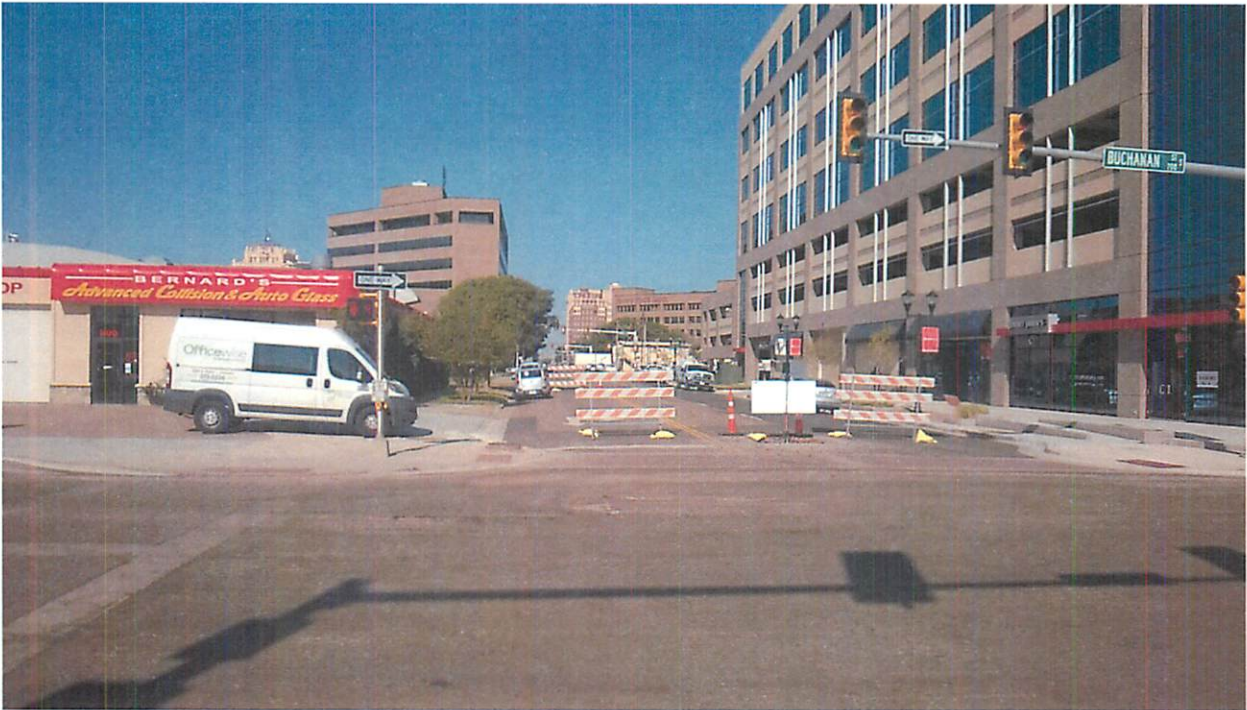
Looking northeast at the proposed rezoning tract from SE 8th Ave and S Buchanan Street Intersection or known as the Home Plate Entrance. City Hall in the background.



Looking east down SE 8th Avenue.



Looking south down S Buchanan Street, Simms Building parking lot on the right and Post Office on the left.



Looking west down SE 8th Avenue, Xcel Energy building seen on right.



Looking north up S Buchanan Street, Xcel Energy building seen left and MPEV site seen right.



Looking west from the proposed rezoning tract, (from about where home plate will be?)



Looking north from the proposed rezoning tract, (from about where home plate will be?)



Looking east from the proposed rezoning tract, (from about where home plate will be?)



Looking south from the proposed rezoning tract, (from about where home plate will be?)



Amarillo City Council

Agenda Transmittal Memo



Meeting Date	December 19, 2017	Council Priority	N/A
Department	Parks & Recreation (Golf)		
Contact	Rod Tweet, Director of Parks & Recreation		

Agenda Caption
CONSIDER – RESOLUTION TO ELECT A CITY DEPARTMENT AND INDIVIDUAL OFFICER FOR A TEXAS ALCHOLIC BEVERAGE COMMISSION (TABC) LICENSE

Agenda Item Summary
This resolution elects the Parks & Recreation Department to be the holder of the BE Permit - Beer Retail Dealers On-Premise License required by the TABC and elects George Priolo as the officer to be qualified with the State. This resolution is required by the TABC to allow on premise beer sales at both Ross Rogers Golf Complex and Comanche Trail Golf Complex.

Requested Action
Request City Council approval of the resolution. Based on transition of operations of the golf complexes to a City function, a BE Permit - Beer Retail Dealers On-Premise License is needed for beer sales to continue at the golf complexes. This resolution would elect the Parks & Recreation Department to be the holder of the BE Permit - Beer Retail Dealers On-Premise License and elects George Priolo (General Manager of Golf Operations) as the officer to be qualified with the State. The resolution is required by the TABC to submit the application for the license.

The elected officer is the point of contact with the TABC on any issues that may arise. Officers can be replaced or updated with the TABC by City Council without having to reapply for new licenses. All officers are required to complete a personal history sheet as part of the licensing process.

Funding Summary
Historically, beer sales are a strong revenue source at the Ross Rogers and Comanche Trail Golf Complexes. Revenue from beer sales is estimated to be \$260,000 annually.

Community Engagement Summary
N/A

Staff Recommendation
Staff recommends approval of the resolution electing the Parks & Recreation Department as the holder of the required TABC licenses and George Priolo as the officer of the elected department.

RESOLUTION NO. 12-19-17-1

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS APPROVING A BE PERMIT - BEER RETAIL DEALERS ON-PREMISE LICENSE FOR THE AMARILLO PARKS AND RECREATION DEPARTMENT ASSOCIATED WITH GOLF OPERATIONS AT ROSS ROGERS AND COMANCHE TRAIL GOLF COMPLEXES AND; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Amarillo owns and operates two separate municipal golf complexes (Ross Rogers and Comanche Trail); and

WHEREAS, to facilitate beer sales at the golf complexes a BE Permit - Beer Retail Dealers On-Premise License was personally held by the golf professional in charge of golf operations at each complex; and

WHEREAS, due to a transition in operations, a BE Permit - Beer Retail Dealers On-Premise License must be obtained by the City to facilitate and continue beer sales at the municipal golf complexes; and

WHEREAS, the Parks and Recreation Department has made an application to the Texas Alcoholic and Beverage Commission to obtain a BE Permit - Beer Retail Dealers On-Premise License; and

WHEREAS, the City Council wishes to continue the sale of beer at the municipal golf complexes; and

WHEREAS, the City Council wishes to appoint George Priolo, Manager of Golf Operations, as the officer to administer the City's BE Permit - Beer Retail Dealers On-Premise License at each location;

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

SECTION 1. That the City Council supports the application for a BE Permit - Beer Retail Dealers On-Premise License for the municipal golf complexes at the Ross Rogers Golf Complex and Comanche Trail Golf Complex and appoints George Priolo, Manager of Golf Operations, as the officer to administer the City's license at each location .

SECTION 2. That this resolution shall be effective on and after its adoption.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, this 19th day of December, 2017.

Ginger Nelson, Mayor

ATTEST:

Frances Hibbs, City Secretary

APPROVED AS TO FORM:

William M. McKamie, City Attorney

Amarillo City Council

Agenda Transmittal Memo



4

Meeting Date	12/19/2017	Council Priority	Infrastructure Initiative
Department	1415 Capital Projects & Development Engineering		
Contact	Floyd Hartman		

Agenda Caption

CONSIDER: Standard Utility Agreements with Texas Department of Transportation (TxDOT) associated with the relocation of utilities along SL335 from Bell St to Coulter St.

Agenda Item Summary

Agreements U14966, U14967, and U14968 provide for reimbursement of certain qualified expenses incurred by the City during the relocation of utilities associated with the TxDOT project on SL335 from Bell St to Coulter St. The City's utility relocation contract has previously been awarded to Amarillo Utility Contractors in the amount of \$4,504,294.00. These agreements are for the reimbursable portion of that construction. As required by TxDOT, the agreements are divided by their roadway section.

Reimbursements will be for actual costs, but a summary of the anticipated reimbursement follows:

U14966 - \$728,870.74

U14967 - \$196,324.57

U14968 - \$494,243.65

Total: \$1,419,438.96

Requested Action

Consider approval of the agreements for City Manager execution. These agreements are required in advance of any work that may qualify for reimbursement.

Funding Summary

No funds will be committed with the execution of these agreements. Reimbursements will be credited to the Water and Sewer General Fund.

Community Engagement Summary

The approval of these agreements has minimal impact on the community. However, the community engagement process will be an integral part of the construction phase of this project.

Staff Recommendation

City staff recommends the approval of agreements U14966, U14967, and U14968.

STANDARD UTILITY AGREEMENT

District: Amarillo	U-Number: 14966
Federal Project No.: NH 1602(027)	County: Randall
ROW CSJ: 0168-09-068	Highway: IH0027
Highway Project Letting Date: 07/2017	From: Sundown Lane
	To: Bell Street

This Agreement by and between the State of Texas, acting by and through the Texas Transportation Commission, ("State"), and City of Amarillo, ("Utility"), acting by and through its duly authorized representative, shall be effective on the date of approval and execution by and on behalf of the State.

WHEREAS, the State has deemed it necessary to make certain highway improvements as designated by the State and approved by the Federal Highway Administration within the limits of the highway as indicated above;

WHEREAS, the proposed highway improvements will necessitate the adjustment, removal, and/or relocation of certain facilities of Utility as indicated in the following statement of work: Relocation of an existing 20-inch, nominal diameter, water main crossing ROW CSJ 0168-09-068 at approximately station 499+15. Total Length of 20-inch water main: 825.62 feet. Relocation of existing 8-inch, nominal diameter water main in public utility easement acquired by TxDOT on east side of CSJ 0168-09-068. Total Length of 8-inch water main: 257.14 feet. Relocation of an existing 12-inch, nominal diameter, sanitary sewer main crossing ROW CSJ 0168-09-068 at approximately station 499+50. Total Length of 12-inch sewer main: 883.19 feet. Relocation of existing 8-inch, nominal diameter sewer main in public utility easement acquired by TxDOT on east side of CSJ 0168-09-068. Total Length of 8-inch sewer main: 273.13 feet.; and more specifically shown in Utility's plans, specifications and estimated costs, which are attached hereto as Attachment "A".

WHEREAS, the State will participate in the costs of the adjustment, removal, and/or relocation of certain facilities to the extent as may be eligible for State and/or Federal participation.

WHEREAS, the State, upon receipt of evidence it deems sufficient, acknowledges Utility's interest in certain lands and/or facilities that entitle it to reimbursement for the adjustment, removal, and relocation of certain of its facilities located upon the lands as indicated in the statement of work above.

NOW, THEREFORE, BE IT AGREED:

The State will pay to Utility the costs incurred in adjustment, removal, and/or relocation of Utility's facilities up to the amount said costs may be eligible for State participation.

All conduct under this agreement, including but not limited to the adjustment, removal and relocation of the facility, the development and reimbursement of costs, any environmental requirements, and retention of records will be in accordance with all applicable federal and state laws, rules and regulations, including, without limitation, the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. §§ 4601, et seq., the National Environmental Policy Act, 42 U.S.C. §§ 4231, et seq., the Buy America provisions of 23 U.S.C. § 313 and 23 CFR 635.410, the Utility Relocations, Adjustments, and Reimbursements provisions of 23 CFR 645, Subpart A, and with the Utility Accommodation provisions of 23 CFR 645, Subpart B. Utility shall supply, upon request by the State, proof of compliance with the aforementioned laws, rules and regulations prior to the commencement of construction.

The Utility agrees to develop relocation or adjustment costs by accumulating actual direct and related indirect costs in accordance with a work order accounting procedure prescribed by State, or may, with the State's approval, accumulate actual direct and related indirect costs in accordance with an established accounting

_____ Initial	_____ Date	_____ Initial	_____ Date
	TxDOT		Utility

procedure developed by **Utility**. Bills for work hereunder will be submitted to **State** not later than 90 days after completion of the work.

When requested, the **State** will make intermediate payments at not less than monthly intervals to **Utility** when properly billed and such payments will not exceed 90 percent (90%) of the eligible cost as shown in each such billing. Intermediate payments shall not be construed as final payment for any items included in the intermediate payment.

Alternatively, **State** agrees to pay **Utility** an agreed lump sum of \$N/A as supported by the attached estimated costs. The **State** will, upon satisfactory completion of the adjustments, removals, and/or relocations and upon receipt of a final billing, make payment to **Utility** in the agreed amount.

Upon execution of this agreement by both parties hereto, the **State** will, by written notice, authorize the **Utility** to perform such work diligently, and to conclude said adjustment, removal, or relocation by the stated completion date. The completion date shall be extended for delays caused by events outside **Utility's** control, including an event of Force Majeure, which shall include a strike, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of public enemy, accident, fire, flood or other act of God, sabotage, or other events, interference by the **State** or any other party with **Utility's** ability to proceed with the relocation, or any other event in which **Utility** has exercised all due care in the prevention thereof so that the causes or other events are beyond the control and without the fault or negligence of **Utility**.

The **State** will, upon satisfactory completion of the relocation or adjustment and upon receipt of final billing prepared in an approved form and manner, make payment in the amount of 90 percent (90%) of the eligible costs as shown in the final billing prior to audit and after such audit shall make an additional final payment totaling the reimbursement amount found eligible for **State** reimbursement.

This agreement in its entirety consists of the following elements:

- 1. Standard Utility Agreement;
- 2. Plans, Specifications, and Estimated Costs (Attachment "A");
- 3. Utility's Accounting Method (Attachment "B");
- 4. Utility's Schedule of Work and Estimated Date of Completion (Attachment "C");
- 5. Statement Covering Contract Work – ROW-U-48 (Attachment "D");
- 6. Eligibility Ratio (Attachment "F");
- 7. Betterment Calculation and Estimates (Attachment "G");
- 8. Proof of Property Interest – ROW-U-1A, ROW-U-1B, or ROW-U-1C (Attachment "H"); and
- 9. Utility Joint Use Acknowledgment - ROW-U-JUA and/or Utility Installation Request - Form 1082 (Attachment "E").

All attachments are included herein as if fully set forth. In the event it is determined that a substantial change from the statement of work contained in this agreement is required, reimbursement therefore shall be limited to costs covered by a modification or amendment of this agreement or a written change or extra work order approved by the **State and Utility**.

This agreement is subject to cancellation by the **State** at any time up to the date that work under this agreement has been authorized and that such cancellation will not create any liability on the part of the **State**. However, the **State** will review and reimburse the **Utility** for eligible costs incurred by the **Utility** in preparation of this Agreement.

The State Auditor may conduct an audit or investigation of any entity receiving funds from the **State** directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the State Auditor, under the direction of the Legislative Audit Committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

Initial	Date	Initial	Date
TxDOT		Utility	

The **Utility** by execution of this agreement does not waive any of the rights which **Utility** may have within the limits of the law.

It is expressly understood that the **Utility** conducts the adjustment, removal, or relocation at its own risk, and that TxDOT makes no warranties or representations regarding the existence or location of utilities currently within its right of way.

The signatories to this agreement warrant that each has the authority to enter into this agreement on behalf of the party represented.

UTILITY

Utility: City of Amarillo
Name of Utility

By: _____
Authorized Signature

_____ *Print or Type Name*

Title: _____

Date: _____

EXECUTION RECOMMENDED:

Director of TP&D (or designee), District

THE STATE OF TEXAS

Executed and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: _____
District Engineer (or designee)

Date: _____

Initial _____ Date _____
TxDOT

Initial _____ Date _____
Utility

STANDARD UTILITY AGREEMENT

District: Amarillo
Federal Project No.: NH 1701(019)
ROW CSJ: 2635-02-030
Highway Project Letting Date: 07/2017

U-Number: **14967**
County: Randall
Highway: SL0335
From: IH0027
To: Bell Street

This Agreement by and between the State of Texas, acting by and through the Texas Transportation Commission, ("**State**"), and City of Amarillo, ("**Utility**"), acting by and through its duly authorized representative, shall be effective on the date of approval and execution by and on behalf of the **State**.

WHEREAS, the **State** has deemed it necessary to make certain highway improvements as designated by the **State** and approved by the Federal Highway Administration within the limits of the highway as indicated above;

WHEREAS, the proposed highway improvements will necessitate the adjustment, removal, and/or relocation of certain facilities of **Utility** as indicated in the following statement of work: Relocation of an existing 12-inch, nominal diameter, sanitary sewer main, beginning at the east edge of ROW CSJ 0168-09-068 at approximately SL335 Station 101+21 and extending east in SL335 right-of-way to approximately SL335 Station 122+65. Relocation of an existing 20-inch nominal diameter, water main, beginning at east edge of ROW CSJ 0168-09-068 at approximately SL335 Station 100+58 and extending west along the east side of SL335 to a crossing point of SL 335 at SL 335 Station 110+44, then east along the north side of SL335 to approximately SL 335 Station 116+00. Total Length of 20-inch water main in public utility easement acquired by TxDOT: 1048.24 feet.; and more specifically shown in **Utility's** plans, specifications and estimated costs, which are attached hereto as Attachment "A".

WHEREAS, the **State** will participate in the costs of the adjustment, removal, and/or relocation of certain facilities to the extent as may be eligible for State and/or Federal participation.

WHEREAS, the **State**, upon receipt of evidence it deems sufficient, acknowledges **Utility's** interest in certain lands and/or facilities that entitle it to reimbursement for the adjustment, removal, and relocation of certain of its facilities located upon the lands as indicated in the statement of work above.

NOW, THEREFORE, BE IT AGREED:

The **State** will pay to **Utility** the costs incurred in adjustment, removal, and/or relocation of **Utility's** facilities up to the amount said costs may be eligible for **State** participation.

All conduct under this agreement, including but not limited to the adjustment, removal and relocation of the facility, the development and reimbursement of costs, any environmental requirements, and retention of records will be in accordance with all applicable federal and state laws, rules and regulations, including, without limitation, the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. §§ 4601, et seq., the National Environmental Policy Act, 42 U.S.C. §§ 4231, et seq., the Buy America provisions of 23 U.S.C. § 313 and 23 CFR 635.410, the Utility Relocations, Adjustments, and Reimbursements provisions of 23 CFR 645, Subpart A, and with the Utility Accommodation provisions of 23 CFR 645, Subpart B. **Utility** shall supply, upon request by the **State**, proof of compliance with the aforementioned laws, rules and regulations prior to the commencement of construction.

The **Utility** agrees to develop relocation or adjustment costs by accumulating actual direct and related indirect costs in accordance with a work order accounting procedure prescribed by **State**, or may, with the **State's** approval, accumulate actual direct and related indirect costs in accordance with an established accounting

Initial Date
TxDOT

Initial Date
Utility

procedure developed by **Utility**. Bills for work hereunder will be submitted to **State** not later than 90 days after completion of the work.

When requested, the **State** will make intermediate payments at not less than monthly intervals to **Utility** when properly billed and such payments will not exceed 90 percent (90%) of the eligible cost as shown in each such billing. Intermediate payments shall not be construed as final payment for any items included in the intermediate payment.

Alternatively, **State** agrees to pay **Utility** an agreed lump sum of \$N/A as supported by the attached estimated costs. The **State** will, upon satisfactory completion of the adjustments, removals, and/or relocations and upon receipt of a final billing, make payment to **Utility** in the agreed amount.

Upon execution of this agreement by both parties hereto, the **State** will, by written notice, authorize the **Utility** to perform such work diligently, and to conclude said adjustment, removal, or relocation by the stated completion date. The completion date shall be extended for delays caused by events outside **Utility's** control, including an event of Force Majeure, which shall include a strike, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of public enemy, accident, fire, flood or other act of God, sabotage, or other events, interference by the **State** or any other party with **Utility's** ability to proceed with the relocation, or any other event in which **Utility** has exercised all due care in the prevention thereof so that the causes or other events are beyond the control and without the fault or negligence of **Utility**.

The **State** will, upon satisfactory completion of the relocation or adjustment and upon receipt of final billing prepared in an approved form and manner, make payment in the amount of 90 percent (90%) of the eligible costs as shown in the final billing prior to audit and after such audit shall make an additional final payment totaling the reimbursement amount found eligible for **State** reimbursement.

This agreement in its entirety consists of the following elements:

1. Standard Utility Agreement;
2. Plans, Specifications, and Estimated Costs (Attachment "A");
3. Utility's Accounting Method (Attachment "B");
4. Utility's Schedule of Work and Estimated Date of Completion (Attachment "C");
5. Statement Covering Contract Work – ROW-U-48 (Attachment "D");
6. Eligibility Ratio (Attachment "F");
7. Betterment Calculation and Estimates (Attachment "G");
8. Proof of Property Interest – ROW-U-1A, ROW-U-1B, or ROW-U-1C (Attachment "H"); and
9. Utility Joint Use Acknowledgment - ROW-U-JUA and/or Utility Installation Request - Form 1082 (Attachment "E").

All attachments are included herein as if fully set forth. In the event it is determined that a substantial change from the statement of work contained in this agreement is required, reimbursement therefore shall be limited to costs covered by a modification or amendment of this agreement or a written change or extra work order approved by the **State and Utility**.

This agreement is subject to cancellation by the **State** at any time up to the date that work under this agreement has been authorized and that such cancellation will not create any liability on the part of the **State**. However, the **State** will review and reimburse the **Utility** for eligible costs incurred by the **Utility** in preparation of this Agreement.

The State Auditor may conduct an audit or investigation of any entity receiving funds from the **State** directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the State Auditor, under the direction of the Legislative Audit Committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

Initial	Date	Initial	Date
	TxDOT		Utility

The **Utility** by execution of this agreement does not waive any of the rights which **Utility** may have within the limits of the law.

It is expressly understood that the **Utility** conducts the adjustment, removal, or relocation at its own risk, and that TxDOT makes no warranties or representations regarding the existence or location of utilities currently within its right of way.

The signatories to this agreement warrant that each has the authority to enter into this agreement on behalf of the party represented.

UTILITY

Utility: City of Amarillo
Name of Utility

By: _____
Authorized Signature

_____ *Print or Type Name*

Title: _____

Date: _____

EXECUTION RECOMMENDED:

Director of TP&D (or designee), District

THE STATE OF TEXAS

Executed and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: _____
District Engineer (or designee)

Date: _____

Initial Date
TxDOT

Initial Date
Utility

STANDARD UTILITY AGREEMENT

District: Amarillo
Federal Project No.: STP 1701(018)
ROW CSJ: 2635-03-019
Highway Project Letting Date: 07/2017

U-Number: 14968
County: Randall
Highway: SL0335
From: FM2590
To: IH0027

This Agreement by and between the State of Texas, acting by and through the Texas Transportation Commission, ("**State**"), and City of Amarillo, ("**Utility**"), acting by and through its duly authorized representative, shall be effective on the date of approval and execution by and on behalf of the **State**.

WHEREAS, the **State** has deemed it necessary to make certain highway improvements as designated by the **State** and approved by the Federal Highway Administration within the limits of the highway as indicated above;

WHEREAS, the proposed highway improvements will necessitate the adjustment, removal, and/or relocation of certain facilities of **Utility** as indicated in the following statement of work: Water main relocations and sanitary sewer main relocations; and more specifically shown in **Utility's** plans, specifications and estimated costs, which are attached hereto as Attachment "A".

WHEREAS, the **State** will participate in the costs of the adjustment, removal, and/or relocation of certain facilities to the extent as may be eligible for State and/or Federal participation.

WHEREAS, the **State**, upon receipt of evidence it deems sufficient, acknowledges **Utility's** interest in certain lands and/or facilities that entitle it to reimbursement for the adjustment, removal, and relocation of certain of its facilities located upon the lands as indicated in the statement of work above.

NOW, THEREFORE, BE IT AGREED:

The **State** will pay to **Utility** the costs incurred in adjustment, removal, and/or relocation of **Utility's** facilities up to the amount said costs may be eligible for **State** participation.

All conduct under this agreement, including but not limited to the adjustment, removal and relocation of the facility, the development and reimbursement of costs, any environmental requirements, and retention of records will be in accordance with all applicable federal and state laws, rules and regulations, including, without limitation, the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. §§ 4601, et seq., the National Environmental Policy Act, 42 U.S.C. §§ 4231, et seq., the Buy America provisions of 23 U.S.C. § 313 and 23 CFR 635.410, the Utility Relocations, Adjustments, and Reimbursements provisions of 23 CFR 645, Subpart A, and with the Utility Accommodation provisions of 23 CFR 645, Subpart B. **Utility** shall supply, upon request by the **State**, proof of compliance with the aforementioned laws, rules and regulations prior to the commencement of construction.

The **Utility** agrees to develop relocation or adjustment costs by accumulating actual direct and related indirect costs in accordance with a work order accounting procedure prescribed by **State**, or may, with the **State's** approval, accumulate actual direct and related indirect costs in accordance with an established accounting procedure developed by **Utility**. Bills for work hereunder will be submitted to **State** not later than 90 days after completion of the work.

When requested, the **State** will make intermediate payments at not less than monthly intervals to **Utility** when properly billed and such payments will not exceed 90 percent (90%) of the eligible cost as shown in each such billing. Intermediate payments shall not be construed as final payment for any items included in the intermediate payment.

_____ Initial	_____ Date	_____ Initial	_____ Date
TxDOT		Utility	

Alternatively, **State** agrees to pay **Utility** an agreed lump sum of \$N/A as supported by the attached estimated costs. The **State** will, upon satisfactory completion of the adjustments, removals, and/or relocations and upon receipt of a final billing, make payment to **Utility** in the agreed amount.

Upon execution of this agreement by both parties hereto, the **State** will, by written notice, authorize the **Utility** to perform such work diligently, and to conclude said adjustment, removal, or relocation by the stated completion date. The completion date shall be extended for delays caused by events outside **Utility's** control, including an event of Force Majeure, which shall include a strike, war or act of war (whether an actual declaration of war is made or not), insurrection, riot, act of public enemy, accident, fire, flood or other act of God, sabotage, or other events, interference by the **State** or any other party with **Utility's** ability to proceed with the relocation, or any other event in which **Utility** has exercised all due care in the prevention thereof so that the causes or other events are beyond the control and without the fault or negligence of **Utility**.

The **State** will, upon satisfactory completion of the relocation or adjustment and upon receipt of final billing prepared in an approved form and manner, make payment in the amount of 90 percent (90%) of the eligible costs as shown in the final billing prior to audit and after such audit shall make an additional final payment totaling the reimbursement amount found eligible for **State** reimbursement.

This agreement in its entirety consists of the following elements:

- 1. Standard Utility Agreement;
- 2. Plans, Specifications, and Estimated Costs (Attachment "A");
- 3. Utility's Accounting Method (Attachment "B");
- 4. Utility's Schedule of Work and Estimated Date of Completion (Attachment "C");
- 5. Statement Covering Contract Work – ROW-U-48 (Attachment "D");
- 6. Eligibility Ratio (Attachment "F");
- 7. Betterment Calculation and Estimates (Attachment "G");
- 8. Proof of Property Interest – ROW-U-1A, ROW-U-1B, or ROW-U-1C (Attachment "H"); and
- 9. Utility Joint Use Acknowledgment - ROW-U-JUA and/or Utility Installation Request - Form 1082 (Attachment "E").

All attachments are included herein as if fully set forth. In the event it is determined that a substantial change from the statement of work contained in this agreement is required, reimbursement therefore shall be limited to costs covered by a modification or amendment of this agreement or a written change or extra work order approved by the **State and Utility**.

This agreement is subject to cancellation by the **State** at any time up to the date that work under this agreement has been authorized and that such cancellation will not create any liability on the part of the **State**. However, the **State** will review and reimburse the **Utility** for eligible costs incurred by the **Utility** in preparation of this Agreement.

The State Auditor may conduct an audit or investigation of any entity receiving funds from the **State** directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the State Auditor, under the direction of the Legislative Audit Committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

The **Utility** by execution of this agreement does not waive any of the rights which **Utility** may have within the limits of the law.

It is expressly understood that the **Utility** conducts the adjustment, removal, or relocation at its own risk, and that TxDOT makes no warranties or representations regarding the existence or location of utilities currently within its right of way.

Initial Date
TxDOT

Initial Date
Utility

The signatories to this agreement warrant that each has the authority to enter into this agreement on behalf of the party represented.

UTILITY

Utility: City of Amarillo
Name of Utility

By: _____
Authorized Signature

Print or Type Name

Title: _____

Date: _____

EXECUTION RECOMMENDED:

Director of TP&D (or designee), District

THE STATE OF TEXAS

Executed and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By: _____
District Engineer (or designee)

Date: _____

Initial _____ Date _____
TxDOT

Initial _____ Date _____
Utility